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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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

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

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room I
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505–768–3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202–523–4534

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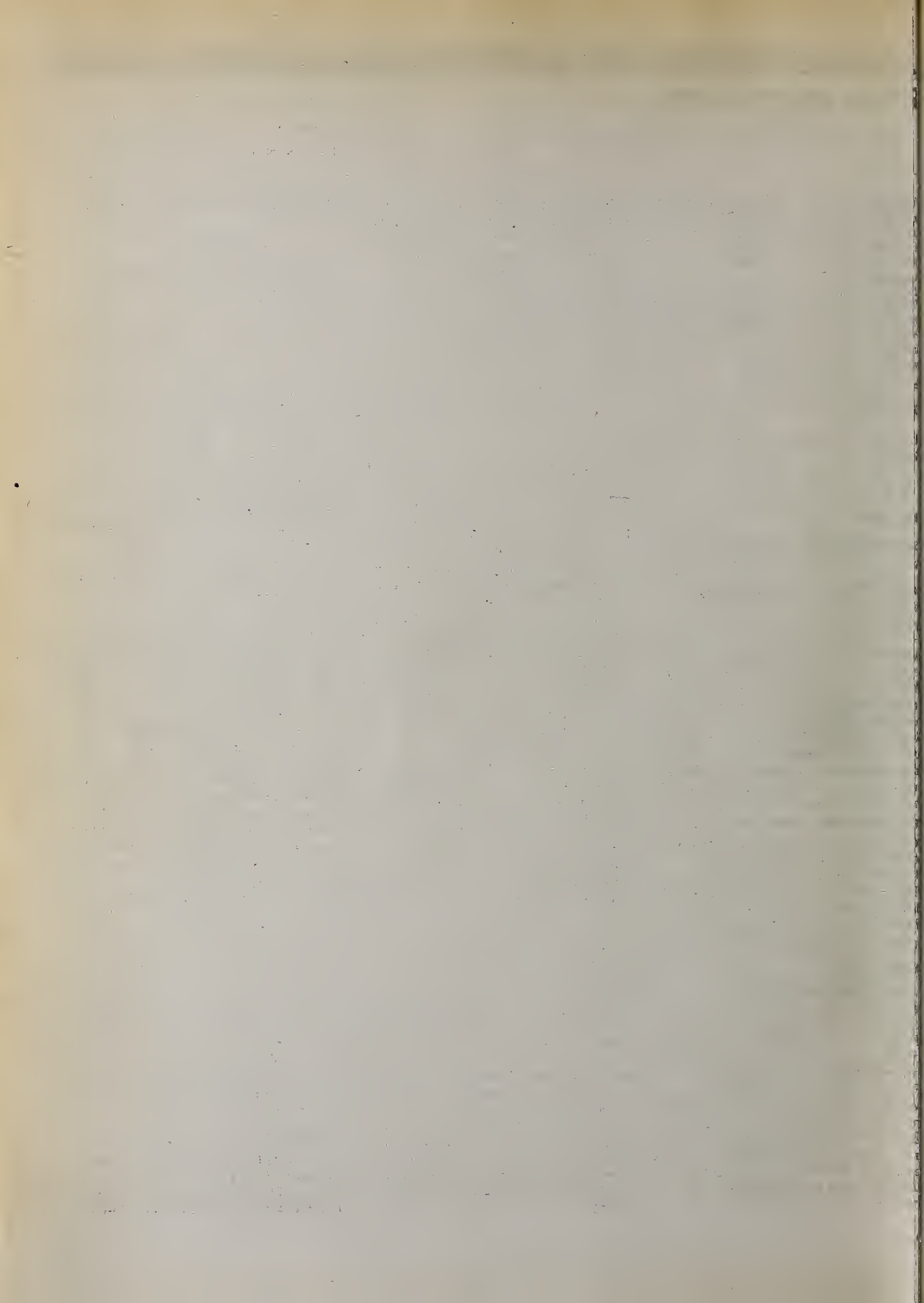

Rules and Regulations

Federal Register
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Monday, November 2, 1992

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 92-019-2]

Citrus Canker Regulations; Survey Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations that quarantine a portion of Florida for citrus canker by removing certain areas in Hillsborough and Manatee Counties and all areas in Sarasota County from the list of survey areas. This action will relieve unnecessary regulatory restrictions that currently require regular inspections of these survey areas.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of infected plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity.

In the United States, Florida is the only State where citrus canker exists. Regulations to prevent the interstate spread of citrus canker from Florida are contained in 7 CFR 301.75-1 through 301.75-14, "Subpart—Citrus Canker" (referred to below as "the regulations").

The regulations designate certain areas in Florida as quarantined areas and impose restrictions on the interstate movement of regulated articles from and through quarantined areas. The regulations also designate survey areas, which surround the quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as containment or buffer zones against the disease.

In a document published in the **Federal Register** on June 23, 1992 (57 FR 27948-27949, Docket No. 92-019-1), we proposed to amend the regulations by removing certain areas in Hillsborough and Manatee Counties and all areas in Sarasota County from the list of survey areas. Our proposal was based on the fact that no infestations of citrus canker have been found in those areas since their designation as survey areas and on the significant reduction in the occurrence of new infestations overall during the last several years.

We solicited comments on the proposed rule for a 60-day period ending on August 24, 1992. We received one comment, from a State agriculture department. The commenter fully supported our proposal. Therefore, based on the rationale presented in the proposed rule, we are adopting the provisions of the proposed rule as a final rule without change.

Effective Date

Mr. Robert Melland, the Administrator of APHIS, has determined that this rulemaking proceeding should be expedited by making this rule effective upon publication. This rule releases certain areas in Hillsborough and Manatee Counties and all areas in Sarasota County from their designation as survey areas. This will eliminate the requirement for regular inspection of groves in the former survey areas in which regulated fruit, trees, and plants are produced, thus reducing the burden on the operators of the groves and on those APHIS and State agencies that provided inspectors to perform the surveys.

Executive Order 12291 and Regulatory Flexibility Act

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

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

This rule releases certain areas in Hillsborough County and Manatee County and all of Sarasota County from their classification as survey areas. This means that groves producing regulated fruit for interstate movement, regulated trees, and regulated plants in these declassified survey areas will no longer be subject to regular inspections for citrus canker. This change will reduce the burden on those APHIS and State agencies that provided inspectors to perform regular inspection in the survey area. This change will not have a significant economic impact on any other persons.

Under these circumstances, the Administrator of APHIS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are

inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Paragraph (d)(1) of § 301.75–4 is amended by revising the first paragraph (that begins "Hillsborough County" under the center head "FLORIDA" to read as follows:

§ 301.75–4 Quarantined areas.

* * * * *

(d) * * *

(1) * * *

FLORIDA

Hillsborough County west of Grange Hall Loop Road (west) and Keene Road, south of State Highway 674 to State Road 41, south of State Road 41 to the Little Manatee River and south of the Little Manatee River to Tampa Bay, and that portion of Manatee County west of Range 21.

* * * * *

Done in Washington, DC, this 27th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–26534 Filed 10–30–92; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 92–006–2]

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final.

SUMMARY: We are affirming as final and without change an interim rule that amended the pink bollworm regulations by: (1) Removing Clark and Nyle Counties in Nevada from the list of generally infested areas and removing Nevada from the list of States quarantined because of the pink bollworm; (2) removing Caddo Parish in Louisiana from the list of suppressive areas and adding a previously nonregulated portion of Concordia Parish, Louisiana, to the list of suppressive areas; (3) adding Arkansas and Mississippi to the list of States quarantined because of the pink bollworm and adding Clay, Craighead, Crittenden, Cross, Greene, Mississippi, Monroe, Poinsett, and St. Francis counties in Arkansas, and Washington County in Mississippi, to the list of suppressive areas. The action was necessary to prevent the movement of pink bollworm into noninfested areas, and to relieve unnecessary restrictions on the interstate movement of regulated articles from certain previously regulated areas.

EFFECTIVE DATE: November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Sidney E. Cousins, Senior Operations Officer, PPQ, APHIS, USDA, room 644, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the Federal Register on July 15, 1992 (57 FR 31303–31305, Docket No. 92–006–1), we amended the pink bollworm regulations by: (1) Removing Clark and Nyle Counties in Nevada from the list of generally infested areas and removing Nevada from the list of States quarantined because of the pink bollworm; (2) removing Caddo Parish in Louisiana from the list of suppressive areas and adding a previously nonregulated portion of Concordia Parish, Louisiana, to the list of suppressive areas; (3) adding Arkansas and Mississippi to the list of States quarantined because of the pink bollworm and adding Clay, Craighead, Crittenden, Cross, Greene, Mississippi, Monroe, Poinsett, and St. Francis counties in Arkansas, and Washington County in Mississippi, to the list of suppressive areas.

Comments on the interim rule were required to be received on or before September 14, 1992. We did not receive any comments. The facts presented in the interim still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12291, 12372, and 12778, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301.52 and 301.52–2a and that was published at 57 FR 31303–31305 on July 15, 1992.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 27th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–26535 Filed 10–30–92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 1373–92]

RIN 1115–AD12

Adjustment of Status to That of Persons Admitted for Permanent Residence: Interview

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: Existing regulations require that most applicants for adjustment of status to that of permanent residence be interviewed by an immigration officer. This interim rule will amend the interview requirement to allow the Service to waive the requirement where it is determined that an interview is not necessary. This action is necessary to ease the burden of unproductive interviews on the Service and the public

DATES: This interim rule is effective on November 2, 1992. Written comments must be submitted on or before December 2, 1992.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5304, Washington, DC 20536. To ensure proper handling, please reference INS number 1373–92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Jerry R. Uhde, Senior Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7215, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act, as amended, provides that the status of certain aliens inspected and admitted or paroled into the United States may be adjusted by the Attorney General in his or her discretion and under such regulations as he or she may prescribe. Adjustment may be made to that of an alien lawfully admitted for permanent residence if the alien makes application for such adjustment, is eligible to receive an immigrant visa, and is admissible to the United States for permanent residence and an immigrant visa is immediately available to him or her at the time his or her application is filed. The regulations pertaining to such application for permanent residence are set forth in 8 CFR part 245. Section 245.6 requires that each applicant over the age of 14 who is not clearly ineligible for having lived or worked illegally in the United States and who did not apply, prior to November 20, 1990, under the provisions of the Cuban Adjustment Act of November 2, 1966, be interviewed by an officer of the Immigration and Naturalization Service. This interim rule amends the interview requirement to allow the Service to waive the requirement in those very limited circumstances when it is determined that an interview is not necessary. In view of this change, the reference to the Cuban Adjustment Act is being deleted as it is unnecessary.

Amendment of the interview requirement is necessary in order to allow the Service to remove the burden of unproductive interviews on both the Service and the public and to allow the Service to redirect resources to enhance the detection and deterrence of fraud and to reduce the backlog of pending cases.

Although the interview procedure can be a useful tool in obtaining information pertinent to the adjudication of adjustment of status applications, the Service has determined that the probability of gathering such information does not warrant the burdens placed on the Service and the public by requiring an interview in every case. The Service has sufficient information available, including record checks from other agencies, to make the determination whether to waive the required interviews on individual applications. Therefore, although interviews will still be conducted in the majority of cases, the Service is amending the interview requirement to provide for a waiver of the requirement whenever an interview is determined to be unnecessary, as a discretionary tool in the adjudication of applications for adjustment of status. The statutory authority for waiver of the interview procedure, as a discretionary tool, is contained in Section 103 of the Immigration and Nationality Act as amended.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(A), (b)(B) and (d). The reasons and the necessity for immediate implementation of this interim rule are as follows: this change in the adjudication process will relieve the Service and the public of an unwarranted burden and allow the Service to redirect its resources to more productive activities. A notice and comment period would be impracticable and contrary to the public interest. This rulemaking confers a benefit upon eligible persons by waiving the requirement of the interview when it is deemed unnecessary. It does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that the persons entitled to its benefit may receive it.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1154, 1182, 1186a, 1255 and 1257; 8 CFR part 2.

2. In part 245, § 245.6 is revised to read as follows:

§ 245.6 Interview.

Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. This interview may be waived in the case of a child under the age of 14; when the applicant is clearly ineligible under section 245(c) of the Act or § 245.1 of this chapter; or when it is determined by the Service that an interview is unnecessary.

Dated: September 25, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–26548 Filed 11–30–92; 8:45 am]

BILLING CODE 4410-10-M

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9 CFR Part 51

[Docket No. 91-128-2]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are increasing the amount of Federal indemnity paid for breeding swine (swine that are 6 months and older) destroyed because of exposure to brucellosis. The increased indemnity is necessary to give herd owners sufficient financial incentive to destroy their exposed breeding swine, thereby assisting in the accelerated eradication of brucellosis in the United States.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Delorias M. Lenard, Senior Staff Veterinarian, Swine Health Staff, VS, APHIS, USDA, room 736–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a serious, infectious disease of animals and man caused by bacteria of the genus *Brucella*. Brucellosis in swine is characterized by abortion, infertility, orchitis, posterior paralysis, and lameness. The regulations in 9 CFR part 51 (referred to below as

the regulations) provide for payment of Federal indemnity to owners of animals destroyed because of brucellosis. Under the regulations, maximum "per head" indemnity rates are set, with the provision that the Administrator shall authorize the maximum amount in each case unless: (1) Sufficient funds are not available, (2) the State or area in which the animal is located is under Federal quarantine, (3) the State does not request payment of Federal indemnity, or (4) the State requests a rate lower than the maximum.

Under the regulations, owners are eligible for Federal indemnity for breeding swine (swine that are 6 months and older) destroyed as brucellosis reactors and for breeding swine destroyed because of exposure to brucellosis.

Before the effective date of this final rule, herd owners were eligible for Federal indemnity of only $25 per head for registered, inbred or hybrid breeding swine and only $10 a head for all other breeding swine destroyed because of exposure to brucellosis. These amounts were inadequate for most owners to consider destroying exposed breeding swine.

On July 1, 1992, we published in the **Federal Register** (57 FR 29225–29226, Docket No. 91–128), a proposal to increase the amount of Federal indemnity for breeding swine destroyed because of exposure to brucellosis to $150 a head for registered, inbred, or hybrid breeding swine and $65 a head for all other breeding swine. These amounts are consistent with the amounts offered by States that pay indemnity for brucellosis exposed breeding swine. The increased indemnity will provide financial incentive for owners to destroy brucellosis exposed breeding swine in a timely manner, reducing the risk of the disease spreading.

We solicited comments on the proposed rule, which were to be received on or before August 31, 1992. We received 52 comments by that date, all in favor of the proposed rule. Comments were received from herd owners, State Departments of Agriculture, pork producer associations and veterinary organizations. Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change. This final rule does not change the amount of federal indemnity for breeding swine destroyed as brucellosis reactors.

Effective Date

Mr. Robert Melland, Administrator of the Animal and Plant Health Inspection Service, has determined that this rulemaking proceeding should be expedited by making this rule effective upon publication. This rule increases the amount of Federal indemnity paid for breeding swine destroyed because of exposure to brucellosis. Prompt implementation of this rule will encourage herd owners to remove potential transmitters of brucellosis and assist in the accelerated eradication of brucellosis in the United States.

Executive Order 12291 and Regulatory Flexibility Act

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

Owners of breeding swine that are destroyed because of exposure to brucellosis are now eligible for Federal indemnity amounting to an increase of $125 a head over the previous rate for registered, inbred, or hybrid swine and $55 a head for all other breeding swine. We estimate that we will offer indemnity payments of approximately $87,000 for breeding swine in the coming year because of exposure to brucellosis. There are approximately 65 herd owners that will be affected by this rule and all of these would be considered small entities.

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

Executive Order 12372

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

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 51

Animal diseases, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 51 is amended as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

§ 51.3 [Amended]

2. In § 51.3, paragraphs (b)(2) and (b)(3) are amended by removing "$25" and adding "$150" in its place, and by removing "$10" and adding "$65" in its place.

Done in Washington, DC, this 27th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–26533 Filed 10–30–92; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 77

[Docket No. 92–066–2]

Tuberculosis in Cattle and Bison; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final.

SUMMARY: We are affirming as final and without change an interim rule that amended the tuberculosis regulations concerning the interstate movement of cattle and bison by lowering the designation of New York from an accredited-free State to a modified accredited State. We have determined that New York no longer meets the criteria for designation as an accredited-free State but meets the criteria for designation as a modified accredited State.

EFFECTIVE DATE: November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule that became effective upon its publication in the **Federal Register** on July 16, 1992 (57 FR 31429–31430, Docket No. 92–066–1), we amended the tuberculosis regulations contained in 9 CFR part 77 by removing New York from the list of accredited free States in § 77.1 and adding it to the list of modified accredited States in that section.

We also amended § 77.1 of the regulations by correcting two typographical errors and revising a footnote to reflect the current APHIS organization.

We solicited comments on the interim rule for a 60-day period ending on September 14, 1992. We received one letter of comment, from a State agriculture department. The commenter requested that we restore New York's designation as an accredited-free State. In support of that request, the commenter stated that the incidence of *Mycobacterium bovis* in two animals from one cattle herd was due to infection by a resident deer herd and that all infected or exposed animals had been traced and destroyed.

We are not making any changes to the interim rule as a result of the comment. Although the infected animals were originally part of the same herd, one of the infected animals was sold and was integrated into a second herd before the tuberculosis was detected. As stated in the interim rule, a State's accredited-free status will be revoked if tuberculosis is detected in two or more herds in the State within a 48-month period. Because tuberculosis was confirmed in two herds in the State within the 48-month period, it was determined that New York no longer met the criteria for designation as an accredited-free State. Since all of the tuberculosis herds in the State were depopulated, however, New York will be eligible to apply for the reinstatement of its accredited-free status after 2 years of freedom from evidence of tuberculosis and full compliance with the standards contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which is incorporated into the regulations by reference.

Based on the facts presented in the interim rule and in this document, we are affirming the interim rule without change.

This action also affirms the information contained in the interim rule concerning Executive Orders 12291, 12372, and 12778, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

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

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR 77.1 that was published at 57 FR 31429–31430 on July 16, 1992.

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

Done in Washington, DC, this 27th day of October.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-26531 Filed 10–30–92; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 92-104-2]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final.

SUMMARY: We are affirming as final and without change an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Louisiana from Class B to Class A. That action was necessary to relieve certain restrictions on the interstate movement of cattle from Louisiana.

DATES: November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4918.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective on July 10, 1992, and published in the Federal Register on July 16, 1992 (57 FR 31430–31431, Docket No. 92–104–1), we amended the brucellosis regulations in 9 CFR part 78 by changing the classification of Louisiana from Class B to Class A.

We solicited comments on the interim rule for a 60-day period ending on September 14, 1992. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12291, 12372, and 12778, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

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

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 78.41 and that was published at 57 FR 31430–31431 on July 16, 1992.

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

Done in Washington, DC, this 27th day of October, 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-26532 Filed 10–30–92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 506 and 563b

[Docket No. 92-358]

RIN 1550-AA45

Supervisory Conversions

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its voluntary supervisory conversion

regulations to revise the current supervisory conversion qualification standards to permit more mutual associations to undertake voluntary supervisory conversions to raise additional capital without government assistance if they fail to meet specified capital levels. The amendments generally expand the number of capital-deficient, mutual savings associations eligible to undertake voluntary supervisory mutual-to-stock conversions.

The final rule also: Establishes required post-conversion capitalization standards; revises the approval standards and identifies certain factors that may result in the denial or conditional approval of supervisory conversion applications; reduces the documentary burden and expense imposed by the current regulation's requirement for interim audited balance sheets and certain accounting opinions; and generally requires the establishment of liquidation accounts for mutual accountholders.

Notice of the proposed amendments, published in the **Federal Register** on January 17, 1992, solicited comment on all aspects of the proposal for a 30-day period beginning on the date of publication. Upon consideration of all the comments received during the public comment period, the OTS is adopting the proposal as a final rule with some modifications described below.

EFFECTIVE DATE: December 2, 1992.

FOR FURTHER INFORMATION CONTACT: James H. Underwood, Counsel (Banking and Finance), (202) 906-7354, Chief Counsel's Office; Mary Jo Johnson, Policy Analyst, (202) 906-5739, Policy; David Sjogren, Program Manager for Corporate Analysis, (202) 906-6739, Corporate Activities Division, Supervision; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

On January 17, 1992, the OTS proposed to amend its regulations governing voluntary supervisory conversions.[1] The notice of the amendment generally proposed to revise the supervisory conversion qualification standards to expand the number of mutual thrift associations that would be eligible to convert to stock associations on a voluntary basis, and to reduce the cost and burden of preparing the conversion documentation. As stated in the proposal, the expansion of the qualification standards for a voluntary supervisory conversion was designed to represent a more realistic view of a mutual association's financial condition and long-term viability and to enhance the ability of those institutions to increase their capital without government assistance through the conversion process.[2]

The notice also proposed to modify the viability portion of the qualification standards for a supervisory conversion to provide that a converting association must meet all of its current minimum capital requirements following the conversion. In addition, the proposal would permit the Director to require that additional capital in excess of the minimum amount be infused under appropriate circumstances.

II. Summary of Comments

The OTS received a total of seven comment letters in response to the proposal. Those who submitted comments included: two savings associations; two law firms; two thrift trade associations; and one accounting firm. All of the commenters supported the proposal, although one commenter suggested revisions to the proposal. The following is a discussion of the issues raised by the commenters and a summary of OTS's responses to these issues.

A. Supervisory Conversion Qualification Standards

The proposal established an expanded qualification standard for supervisory conversions. Specifically, the proposal provided that a savings association would qualify for a supervisory conversion if it failed to meet any of its capital requirements, could not meet those requirements through a standard conversion, and could demonstrate that it would meet its capital requirements following the supervisory conversion. In addition, the proposal provided that applicants would continue to be required to demonstrate that the supervisory conversion would be in the best interests of the association, its accountholders, the Federal deposit insurance system and the public.

All of the commenters supported the concept of expanding the number of savings associations eligible to undertake supervisory conversions. Several of the commenters noted that this would offer many associations the opportunity to raise capital in the private sector and thereby avoid the necessity of government assistance—and attendant taxpayer loss—that would result from a conservatorship or receivership of an association. Based on these comments and for the reasons set forth in the proposal, the OTS has determined to adopt an expanded supervisory conversion qualification standard. As discussed below, however, the OTS has modified the proposed rule to reflect new "Prompt Corrective Action" standards contained in the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA).[3]

B. Rights of Mutual Accountholders

As noted in the proposal, because the viability of an institution that qualifies for a supervisory conversion is questionable, the current regulation does not automatically grant to mutual accountholders any voting rights or subscription rights to purchase stock in the conversion. The OTS specifically solicited comment on what participatory roles should be afforded to mutual accountholders in a supervisory conversion. The commenters supported the continuation of the current policy of not affording accountholders any voting or subscription rights in supervisory conversions. As one of the commenters noted, the interests of the accountholders, especially those holding insured deposits, are not analogous to those of stockholders, and the interest of the OTS in protecting the depositors and the deposit insurance fund outweigh any policy reasons for granting a larger participatory role to mutual accountholders.

For the reasons discussed in the proposal and in the comments, the OTS has determined to retain the policy of not requiring that mutual accountholders be granted voting and subscription rights in a supervisory conversion. As discussed below, however, the final rule will generally require the establishment of a liquidation account equal to the converting association's capital as calculated under generally accepted accounting principles (GAAP).

C. Documentary Burden

Commenters supported the proposal to eliminate or reduce the burden of preparing conversion documentation. In response to the OTS's request for comment on whether there are additional or alternative ways to reduce the documentary burden in supervisory conversions, those commenters who responded indicated that they did not believe that the documentary burden imposed by the proposed rule was unduly onerous. One commenter,

[1] See 57 FR 2061.

[2] See 57 FR 2062.

[3] Pub. L. 102-242, 105 Stat. 2236 (to be codified as amended in various sections within title 12 of the United States Code).

however, noted a concern about the length of time that it takes to process supervisory conversion applications.

The final rule deletes from the application requirements a number of documents that are currently required to be prepared in connection with filing a supervisory conversion application. Consistent with the proposal, the final rule only requires the submission of such documentation as is needed to ensure satisfaction of the applicable standards. For example, the final rule establishes that certain associations, because of their reported capital levels, will be presumed to qualify for a supervisory conversion and, unless otherwise required by the OTS, will not have to provide additional documentary evidence to support their eligibility. The OTS believes that the final rule establishes a streamlined application process that will assist in shortening the timeframe for processing supervisory conversion applications.

D. Liquidation Accounts

In the proposal, the OTS solicited comment on whether liquidation accounts in supervisory conversions should be established on a different basis than in standard conversions. Of the two commenters who responded, one was in favor of the proposal's requirement that liquidation accounts be established in a supervisory conversion on the same basis as in a standard conversion. The other commenter supported the establishment of a liquidation account but suggested that the value of the accounts be reduced by decreases in the value of assets owned by the converting association over a three-year period and that converting associations be permitted to terminate any account that declines to less than 5 percent of the original balance of the account.

After considering the comments, the OTS has determined, for the reasons discussed below, to adopt the requirement set forth in the proposal that liquidation accounts generally will be required to be established for eligible mutual accountholders on the same basis as they are required to be established in a standard conversion.

E. Modified Conversions

The OTS also sought comment on whether modified conversions should be retained as an alternative to supervisory and modified conversions. Two of the commenters suggested that modified conversions be retained in some form. One of these commenters suggested that the OTS retain the authority to structure modified conversions on a case-by-case basis. One commenter supported the elimination of modified conversions if certain modifications were made to the proposed rule.

Upon review of the comments and in light of the revisions being made to the proposal in the final rule, the OTS, as discussed below, has determined to eliminate modified conversions.

III. Changes to the Proposed Rule

A. Qualification Standards

The current supervisory conversion regulation permits the OTS to authorize the supervisory conversion of a savings association when the association's liabilities exceed its assets as calculated under GAAP on a going concern basis, and the resulting association will be a viable entity. The proposed rule would have permitted associations to undertake supervisory conversions if they failed to meet any of their current minimum capital standards and demonstrated that it was not feasible for them to attain compliance with their minimum capital requirements by undertaking standard conversions. The proposed rule also would have required that the converting or resulting association meet its current minimum capital requirements after conversion and that the conversion be in the best interests of the association, its accountholders, the Federal deposit insurance system and the public.

The final rule provides a simpler qualification standard based upon the "Prompt Corrective Action" provisions of FDICIA.[4] The Prompt Corrective Action section requires each banking agency to specify the levels at which an insured depository institution is "well capitalized," "adequately capitalized," "undercapitalized," "significantly undercapitalized," and "critically undercapitalized" and to have in place regulations implementing this provision of FDICIA by December 19, 1992. The Prompt Corrective Action provisions require capital benchmarks for each of these levels and permit, and in some instances require, the OTS to take certain corrective measures depending upon the association's capital level. These include the appointment of a conservator or receiver for a savings association.

The OTS believes that the Prompt Corrective Action capital standards should be utilized for purposes of establishing appropriate benchmarks for qualification and post-conversion viability requirements for supervisory conversions since these standards represent the latest indication of Congressional intent regarding the treatment of institutions that are not meeting their capital requirements. Accordingly, the final rule provides that any institution that is "significantly undercapitalized" will qualify, unless otherwise determined by the OTS, to undertake a supervisory conversion. For those institutions that are "undercapitalized," the OTS may permit, on a case by case basis, a savings association to undertake a supervisory conversion if the association demonstrates by clear evidence that a standard conversion that would raise sufficient capital to enable the institution to be "adequately capitalized" is not feasible. The association's Regional Director shall determine what type of information is required to make this showing. The information may, but is not required to include an appraisal of the value of the association's stock. In this regard, the OTS expects that an association's directors and officers will select a type of conversion and structure the conversion transaction in a manner consistent with their fiduciary duties to the association, its depositors, and the Federal Government as insurer, rather than seeking to maximize the personal benefit they may receive from the transaction. Depositors may also have independent remedies if they believe an association's management has breached their fiduciary duties.

Regulations implementing the Prompt Corrective Action provisions of FDICIA have been adopted in final form by the OTS and will become effective on December 19, 1992.[5] The OTS believes that these standards are practical and objective and will be consistent with the stated Congressional intent of the Prompt Corrective Action provisions of FDICIA to resolve the supervisory problems of insured depository institutions at the least possible cost to the deposit insurance fund.

The final rule will continue to require that the conversion transaction be found to be in the best interests of and not present the potential for injury or detriment to the converting association, the Federal deposit insurance funds, or the public. As was noted in the proposing release, the OTS will continue to scrutinize all aspects of an association's supervisory conversion in order to prevent unsafe or unsound practices, which may include breach of

[4] 12 U.S.C. 1831o (as added by section 131 of FDICIA).

[5] See 57 FR 44866 (Sept. 29, 1992). The OTS intends to use the definitions of "adequately capitalized," "undercapitalized," and "significantly undercapitalized" set forth in the Prompt Corrective Action final regulation for purposes of this supervisory conversion regulation.

fiduciary duties by insiders of the converting association.

The final rule references standards that could be the basis of denial of an association's supervisory conversion or imposition of conditions or restrictions on the conversion. The proposed rule listed a number of specific factors that could be the basis for denial or the imposition of conditions on the approval of a conversion application. Upon further consideration, the OTS has determined to utilize a more general safety and soundness standard that both subsumes the more specific factors set forth in the proposed rule and affords the OTS sufficient flexibility to respond to the myriad types of factual circumstances that could constitute an unsafe or unsound practice or otherwise be detrimental to the converting or resulting association. The final rule also indicates that the OTS generally will exercise this authority consistent with applicable supervisory policies.

B. Liquidation Accounts

As discussed above, the OTS has determined that liquidation accounts generally will be required to be established for eligible mutual accountholders on the same basis as they are required to be established in a standard conversion. The OTS continues to believe, as set forth in the proposal, that the retention of this requirement is an appropriate recognition of the accountholders interest in the converting association in light of the expanded qualification threshold for supervisory conversions. The final rule contemplates, however, that the OTS may waive this requirement where the converting association's tangible capital is less than zero, or otherwise for good cause. The OTS believes that this approach strikes an appropriate balance between recognizing the interests of the mutual accountholders in the converting association yet addressing the possibility that the mutual accountholders may not in fact realize any value in the contingent event a significantly undercapitalized mutual association is liquidated.

C. Modified Conversions

The final rule, as noted above, eliminates modified conversions. The OTS has made this determination for several reasons. The OTS believes that those institutions that qualify for a supervisory conversion will have greater flexibility to structure the conversion than currently exists under the modified conversion regulations. Thus, unlike in a modified conversion, an association undertaking a supervisory conversion generally will not be required to grant subscription rights to the mutual accountholders, will not be required to establish a control premium and will not necessarily be required to sell stock in an amount in excess of the *pro forma* market value of the association. Moreover, the final rule, because it adopts a significantly expanded qualification threshold standard, should permit most institutions that would undertake a modified conversion under the current regulation to qualify for a supervisory conversion. For these reasons and because the OTS believes that the retention of modified conversions would create a confusing and overlapping regulatory structure, the final rule deletes modified conversions as a conversion option.

IV. Paperwork Reduction Act

The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget under control number 1550-0074 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The estimated average annual burden associated with the collections of information in this final rule is 500 hours per respondent. The collections of information contained in this rule are in 12 CFR 563b.20 to 563b.32.

Comments concerning the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550-0074), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

The information is required by the OTS to evaluate the merits of supervisory conversion applications under applicable statutory and regulatory criteria and to determine whether to approve, conditionally approve, or deny such applications.

V. Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is hereby certified that this rule will not have a significant or disproportionate economic impact on a substantial number of small savings associations. Accordingly, a Regulatory Flexibility Act analysis is not required.

VI. Executive Order 12291

The Director of the OTS has determined that this regulation is not a "major rule" and, therefore, does not require a regulatory impact analysis.

List of Subjects

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby amends parts 506 and 563b, subchapters A and D, chapter V, title 12, Code of Federal Regulations to read as follows:

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. Section 506.1 is amended by adding one new entry to the table in paragraph (b) in numerical order to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control no.
* * * *	*
563b.20 through 563b.33	1550-0074
* * * *	*

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

3. The authority citation for part 563b is revised to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a; 15 U.S.C. 78c, 78*l*, 78m, 78n, 78w.

4. Section 563b.21 is revised to read as follows:

§ 563b.21 Voluntary supervisory conversions.

(a) A voluntary supervisory conversion of a savings association pursuant to this subpart may involve the sale of a converting association's shares directly to an acquiror(s), which may be a person, company, depository institution, or depository institution holding company. The conversion may result in the converting association

being merged into or consolidated with an existing or newly created depository institution, but only as authorized by and in accordance with any limitations or restrictions imposed by applicable laws and regulations.

(b) A majority of the directors of the converting association must adopt a plan of voluntary supervisory conversion that complies with the provisions of this subpart. The members of the association have no rights of approval or participation in the voluntary supervisory conversion, or to the continuance of any legal or beneficial ownership interests in the converted association, unless otherwise provided by the OTS. The members shall have interests in a liquidation account, if one is established, pursuant to § 563b.28 of this subpart.

5. Section 563b.23 is revised to read as follows:

§ 563b.23 Authorization of supervisory conversions.

(a) The OTS may authorize or order a voluntary supervisory conversion if a savings association files an application containing the information and documents specified in § 563b.27 of this subpart, in accordance with the procedures specified in § 563b.29 of this subpart, and meets the qualification standards specified in § 563b.24 of this subpart. If the OTS authorizes or orders a supervisory stock conversion, the conditions specified in § 563b.30 of this subpart must be fulfilled and the resulting institution and the purchaser(s) of its conversion stock must comply with the requirements of § 563b.31 of this subpart.

(b) In connection with approval of an association's conversion, the OTS may impose conditions and restrictions on the converting or resulting institution, the acquiror, and controlling parties, directors and officers of either, to prevent unsafe or unsound practices, to protect the deposit insurance funds and the public interest, and to prevent potential injury or detriment to the converting or resulting association. The OTS generally will exercise this authority consistent with applicable supervisory policies.

(c) The OTS may deny an association's conversion if the Office determines that the converting or resulting association, the acquiror, or controlling parties or directors and officers of either, have engaged in unsafe or unsound practices in connection with the transaction, or that the transaction is detrimental to or would cause potential injury to the converting or resulting association, the Federal deposit insurance funds or is contrary to the public interest.

(d) For three years following the date of completion of a voluntary supervisory conversion, neither any controlling shareholder nor the resulting institution may acquire shares from minority shareholders without the prior approval of the OTS.

6. Section 563b.24 is revised to read as follows:

§ 563b.24 Qualification for supervisory conversion of SAIF-insured associations.

(a) The OTS in its discretion may authorize the supervisory conversion of a SAIF-insured savings association upon finding that the association:

(1) Is significantly undercapitalized; and

(2) Would be a viable entity as determined under § 563b.26 of this subpart, following the conversion.

(b) The OTS in its discretion also may authorize the supervisory conversion of a SAIF-insured savings association upon finding that the association:

(1) Is undercapitalized;

(2) Demonstrates by clear evidence that a standard conversion that would raise sufficient capital to enable the association to be adequately capitalized is not feasible; and

(3) Would be a viable entity as determined under § 563b.26 of this subpart, following the conversion.

(c) Notwithstanding any other provision of law, the OTS also may authorize, (or in the case of a Federal savings association require), the conversion of a savings association into a Federal savings association pursuant to section 5(p) of the Home Owners' Loan Act, 12 U.S.C. 1464(p).

7. Section 563b.26 is amended by revising paragraph (b) to read as follows:

§ 563b.26 Viability of converted savings association.

* * * * *

(b) A converting SAIF-insured association is a "viable entity" if:

(1) As part of the plan of conversion:

(i) The capital being infused into the association through its conversion is sufficient to cause the converted or resulting association to be adequately capitalized; provided that the OTS, in its discretion, may require higher capitalization as it deems appropriate for safety and soundness reasons; and

(ii) The converting association, its proposed conversion, and any acquiror(s) comply with applicable supervisory policies; and

(2) The transaction taken as a whole is in the best interest of, and does not present potential for injury or detriment to, the converting association, the federal deposit insurance funds, or the public interest.

8. Section 563b.27 is amended by revising the introductory text, and paragraphs (a), (d) and (e); removing paragraph (l); redesignating paragraphs (m) through (s) as paragraph (l) through (r), respectively; revising newly designated paragraphs (l), (n), and (o); and adding new paragraph (s):

§ 563b.27 Application for voluntary supervisory stock conversion.

A savings association may apply for OTS approval of a voluntary supervisory conversion pursuant to this subpart by filing the following information and documents in accordance with the procedures specified in § 563b.29 of this subpart:

(a) A plan of conversion adopted by a majority of the directors of the association, which shall contain at a minimum the name and address of the savings association; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the savings association; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by directors, officers and their affiliates and associates (as defined in § 563b.2(a) of this part); a description of the liquidation account, if required under § 563b.28 of this subpart or if otherwise established; and certified copies of all resolutions of the board of directors relating to the Plan.

* * * * *

(d) A business plan, which shall contain a description of the proposed operating policies of the savings association or the resulting savings association following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the savings association's results of operations for the three-year period following completion of the conversion. The projections should show the continuing ability of the converted association to meet applicable capital requirements. The savings association shall specify the assumptions on which its projections are based.

(e) A Holding Company Act application, Control Act notice, or rebuttal submission for each proposed

conversion stock acquiror as may be required under part 574 of this subchapter, if applicable, and any required prior-conduct certification pursuant to RB 20 [1] for each such acquiror.

* * * * *

(l) Information to support the value of any non-cash assets to be contributed to the savings association in connection with the voluntary supervisory conversion, if applicable. Appraisals submitted in this connection must be acceptable to the OTS.

* * * * *

(n) The association's most recent audited financial statements and Thrift Financial Report with an appropriate explanation to support the determination that the association's current capital levels qualify it to undertake a supervisory conversion.

(o) *Pro forma* financial statements prepared in accordance with the regulations and policies of the OTS to reflect the effects of the transaction. These *pro forma* financial statements should be supplemented to identify the converting or resulting association's tangible, core, and risk-based capital levels and show the appropriate adjustments necessary to compute such capital levels.

* * * * *

(s) A statement of all other applications required pursuant to federal or state banking laws for all transactions related to the association's conversion, copies of all decisions, orders, opinions, and other similar dispositive documents issued by such regulatory authorities relating to such applications, and, if requested by the OTS, copies of such applications and related documents.

§§ 563b.28–563b.32 [Redesignated as §§ 563b.29–563b.33]

9. Sections 563b.28 through 563b.32 are redesignated as §§ 563b.29 through 563b.33, respectively.

10. A new § 563b.28 is added to read as follows:

§ 563b.28 Liquidation account.

A liquidation account must be established in accordance with the requirements set forth at § 563b.3(f) of this part; provided, however, that the OTS may waive this requirement if the converting association's tangible capital is less than zero, or for other good cause.

[1] Regulatory Bulletins are available at the address listed in § 516.1(a) of this chapter.

§§ 563b.34–563b.41 [Removed and Reserved]

11. Subpart D, consisting of §§ 563b.34 through 563b.41, of part 563b is removed and reserved.

Dated: August 14, 1992.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 92–26480 Filed 10–30–92; 8:45 am]

BILLING CODE 6720–01–M

RESOLUTION TRUST CORPORATION

12 CFR Part 1608

RIN 3205–AA17

Real Estate Appraisals

AGENCY: Resolution Trust Corporation.

ACTION: Final rule.

SUMMARY: In accordance with the proposed rule published September 18, 1991, the Resolution Trust Corporation is amending its real estate appraisal regulations to identify additional transactions for which the services of an appraiser are not required. This final rule eliminates the requirement for regulated institutions (*i.e.*, depository institutions under the conservatorship or receivership of the RTC) to obtain appraisals by certified or licensed appraisers for real estate-related financial transactions having a value, as defined in the rule, of $100,000 or less; permits regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to regulations or other written requirements of the federal insurer or guarantor; exempts appraisals involving 1- to 4-family residential properties from certain minimum appraisal standards under specified conditions; and adds a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to transactions involving mineral rights, timber rights, growing crops, water rights, or similar interests in real estate when the transaction does not involve the associated parcel or tract of land.

The final rule also incorporates three technical amendments. The first technical amendment clarifies that the requirements of the appraisal regulation must be met for all real estate-related financial transactions except those in which the services of an appraiser are not required under the rule. The second technical amendment confirms that in accordance with the Federal Deposit Insurance Corporation Improvement Act of 1991, the RTC has delayed until December 31, 1992, the date by which State certified and licensed appraisers must be used for all federally related transactions. The third technical amendment clarifies that the appraisal regulation does not apply to loans not secured by real property.

EFFECTIVE DATE: This final rule is effective December 2, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas J. Inserra, Senior Review Appraiser, (202) 416–2185. Resolution Trust Corporation, 801 17th Street NW., Washington, DC 20434.

SUPPLEMENTARY INFORMATION:

A. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) directed the RTC, and the five financial institutions regulatory agencies,[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. In accordance with statutory requirements, RTC's final rule set minimum standards for appraisals used in connection with federally related transactions and identified those federally related transactions that require a State certified appraiser and those that require either a State certified or licensed appraiser. The RTC final rule was published August 22, 1990 (55 FR 34219).

On September 18, 1991 (56 FR 47164), the RTC, following Congress' preference for maintaining uniformity among the RTC and the financial institutions regulatory agencies and reflecting the RTC's primary role as liquidator of assets from failed savings associations, published a proposal to amend its appraisal regulation. Amendments prepared by the financial institutions regulatory agencies addressed concerns raised by institutions under their jurisdiction. Their concerns related to complying with the appraisal regulations' requirements for certain real estate-related financial transactions which have not caused them substantial losses, government guaranteed and insured loans, and transactions involving mineral rights, timber rights, and growing crops independent of the associated parcel or tract of land. Accordingly, in light of the Congressional preference for uniform appraisal rules, and the RTC's role as liquidator, the RTC also proposed to: (1)

[1] These are: the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA).

Increase from $50,000 to $100,000 the threshold below which the services of State certified or licensed appraisers would not be required; (2) permit the use of appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to regulations or other written requirements of the federal insurer or guarantor; and (3) add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or agricultural crop production rights when severed from the underlying land.

B. Comments on the Proposed Rule

On September 18, 1991 (56 FR 47164), the RTC issued for comment proposed amendments to 12 CFR part 1608 to exempt additional transactions from the requirements of the final appraisal rule (the RTC Final Rule) published on August 22, 1990 (55 FR 34219). Approximately 560 responses were received by the RTC concerning the proposed amendments. Responses were received primarily from individual appraisers. In addition, there were responses from appraisal organizations and real estate trade associations such as the Appraisal Institute, the National Association of Review Appraisers and Mortgage Underwriters, the National Association of Real Estate Appraisers, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, Inc., the National Association of Independent Fee Appraisers and the National Association of Realtors. Finally, there were responses from banking and other organizations such as the Mortgage Insurance Companies of America, the Department of the Treasury—Financial Management Service, and the Florida State Department of Professional Regulation. The RTC carefully reviewed each response and the following summarizes the principal issues raised in the response letters.

Transactions Requiring State Licensed or Certified Appraisers: Authority To Establish a Threshold

A review of the response letters indicated there were questions regarding RTC's authority to establish a threshold below which real estate-related financial transactions would not require the services of an appraiser. Appraisers and appraisal organizations asserted that FIRREA did not provide the RTC with the authority to establish such a threshold. They do not believe that FIRREA's intent was to provide financial regulatory agencies the authority to differentiate between real estate-related financial transactions requiring the services of an appraiser and those transactions that do not require the services of an appraiser. These parties asserted that Congress intended for appraisers to be used in connection with each real estate-related financial transaction. In addition, they contended that title XI of FIRREA requires the use of licensed or certified appraisers in all cases in which any form of evaluation of real estate is undertaken by or for the institution. The RTC disagrees with these assertions.

These comments misconceive the purpose and scheme of title XI of FIRREA. In addition to the fact that title XI of FIRREA nowhere states that every "real estate-related financial transaction" must have an appraisal, an examination of the provisions of title XI reveals that Congress intended to allow each regulatory agency and the RTC to use their expertise to identify categories of transactions for which appraisals are unnecessary.

Section 1101 of FIRREA provides that the purpose of title XI is to protect federal interests in real estate-related financial transactions by ensuring that appraisals and appraisers adhere to certain standards when used in federally related transactions. Had Congress determined that the only way to protect federal interests in real estate-related financial transactions was to require an appraisal in every such transaction, it could have stated that expressly. It did not. Rather, as set forth in section 1121 of FIRREA, Congress clearly recognized that federally related transactions are only part of the universe of "real estate-related financial transactions," with one distinguishing characteristic being that they are the type for which an appraisal is necessary. Congress did not attempt to define those transactions that require the services of an appraiser. Rather, FIRREA expressly required the RTC and the banking agencies to issue regulations implementing title XI. These are the kind of details that Congress recognized are better fleshed out through the rulemaking process. The conclusion is unavoidable that Congress intended that the RTC and the regulatory agencies have the leeway to refrain from imposing a requirement that all transactions have appraisals.

One or two individual provisions of title XI may have misled commenters into concluding that every transaction involving the RTC must have an appraisal. A strained interpretation of sections 1112 and 1114 of FIRREA could give the impression that Congress intended that every transaction involving the RTC have an appraisal, leaving the RTC the power to determine only whether a state-certified or state-licensed appraiser was appropriate.[2] However, a close reading of all the relevant provisions of title XI refutes such an interpretation. "Federally related transactions" by definition are these which require an appraisal. Accordingly, the only correct way to read sections 1112 and 1114 is to require that the RTC divide federally related transactions (*i.e.*, those of the type for which an appraisal is necessary) into two categories, those requiring a certified appraiser, and those for which a licensed appraiser is sufficient. The third category, those transactions for which an appraiser is not required (*i.e.*, those which are *not* federally related transactions), is outside the scope of sections 1112 and 1114.

This is consistent with the overall intent of FIRREA. As stated, the purpose of title XI is to protect federal interests. In determining the federal interest that it must protect, the RTC must be informed by its organic statute, section 501 of FIRREA. A paramount principle of section 501 is that the RTC must maximize the net present value return from the sale of assets, and make efficient use of funds provided to the RTC. Congress has, through the provisions of title XI, which authorize the RTC to issue regulations, recognized that the RTC has expertise as a liquidator to determine whether the incremental expense of appraisals is outweighed by additional recoveries or the reduction of potential losses. The RTC has, consistent with its legislative mandate, determined that in transactions below a certain value, the incremental costs of appraisals outweigh the benefits.

To illustrate, as of September 30, 1992, the RTC has 25,282 real estate owned (REO) assets below $100,000 in value. Assuming a very conservative, average appraisal fee of $200, the RTC would incur $5,056,400 in fees to have those assets appraised. Additionally, the RTC presently has approximately 45,000 non-performing loans secured by real estate, which would result in appraisal fees of $9,000,000. Thus, to appraise all property

[2] Section 1112 (12 U.S.C. 3341) provides that each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

Section 1114 (12 U.S.C. 3343) provides that all federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

below $100,000 in value, the RTC would incur just over $14,000,000 in total appraisal fees. Since the RTC will continue to obtain appraisals for assets below $100,000 on an as needed basis, it is not possible to calculate the exact savings attributable to an increased threshold level. However, a threshold level of $100,000 could result in significant cost savings, as much as $14,000,000.

RTC is not, however, disparaging the need for some reliable method of establishing value in transactions below $100,000. The RTC still requires the use of real estate "evaluations" by establishing a threshold of $100,000 below which real estate-related financial transactions only require the attainment of an evaluation, while those transactions above the threshold require the services of a State licensed or certified appraiser.

Other comment letters were received that similarly questioned the RTC's authority to establish a threshold. One such letter by the Public Citizen Litigation Group argued that the RTC is specifically directed under title V of FIRREA to "establish an appraisal or other valuation method for determining the market value of real property" and is not permitted to sell real estate in distressed areas unless the sales price is ninety-five percent of market value as established by an appraisal. Market value, as established by the RTC, is the value of a property as determined by the market through adequate exposure to the market, a review of offers received, and other factors identified by the marketing program, and may or may not be identical to appraised value. Although an appraisal may be used as an opinion of market value and to determine the initial listing price, it is the disposition prices obtained through sufficient exposure to the market and a properly conducted marketing program that effectively establish the market value for sold real estate.

Public Citizen Litigation Group also raised a concern regarding the need for appraisals in compliance with the RTC's duty to make available certain properties through the Affordable Housing Disposition Program. The contention being that the RTC's definition of properties eligible for the Affordable Housing Disposition Program is based on whether the property's appraised value is within the range of $67,500 to $107,000. Thus, an appraisal would be required for nearly all properties to determine if they fall within the affordable housing program. The threshold contained in this rule is not intended to supersede any other existing RTC policy regarding the requirement of an appraisal. Those properties requiring an appraisal by RTC policy, including those potentially eligible for the Affordable Housing Disposition Program, are not excepted under the threshold contained in this rule.

Several commenters suggest RTC's practices are a tacit admission that all transactions require appraisals. They argue that, by requiring appropriate "evaluations" for real estate-related financial transactions under the $100,000 threshold, the RTC is in effect requiring the attainment of an appraisal. The Appraisal Institute asserts that an "appropriate evaluation" of real property is synonymous with an appraisal, and it is therefore inconsistent for the RTC to suggest that exempted real estate-related financial transactions, those valued less than $100,000, do not "require" the services of an appraiser. They assert that title XI of FIRREA does not distinguish between an "evaluation" and an "appraisal." Here again, the RTC disagrees. All appraisals are a form of evaluation: They are the most detailed and highest level of evaluations. Appraisals must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and certain other standards; evaluations need not. RTC has determined that transactions under $100,000 do not require the level of detailed analysis as contained in an appraisal report. Instead, the RTC requires at a minimum an evaluation of property value which does not necessarily meet all requirements to be considered an appraisal. Accordingly, this argument is not persuasive.

Several other comments emphasized the fact that by establishing a threshold, the RTC was allowing for the culmination of thousands of real estate-related financial transactions without the services of a State certified or licensed appraiser and establishing the potential for the same losses that fueled the savings and loan crisis in the 1980s. Just as title XI of FIRREA does not require the use of an appraiser in connection with all real estate-related financial transactions, it also does not conclude that only appraisers can evaluate real estate. An evaluation is performed by an individual who has the knowledge and experience necessary to render an informed assessment of the probable value of a property, but who is not expected to render an appraisal of the property. Such evaluations have been and still are performed by personnel in the financial industry in connection with financial institution transactions. Until title XI requires a change in the practice, the change is mandated only where the services of an appraiser are necessary to protect Federal financial and public policy interests in the real estate-related financial transactions involved. The RTC thus believes that no violation exists with respect to the letter or intent of title XI of FIRREA when accepting evaluations for real estate-related financial transactions where the services of an appraiser are not necessary to protect Federal financial and public policy interests in those transactions.

Transactions Requiring State Licensed or Certified Appraisers: The $100,000 Threshold

Almost all of the comment letters expressed concern regarding the threshold. Most respondents strongly opposed raising the threshold from $50,000 to $100,000. The primary concern of the increased threshold, under which appraisals by State licensed or certified appraisers would not be required in connection with real estate-related financial transactions, was that most single-family homes would be excluded from having an appraisal performed by a State licensed or certified appraiser. These homes would then be subject to faulty, biased or fraudulent evaluations and thus would increase the potential for financial loss to the RTC in the event of RTC seller-financed transactions. The RTC believes market value to be established by effective marketing programs employing wide exposure to the market. Market value, as established by an adequate marketing program, is used in RTC's seller-finance underwriting.

The RTC received comments from financial entities as well as appraisers and appraisal organizations regarding losses on real estate loans. In particular, the Mortgage Insurance Companies of America claimed that after reviewing losses realized by their industry, they found that in 1989, 57,000 claims were paid in the amount of $873 million, the majority of which involved properties valued at less than $100,000. They conclude that if the threshold were raised to $100,000, the number of claims would only increase as they believe that inadequately trained appraisers were responsible for a large part of their losses. The RTC believes that the situation as stated by the mortgage insurers would be reason to more closely examine the trends in real estate losses for properties valued at or less than $100,000. However, the RTC does not believe that poor quality appraisals

are the sole cause for losses in connection with real estate-related financial transactions. Major economic factors such as recessions or other strains on economies can cause unanticipated declines in local real estate values which can impact both the borrower's ability to repay as well as the level of collateral protection. Additionally, losses could be attributable to the characteristics particular to each insurer's portfolio as well as the insurer's client base. A large part of a mortgage insurer's portfolio consists of loans valued at or less than $100,000 and would therefore explain the significantly higher claim rate for loan amounts less than $100,000. Furthermore, the appraisal regulation requiring appraisals for federally related transactions does not itself confirm the achievement of quality appraisals; it is an administrative instrument allowing for corrective and disciplinary actions against incompetent or unethical appraisers.

Moreover, the RTC is primarily a liquidator of assets from failed savings associations and RTC receiverships do not act in a lending capacity except in the cases of seller-financed transactions which are short-term and very few in number relative to the total number of transactions entered into by the RTC. In these cases, we believe that RTC underwriting procedures are sufficient to protect the public interest. The $100,000 threshold does not preclude obtaining an appraisal. Instead, it provides the flexibility needed for the wide range of transactions the RTC faces.

Other letters received from appraisers stated that the increased threshold would directly contribute to higher prices paid by consumers. They believe the threshold should remain at $50,000 or possibly lowered to protect the consumer from increased costs associated with purchasing their home. In general, the banking industry does not take this position. They believe that the time and cost delays involved with obtaining appraisals performed by licensed or certified appraisers could harm the consumer. The RTC will take the steps necessary, relative to each transaction, to protect its interest and provide assurance to the consumer that the market value of the property is the result of an adequate evaluation of the property adjusted by the dynamic market conditions associated with the marketing and disposition of the property. Additionally, buyers are typically required to obtain an appraisal at their own cost by most third-party lending institutions; not requiring appraisals may actually lower the cost to the consumer.

Some comment letters stated that in addition to excluding thousands of residential real estate transactions from the requirement of appraisal services by State licensed or certified appraisers, the threshold would similarly affect real estate-related financial transactions involving commercial property. The letters contend that most commercial real estate transactions require more complex and detailed analysis and should therefore require the services of a licensed or certified appraiser. The RTC recognizes that evaluations of commercial real estate can involve more complex analysis than evaluations of single family residential properties; however, the regulation does not prohibit the RTC from obtaining an appraisal from a State licensed or certified appraiser when such services are deemed necessary to underwrite or evaluate the transaction appropriately.

In addition to letters received from appraisers and appraisal organizations, the RTC received several comment letters from State licensing and certification agencies that claimed that the revenue received as collections from the issuance of licenses and certifications to appraisers and which are used to support their services to the appraisal industry would greatly diminish as a result of increasing the threshold. They contend that by eliminating the requirement of State licensed or certified appraisers for all real estate-related financial transactions valued at or less than $100,000, fewer appraisers would be compelled to attain State licensing or certification. The RTC points out that there remains a large portion of real estate-related financial transactions that will require the services of State licensed or certified appraisers following the adoption of the $100,000 threshold. Although about fifty percent of residential loans will fall under this threshold, fifty percent will be above the threshold (in addition to those below the threshold where the attainment of an appraisal will be deemed necessary by prudent lending practices or secondary mortgage market requirements), thus requiring the services of a State licensed or certified appraiser. The amendment does not preclude the attainment of an appraisal, and in fact, current RTC policy recommends an appraisal, performed by a State licensed or certified appraiser, be obtained for all assets greater than $10,000. Additionally, it is unlikely that qualifying appraisers would choose to exclude themselves from a significant market segment by not obtaining appropriate licensing and certification. Furthermore, the vast majority of real estate-related financial transactions involving commercial real estate will require the services of State licensed or certified appraisers. The RTC therefore does not believe that the increase in the threshold will significantly impact the State licensing and certification process by reducing the number of individuals applying for State licensing or certification.

Many letters received from appraisers suggested that the professionalism of the appraisal industry would suffer because of the increase in the threshold. They further believe that FIRREA's intent was to promote the professionalism of appraisers and improve the services provided by the appraisal community. They purport that the RTC, by raising the threshold to $100,000, is undermining the intent of Congress in title XI of FIRREA. The RTC disagrees and does not believe this statement to be the case. The RTC recognizes real estate-related financial transactions that, due to the degree of complexity associated with the transaction, require more detailed analyses, more skilled background and higher levels of education as evidenced by a State certification or license. The RTC could not, and would not, bar the use of an appraiser where it is warranted by the nature of a particular transaction. Such appraisers can help financial institution officials in analyzing these transactions and assessing the complexity associated with the transactions. Alternatively, raising the threshold from $50,000 to $100,000 provides flexibility in identifying those assets where there is less risk associated with real estate-related financial transactions valued at or less than $100,000. As a result, evaluations are allowed by competent individuals where the issues involved do not demand the level of training and experience required of a professional appraiser but provides for the use of licensed or certified appraisers as the characteristics of the property warrant.

Additionally, there were comments expressing the viewpoint that the requirement of utilizing a State licensed or certified appraiser would not cause delay or pose significant other costs in the procurement of appraisals as believed by the banking industry, and that there is no justification of raising the threshold because of this expected delay. They argue that States have ample time in establishing procedures for appraisers to acquire State certification or licensing and that there should be no shortage in the number of State certified or licensed appraisers to

perform the number of appraisals required. Costs or delays in obtaining an appraisal are not identified by title XI of FIRREA as specific and just causes in deciding if the services of a State licensed or certified appraiser are required. However, the RTC believes that a low threshold such as $50,000 is burdensome, costly, and unnecessary for certain assets falling into a low risk category. The RTC believes that the minimal losses associated with seller-financed transactions under $100,000 do not justify the cost and delays associated with obtaining an appraisal by a State licensed or certified appraiser. In addition, eliminating the requirement of an appraisal performed by a State licensed or certified appraiser and thus diminishing the cost and delays associated with such an appraisal would further the RTC's legislative mandate of maximizing the net present value return from the sale of assets of RTC regulated institutions in a timely manner.

Government Guaranteed Loans

A second proposal that the RTC contemplated adopting is permitting regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to the requirements of the federal insurer or guarantor.

The RTC received several comments regarding this proposed amendment. Most appraisers and appraisal organizations were against adopting such a policy arguing that the RTC is in effect requiring appraisals for these transactions, without requiring the appraisals to be performed in conformity with the requirements of title XI. They assert that although agencies such as the Federal Housing Administration (FHA) or Veterans Administration (VA) require appraisals for the collateral of loans they guarantee, they are not specifically subject to the requirements of title XI of FIRREA, and as a result, their appraisals are not required to be performed by State licensed or certified appraisers. Many letters stated further by exempting these transactions from the requirement of appraisals performed by State licensed or certified appraisers, the RTC is moving away from the intent of Congress through title XI of FIRREA in establishing a greater uniformity among appraisals and protecting the Federal financial and public policy interests is real estate related financial transactions.

The RTC does not agree with these arguments. The appraisal standards of the federal agencies that insure or guarantee loans are believed by the RTC to protect the federal financial and public policy interests in those real estate-related financial transactions. There is no evidence either in title XI of FIRREA or in committee reports issued in connection with the legislation that suggests the intent of Congress was to impose the appraisal requirements of title XI on all other federal agencies. Title XI of FIRREA instead requires both that State certified or licensed appraisers be used and that specific appraisal requirements be adhered to only when it is essential to protect federal financial and public policy interests. The RTC does not feel that loans guaranteed by government agencies such as the FHA and VA create additional risk to the deposit insurance funds. These agencies, through their guarantees, fully assume the risk associated with the loan and thus reduced the risk to the financial institutions and deposit insurance funds.

More importantly, the issuance of loans through these agencies is designed to favor lending to individuals whose financial and credit backgrounds favor the insurance or guarantee offered by these programs. By requiring additional appraisals by State certified or licensed appraisers, or requiring another type of evaluation by a third party would impose additional costs to the participation in these programs and would counter the principal goals of title XI of FIRREA.

Transactions Involving FNMA and FHLMC

Besides the exemption of loans insured or guaranteed by government agencies from the requirement of an appraisal performed by a State licensed or certified appraiser, there have been additional inquiries regarding appraisal exemptions, specifically exemptions from the additional appraisal requirements contained in § 1608.4(a)(2) through (14) for real estate-related financial transactions that are originated by institutions that involve the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA). As other regulatory agencies such as the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) have included this exemption in their final appraisal rule, the RTC has examined this issue and feels that the adoption of such exemption would not promote transactions that are not conducted in accordance with principles of safety and soundness.

The same reasoning behind exempting loans directly guaranteed or insured by federal agencies can be applied to 1-to 4-family residential loans underwritten by financial institutions in accordance with FNMA or FHLMC standards. If such transactions for 1-to 4-family residential properties were appraised using FNMA or FHLMC forms and in accordance with their standards, which at a minimum comply with USPAP, the minimum requirements of title XI of FIRREA would be satisfied.

Moreover, given the RTC's primary role as a seller of 1-to 4-family and multifamily properties, the RTC concludes that in these situations, requiring the additional appraisal standards set forth in § 1608.4(a)(2) through (14) does not significantly increase the safety and soundness of these real estate sales transactions.

As a result, the RTC has amended § 1608.4 to allow regulated institutions to exempt appraisals for 1-to 4-family residential properties prepared in accordance with FNMA or FHLMC appraisal standards from the additional requirements listed in § 1608.4(a)(2) through (14). The RTC has further applied this exemption to real estate-related financial transactions involving multifamily residential properties.

Definition of "Real Estate" and "Real Property"

The final amendment proposed in the RTC's September 18, 1991 notice of proposed rulemaking involves the additions of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops.

Title XI of FIRREA does not clearly distinguish "real property" from "real estate." There are no definitions of the two terms included in the text of FIRREA, and the context in which the two terms are used does not make clear that the two terms are intended to have different technical meanings. For example, "real estate-related financial transaction" is defined in title XI of FIRREA as any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

Title XI of FIRREA also directs the RTC to issue regulations requiring that *real estate appraisals* be performed in accordance with generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. (Emphasis

supplied.) The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice (USPAP), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions.

In its final rule, the RTC used "real property" and "real estate" interchangeably to mean interests in an identified parcel or tract of land and improvements. However, it is not clear whether these terms were intended to include mineral rights, timber rights, or growing crops since valuation of such interests generally requires the services of a professional other than a real estate appraiser. The proposed amendment attempts to make clear the RTC's intent by defining "real property" and "real estate" for purposes of the appraisal regulation as "an identified parcel or tract of land including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights or growing crops." However, this definition left unclear the severability of these rights from the parcel or tract of land involved in the transaction. The final definition of "real estate" and "real property" will read: "An identified parcel or tract of land, with or without improvements, and includes easements, rights of way, undivided or future interests and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the parcel or tract of land when the transaction does not involve the associated parcel or tract of land."

Several comment letters received regarding this issue supported the amendment, while others opposed the amendment or recommended changes to correct perceived problems with the original definition. A problem associated with valuing property containing mineral rights, timber rights, growing crops, or water rights is when the land and the respective rights are not included together in a particular transaction. The two are said to be severed from each other with respect to the transaction. Severability can create appraisal problems when one party owns the rights to the mineral, timber, growing crops, or water rights while another party owns the land. If the transaction involves mineral rights, timber rights, growing crops, or water rights while excluding the parcel or tract of land associated therewith, there has previously been questions as to whether an appraisal is needed for the parcel or tract of land, the rights, both or neither. This definition makes clear that if the transaction involves only the mineral rights, timber rights, growing crops, or water rights as severed from the land, an appraisal is not required for the parcel or tract of land.

If the real estate-related financial transaction involves mineral rights, timber rights, growing crops, or water rights, and the associated parcel or tract of land, then the services of an appraiser would be required in connection with that transaction unless otherwise stated in this final rule. In addition, the contribution of relevant mineral rights, timber rights, growing crops, or water rights should be considered when appraising a parcel of land which possesses any of these features. However, valuation of these interests would not be required if they are not part of the transaction, or if they are not relevant to analyses the appraiser needs to perform to arrive at an estimate of value for the parcel or tract of land. The definition adopted in the final rule clarifies that mineral rights, timber rights, growing crops and other severable interests are excluded from the definition of real estate when the transaction involves only those interests. Also, a comment letter was received recommending that water rights also be excluded from the definition of real estate or real property. The RTC agrees with this recommendation and it is reflected in the final definition.

Other Comments

The RTC received additional comments regarding RTC's appraisal regulation. One comment recommended that the RTC adopt a policy requiring all RTC regulated institutions to develop written appraisal management policies and procedures as currently required by the Office of Thrift Supervision for institutions under its supervision. This does not apply in the case of the RTC. The RTC has its own management and disposition manual which includes specific policies and procedures addressing appraisals, and which RTC regulated institutions are required to follow.

Some comments requested clarification as to what constitutes an "adequate" collateral evaluation for real estate-related transactions below the $100,000 threshold. Currently, the RTC has its own guidelines for the evaluation of assets less than $50,000.

Following the adoption of the proposed amendments, the RTC may develop similar guidelines to cover situations under the new $100,000 threshold. Other comments requested clarification on the determination of "complexity" which would necessitate an appraisal performed by a State licensed or certified appraiser. The RTC believes that the final regulation and preamble thereto provides sufficient guidance on complexity, recognizing that it is very judgmental. RTC regulated institutions should act in a conservative manner and obtain the services of a State certified or licensed appraiser for all questionable situations.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the RTC certifies that these changes are not expected to have a significant negative impact on a substantial number of small entities.

Overall, the RTC expects the changes to benefit consumers and RTC regulated institutions regardless of size by reducing costs without substantially increasing the risk of loss for the institutions arising from fraudulent or inaccurate appraisals of real estate. Accordingly, the changes should not substantially increase the risk of loss to the federal deposit insurance fund arising from the affected transactions.

D. Paperwork Reduction Act

The collection of information contained in this part 1608 has been reviewed and approved by the Office of Management and Budget (OMB) and assigned the control number 3205–0003 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3604(h)) and the total burden hours have heretofore been estimated at 46,875 per year. Following the amendments now being adopted, the estimated average burden associated with the collection of information in this final rule is 24.7 hours per respondent. The respondent requirement associated with these changes to the RTC's appraisal regulation will result in a reduction of 26,475 burden hours from the previous 46,875 burden hours per year.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to John M. Buckley, Jr., Secretary, RTC, 801 17th Street NW., Washington, DC 20434, and to the Office of Management and Budget, Paperwork Reduction Project (3064–0103), Washington, DC 20503.

List of Subjects in 12 CFR Part 1608

Banks, Banking, Mortgages, Real estate appraisal, Reporting and

recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set out in the preamble, part 1608 of chapter XVI of title 12 of the Code of Federal Regulations is amended as follows:

PART 1608—APPRAISALS

1. The authority citation for part 1608 is revised to read as follows:

Authority: 12 U.S.C. 1441a(b)(12), 1821(c)(2)(C), and 3331-3351.

2. In § 1608.2, existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 1608.2 Definitions.

* * * * *

(g) *Real estate* or *real property* means an identified parcel or tract of land, with or without improvements, and includes easements, rights of way, undivided or future interests and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the parcel or tract of land when the transaction does not involve the associated parcel or tract of land.

* * * * *

3. In § 1608.3, the introductory text of paragraph (a), paragraphs (a)(1), (a)(4)(iv) and (a)(5) are revised and new paragraphs (a)(6), (a)(7) and (d) are added to read as follows:

§ 1608.3 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals not required.* While RTC guidelines or other prudent practices may also require an appropriate evaluation of real property, an appraisal performed in accordance with this part is required for any real estate-related financial transaction other than one in which:

(1) The transaction value is $100,000 or less, except as provided pursuant to published procedures to be established for individual transactions where variances in facts and circumstances indicate that a different standard is appropriate;

* * * * *

(4) * * *

(iv) There has been no evidence of an obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection;

(5) A regulated institution purchases pooled loans or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this regulation, if applicable, at the time of origination;

(6) A regulated institution makes or purchases a loan secured by real estate, which loan is insured or guaranteed by an agency of the United States government and is supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency; or

(7) A regulated institution enters into a transaction that is not secured by real property or any interest therein.

* * * * *

(d) *Effective date.* Regulated institutions are required to use State certified or licensed appraisers as set forth in paragraphs (b) and (c) of this section no later than December 31, 1992, unless otherwise required by law.

4. In § 1608.4, existing paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and a new paragraph (b) is added to read as follows:

§ 1608.4 Appraisal standards.

* * * * *

(b) *Exception for certain appraisals of 1-to 4-family and multifamily residential properties.* Appraisals for federally related transactions involving 1-to 4-family and multifamily residential properties need not comply with the standards set forth in § 1608.4(a)(2) through (a)(14), provided the appraisal complies with § 1608.4(a)(1) and conforms to the standards approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

* * * * *

By order of the Chief Executive Officer.

Dated at Washington, D.C., this 20th day of October 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92-25980 Filed 10-30-92; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 6, Amdt. 7]

Small Business Investment Companies; Clerical Amendments

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule makes clerical changes in order to correct obsolete regulatory references, to make the regulations consistent with the Small Business Investment Act of 1958, and to eliminate an inconsistency in the regulations.

DATES: This regulation is effective as of November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph L. Newell, Director, Office Program Development, Telephone (202) 205-6515.

SUPPLEMENTARY INFORMATION: The definition of "Small Concern" in § 107.3 references certain regulations in part 121, which was revised on December 21, 1989 (54 FR 54643). The references in the definition to regulations in part 121 are amended to reflect the numbering system adopted in the 1989 revision.

Paragraph (ii) of § 107.201(a)(2) is deleted in its entirety, paragraph (iii) is redesignated as paragraph (a)(3), and paragraph (i) is renumbered and revised to reflect such deletion and redesignation. The statutory basis for the regulatory language that is to be deleted was repealed by Public Law 101-574.

Finally, this rule makes a clerical change in § 107.203 by deleting paragraph (b)(7), the language of which is inconsistent with that of § 107.201(b)(2), as amended on July 11, 1991 (56 FR 31777). The amendment of § 107.201(b)(2) on July 11, 1991, effectively revoked § 107.203(b)(7) at that time.

Paragraph (ii) of § 107.201(a)(2) reflected certain language in the Small Business Investment Act added by Public Law 101-162 (November 21, 1989), forbidding SBA's payment of a temporary interest subsidy on debentures issued by a Specialized Small Business Investment Company (SSBIC) if the aggregate amount of such company's outstanding debentures issued with a subsidy equalled or exceeded on amount equal to 200 percent of such company's Private Capital. Public Law 101-574 (November 15, 1990) removed the prohibition in question, thus making paragraph (ii) unnecessary. Moreover, SBA considers that Congressional elimination of the prohibition precludes adoption of the language of paragraph (ii) as a matter of administrative policy, since any such policy would be inconsistent with the Small Business Investment Act. Accordingly, the paragraph is deleted in its entirety and corresponding editorial changes are made elsewhere in § 107.201(a).

Since this rule involves only clerical amendments to the regulations, with no effect upon the substantive or

procedural rights or interests of any party, SBA is publishing it as a final rule without opportunity for public comment.

Compliance With Executive Order 12778

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs-business.

For the reasons set forth above, part 107 of title 13, Code of Federal Regulations is amended as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 is revised to read as follows:

Authority: Title III of the Small Business Investment Act, 15 U.S.C. 681 *et seq.*, as amended, Public Law 100–590 and Public Law 101–162; 15 U.S.C. 683, as amended by Public Law 101–162 and Public Law 101–574; 15 U.S.C. 687d; 15 U.S.C. 687g; 15 U.S.C. 687b; 15 U.S.C. 687m, as amended by Public Law 102–366.

2. Section 107.3 is amended by revising the definition of "Small Concern" to read as follows:

§ 107.3 Definition of terms.[2]

* * * * *

Small Concern means a small business concern as defined in section 103(5) of the Act (including affiliates as defined in § 121.401 of this Title), which for purposes of size eligibility meets the applicable criteria set forth in § 121.802(a)(2) of part 121 of this Title.

* * * * *

3. Section 107.201 is amended by redesignating paragraph (a)(2)(i) as paragraph (a)(2) and revising it by removing paragraph (a)(2)(ii), and by redesignating paragraph (a)(2)(iii) as paragraph (a)(3) and revising the paragraph heading thereof, to read as follows:

§ 107.201 Funds to licensee.

(a) *Application procedure*— * * *

(2) *Preferred securities and subsidized debenture Leverage for section 301(d) licensees.* A section 301(d) Licensee may apply for preferred securities Leverage pursuant to section 303(c) of the Act, or for subsidized debenture Leverage pursuant to section 303(d) of the Act, on SBA Form 1022A, in accordance with accompanying instructions. All applications for Leverage shall be accompanied by evidence demonstrating to SBA's satisfaction the need therefor.

(3) *Voluntary redemption of Preferred securities.* * * *

* * * * *

4. Section 107.203 is amended by removing paragraph (b)(7).

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 9, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-26449 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

[2] Terms defined in this section are capitalized hereafter.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 92-AWP-13]

Establishment of Temporary Restricted Area R-2540; Capay, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a temporary Restricted Area R-2540, within a 1-nautical mile radius of lat. 38°45'22"N., long. 122°01'04"W. in the vicinity of Capay, CA, from the surface to 2,500 feet above ground level (AGL). This area will be active approximately ten periods between November 15, 1992, and March 15, 1993, with a time duration of 24 to 48 hours. R-2540 will be established to support a research project conducted by The Desert Research Institute to study the fog conditions in the Sacramento Valley, CA, area.

EFFECTIVE DATE: 0901 UTC, November 15, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

History

On August 19, 1992, the FAA proposed to amend part 73 of the Federal Aviation Regulations (14 CFR part 73) to establish temporary Restricted Area R-2540 in the vicinity of Capay, CA, (57 FR 37493). R-2540 will be established within a 1-nautical mile radius of lat. 38°45'22"N., long. 122°01'04"W., to launch a moored balloon.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments were received from the Northern California Airspace Users Working Group (NCAUWG). NCAUWG was concerned about the lighting for the balloon's mooring line. The FAA has contacted the Desert Research Institute and requested that two strobe lights of seven ounces each be installed to mark the line. NCAUWG suggested that the temporary restricted area be mapped on all charts. The FAA will publish the description of the restricted area and graphic in the Notice to Airmen's Class II publication. In addition, the Desert Research Institute will be required to publicize the activity taking place for airspace users. NCAUWG was also concerned about the intermittent activation of the restricted area. The group felt that a Notice to Airmen should be used to activate R-2540 for the entire fog season in lieu of the proposed intermittent activation of the area. The FAA rejects this recommendation because the area will be activated for very short periods of time during the study period and only when the atmospheric conditions exist to conduct the research. The FAA believes the public will be better served by releasing the area when not in use. Except for editorial changes, this amendment is the same as that proposed in the notice. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in Order 7400.8 dated November 1, 1991.

The Rule

This amendment to part 73 of the Federal Aviation Regulations establishes a temporary Restricted Area R-2540, within a 1-mile radius of lat. 38°45'22"N., long. 122°01'04"W., in the vicinity of Capay, CA. A moored balloon will be launched in R-2540 under the direction of the Desert Research Institute to conduct a research project on fog conditions in the Sacramento Valley, CA, area.

The moored balloon is 7.5 cubic meters (21.6 feet long and 5.9 feet in diameter) and will be secured by a 240 lb. test Kevlar line, 1/8 inch wide. The balloon is equipped with a rapid deflation device and light weight (7 oz.) strobe lights. Attached to the balloon will be an instrument package weighing

2.5 kilograms. The balloon and instrument package are expected to reach a height of approximately 100 feet above the fog tops, which are typically in the range of 1,200 to 1,500 feet. The balloon will operate below the maximum height of 2,500 feet AGL.

It is necessary to establish a temporary restricted area to contain the moored balloon in protected airspace.

The moored balloon will be airborne for approximately ten periods between November 15, 1992, and March 15, 1993. R–2540 will be activated for a duration of 24 to 48 hours during each period if the atmospheric condition exists to conduct the research. The restricted area will be used for this research project only and will be released to the Federal Aviation Administration for public use during periods it is not required.

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

In consideration of the need to allow the Desert Research Institute to use the subject area for their November 15, 1992–March 15, 1993, research project, and the safety need to restrict the operation of aircraft through this area during that time period, the FAA finds good cause, pursuant to 5 U.S.C. 533(d), for making this amendment effective in less than 30 days.

Environmental Review

The temporary restricted area will be in effect for approximately ten selected periods between November 15, 1992, and March 15, 1993. R–2540 will be activated for a duration of 24 to 48 hours. This action is considered under DOT/FAA Order 1051.1 to be a "*Categorically Excluded Action,*" however, subject to the procedures of part 101 of the Federal Aviation Regulations. It has been determined that this research project will result in no environment impact.

This temporary restricted area will prohibit the flight of nonparticipating aircraft through the area but will not direct nonparticipating aircraft to operate in any set or established route outside the restricted area. R–2540 is established with such small lateral and vertical dimensions that it will impose minimal, if any, impact on nonparticipating aircraft. Because of these factors, no action is required by the FAA to regulate the flow of nonparticipating aircraft outside R–2540.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.25 [Amended]

2. § 73.25 is amended as follows:

R–2540 Capay, CA [New]

Boundaries: Within a 1-nautical mile radius of lat. 23°45′22″ N., long. 122°01′04″ W.

Designated altitudes. Surface to and including 2,500 feet AGL. Time of use. As scheduled by NOTAM 24 hours in advance for the period November 15, 1992, to March 15, 1993. Restricted area void after 2359 hours local time on March 15, 1993. Controlling agency. Travis AFB Approach Control.

Using agency. The Desert Research Institute, University of Nevada.

Issued in Washington, DC, on October 19, 1992.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 92–26546 Filed 10–30–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92-CE-35-AD; Amendment 39-8406; AD 92-24-01]

Airworthiness Directives; Beech Models 34C and T-34C-1 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Beech Models 34C and T–34C–1 airplanes. This action requires an inspection to ensure that there are sufficient welds to secure the balance weight tube to the attachment plate in each elevator balance arm assembly and replacement of the subject elevator balance arm assembly if insufficient welds are found. Insufficient elevator balance arm assembly welds have been found on the affected airplanes. The actions specified by this AD are intended to prevent separation of an elevator arm assembly from the elevator caused by insufficient welds, which could result in loss of control of the airplane.

DATES: Effective December 15, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676–7111. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4122; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech Models 34C and T–34C–1 airplanes was published in the Federal Register on July 20, 1992 (57 FR 31992). The action proposed to require (1) an inspection of each elevator balance arm assembly for insufficient welds in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech Service Bulletin No. 2442, dated May 1992; and (2) replacement of the subject elevator balance arm assembly in accordance with the applicable maintenance manual if insufficient welds are found.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

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

proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 142 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $15,620.

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13— [Amended]

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

92-24-01 Beech: Amendment 39-8406; Docket No. 92-CE-35-AD.

Applicability: Model 34C airplanes (serial numbers (S/N) GP-1 through GP-50) and Model T-34C-1 airplanes (S/N GM-1 through GM-71 and S/N GM-78 through GM-98), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent separation of an elevator arm assembly from the elevator caused by insufficient welds, which could result in loss of control of the airplane, accomplish the following:

(a) Inspect each elevator balance arm assembly for insufficient welds in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech Service Bulletin No. 2442, dated May 1992.

Note 1: An insufficient weld is one where the weld bead does not extend around the full circumference of the balance weight tube in all three areas of the subject elevator balance arm assembly, and thus does not adequately secure the balance weight to the attachment plate.

(b) If an insufficient weld is found, prior to further flight, replace the subject elevator balance arm assembly in accordance with Chapter 27-30 of the maintenance manual.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspection required by this AD shall be done in accordance with Beech Service Bulletin No. 2442, dated May 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-8406) becomes effective on December 15, 1992.

Issued in Kansas City, Missouri, on October 26, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-26517 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-275-AD; Amendment 39-8297; AD 92-15-04 R1]

Airworthiness Directives; British Aerospace Model 125-800A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD), applicable to certain British Aerospace Model 125-800A series airplanes, that requires a modification of the main landing gear assembly, which consists of installing steel torque links and reducing axial clearances at torque link pins and knuckle joints. This action corrects a typographical error in the modification number cited in the AD. This action is necessary to ensure that operators accomplish the correct modification.

DATES: Effective August 20, 1992. The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of August 20, 1992 (57 FR 31434, July 16, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: On June 24, 1992, the FAA issued AD 92-15-04, Amendment 39-8297 (57 FR 31434, July 16, 1992), to require a modification of the main landing gear assembly, which consists of installing steel torque links and reducing axial clearances at torque link pins and knuckle joints. That action was prompted by recent reports of main landing gear vibration due to lack of stiffness in the caster mode. The actions required by that AD are intended to prevent excessive wear and premature structural failure of the main landing gear.

Recently, the FAA has become aware of a typographical error in identifying the British Aerospace modification number specified in paragraph (a) of the AD. That modification number was incorrectly identified as "British Aerospace Modification Number 253257SA." The correct modification number is "253257A."

The FAA has determined that it is appropriate to take action to correct AD 92–15–04 to specify the correct British Aerospace modification number in order to ensure that affected operators accomplish the appropriate modification. Paragraph (a) of the AD has been revised accordingly.

Action is taken herein to correct the error and to correctly add the AD as an amendment to Section 39.13 of the Federal Aviation Regulations (FAR). The effective date of the rule remains August 20, 1992.

The final rule is being reprinted in its entirety for the convenience of affected operators.

Since this action only corrects a typographical error in a final rule, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

92–15–04 R1. British Aerospace: Amendment 39–8297. Docket 91–NM–275–AD.

Applicability: Model 125–800A series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive wear and premature structural failure of the main landing gear, accomplish the following:

(a) Within 180 days after the effective date of this AD, install steel torque links on the right an left main landing gear, and reduce torque link and knuckle axial clearances, by installing British Aerospace Modification Number 253257A in accordance with British Aerospace Service Bulletin SB.32–226–3257A, dated May 3, 1991.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation and modification shall be done in accordance with British Aerospace Service Bulletin SB.32–226–3257A, dated May 3, 1991. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, as of August 20, 1992 (57 FR 31434, July 16, 1992). Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment is effective August 20, 1992.

Issued in Renton, Washington, on October 9, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–26436 Filed 10–30–92; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Changes in Reporting Levels for Large Trader Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending its regulations to raise the reporting level at which futures commission merchants (FCMs), clearing members, foreign brokers and traders must file large trader reports in natural gas futures. By reducing the number of required reports, this amendment reduces both burdens on persons reporting and the processing workload of the Commission. A second amendment makes clear that the reporting level of 150 contracts applies only to the existing, heavily traded New York Harbor unleaded gasoline futures. It is intended to merely clarify the rule's application and has no substantive effect on the regulatory burdens imposed.

EFFECTIVE DATE: December 2, 1992.

FOR FURTHER INFORMATION CONTACT: John R. Mielke, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581, Telephone (202) 254-3310.

SUPPLEMENTARY INFORMATION:

I. Background

Reporting levels are set in futures markets to ensure that the Commission receives adequate information to carry out its market surveillance programs to detect and prevent market congestion and price manipulation and to enforce speculative position limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants and other matters of public concern.

Generally, parts 17 and 18 of the regulations require reports from members of contracts markets, FCMs or foreign brokers ("firms") and traders, respectively, when a trader holds a "reportable position," *i.e.*, any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in 15.03 of the regulations.[1]

Unless otherwise specified in rule 15.03, the reporting level for futures is 25 contracts. This is to ensure that when a futures contract begins trading, the Commission has some minimal level of information concerning market participants. Commission staff routinely review actively traded contracts to determine if open interest, trading

[1] Firms which carry accounts for traders who hold "reportable positions" are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a Form 103 showing positions and transactions in the contract market specified in the call.

volume and the level of market participation have increased to such levels that the Commission is receiving more information than it needs for adequate surveillance. In these cases, the Commission will normally raise the reporting level to ameliorate reporting burdens to the extent compatible with adequate market coverage.

Natural gas futures on the New York Mercantile Exchange (NYMEX) began trading in April 1990. Since January 1992, the number of reporting traders has nearly doubled from 89 to 176 traders. Moreover, reporting traders in this contract at current reporting levels account for over 85 percent of the total open interest. This is substantially higher than is required for routine market surveillance purposes. Accordingly, the Commission has determined to increase the reporting level for natural gas futures from 25 to 50 contracts. This increase is expected to reduce the number of reports for that commodity by about 25 percent.[2]

The Commission is also amending rule 15.03 to make clear that the reporting level of 150 contracts for unleaded gas futures applies only to the existing, heavily traded New York Harbor delivery futures contract. NYMEX has recently listed and began trading a Gulf-Coast delivery unleaded gas futures contract. Although the commodity traded in both contracts is the same, the difference in delivery locations and mechanisms means that the two contracts will draw on different delivery supplies and use different delivery facilities.[3] Initial delivery on any new contract must be closely monitored to insure there are no impediments to the delivery procedure. This action effectively sets the reporting level of the Gulf-Coast unleaded gas futures contract at 25 contracts, the same level that is set for most new contracts. Commission staff, by letter dated September 16, 1992, have already notified FCMs that existing 25 contract reporting level for all contracts (unless otherwise specified) applies to the Gulf-Coast unleaded gas futures.[4]

[2] Commission staff consulted with staff of the New York Mercantile Exchange. Exchange staff indicate the exchange reporting level in natural gas futures will also be raised from 25 to 50 contracts.

[3] It should be noted that designations, speculative position limits and other regulatory requirements of the Commission generally are imposed on particular contract markets, not generically by commodity. In this regard, this reporting requirement was intended to be limited to the existing NYMEX unleaded gas futures contract; the amendment merely clarifies the existing requirements of the rule.

[4] NYMEX rules already specify a reporting level of 25 contracts for Gulf-Coast unleaded gas futures.

II. Related Matters

A. Notice and Comment

The Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking being published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, when the agency for good cause finds (and incorporates the findings and a brief statement of its reasons) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

The Commission finds that notice and public comment on the rule changes announced herein are unnecessary because the amendments are routine determinations made by the Commission with respect to new futures contracts that experience a growth in activity. These routine determinations are made to adjust reporting levels when increasing activity in the market leads to the receipt by the Commission of a larger number of reports than is necessary for efficient surveillance of the market. The other modification merely clarifies existing requirements. In this regard, it should be further noted that these amendments do not establish any new obligations under the Act. On the contrary, these changes simplify compliance with the Act by reducing persons' reporting obligations under the rules in question.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders and futures commission merchants and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618–18621 [April 30, 1992].

In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for purposes of the RFA. In this regard, the amendments to reporting requirements fall mainly upon futures commission merchants. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.* large positions. In addition, these amendments relieve a regulatory burden. Accordingly, the amendments have no significant impact on a substantial number of small entities. For the above reasons and pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on May 13, 1992 and assigned OMB control number 3038–0009 to the rule. The burden associated with this entire collection, including this amended rule, is as follows:

Average Burden Hours Per Response	0.17662
Number of Respondents	3,786
Frequency of Response	Daily

Persons wishing to comment on the information which would be required by these rules should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7304. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1990), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 15 REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c (a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b).

2. Section 15.03 is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	750,000
Soybeans (bushels)	500,000
Oats (bushels)	300,000
Cotton (bales)	5,000
Soybean oil (contracts)	175
Soybean meal (contracts)	175
Live cattle (contracts)	100
Feeder cattle (contracts)	50
Hogs (contracts)	50
Sugar No. 11 (contracts)	300
Sugar No. 14 (contracts)	100
Cocoa (contracts)	50
Coffee (contracts)	50
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 heating oil (contracts)	175
Crude oil, sweet (contracts)	300
Unleaded gasoline, New York Harbor (contracts)	150
Natural gas (contracts)	50
Long-term U.S. Treasury bonds (contracts)	500
GNMA (contracts)	100
Three-month (13 week) U.S. Treasury bills (contracts)	150
Long-term U.S. Treasury notes (contracts)	500
Medium-term U.S. Treasury notes (contracts)	300
Short-term U.S. Treasury notes (contracts)	200
Three-month Eurodollar time deposit rates (contracts)	850
Thirty-Day Interest Rates (contracts)	100
One-Month Libor Rates (contracts)	100
Foreign currencies (contracts)	200
U.S. Dollar Index (contracts)	50
Standard and Poor's 500 stock price index (contracts)	300
New York Stock Exchange composite index (contracts)	50
Amex major market index-maxi (contracts)	100
Nikkei stock index (contracts)	50
Municipal bonds (contracts)	100
Value line average index (contracts)	50
All other commodities (contracts)	25

Issued in Washington, DC, this 27th day of October 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-26509 Filed 10-30-92; 8:45 am]

BILLING CODE 6351-01-M

PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES

32 CFR Chapter XXIX, Part 2900

Regulations for Implementation of the Freedom of Information Act

AGENCY: Presidential Commission on the Assignment of Women in the Armed Forces.

ACTION: Interim rule with request for comments.

SUMMARY: Pursuant to the provisions of the Freedom of Information Act, the Presidential Commission on the Assignment of Women in the Armed Forces, hereafter known as the Commission, hereby publishes, as an interim rule, regulations implementing the Act.

DATES: These regulations will become effective November 2, 1992. Comments are due on or before December 2, 1992.

ADDRESSES: Any person interested in commenting on the regulations may do so by submitting comments in writing to the Executive Secretary of the Presidential Commission on the Assignment of Women in the Armed Forces, 1001 Pennsylvania Ave., NW., suite 275N, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Jacki McKimmy, Executive Secretary, (202) 376-6905.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) and 553(b)(3)(B) of the Administrative Procedures Act. These regulations are being published as an interim rule (effective on date of publication) to enable the Commission to comply with the requirements of the Freedom of Information Act in the shortest possible time period, given the finite tenure of the Commission. This interim rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities. This rule will be re-published following the comment period if substantive changes are made as a result thereof.

List of Subjects in 32 CFR Part 2900

Freedom of information.

For the reasons set forth in the preamble, the Commission establishes chapter XXIX, consisting of part 2900, in title 32 of the Code of Federal Regulations to read as follows:

CHAPTER XXIX—PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES.

PART 2900—REGULATIONS FOR IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT

Sec.

2900.1 General.
2900.2 Requests for records.
2900.3 Schedule of fees and methods of payment.

Authority: 5 U.S.C. 552.

§ 2900.1 General.

This part implements the Freedom of Information Act, section 552 of title 5, United States Code, and prescribes rules governing the availability to the public of documents and records of the Commission.

§ 2900.2 Requests for records.

(a) It is the policy of the Commission to make records and documents in its possession available to the public to the greatest extent possible. All records of the Commission are available for public inspection and copying in accordance with this section except those records or portions of records which the Executive Secretary or her designee specifically determines to be exempt from disclosure under section 552(b) of the Freedom of Information Act.

(b) A request for records shall be made in writing and directed to the Executive Secretary, Presidential Commission on the Assignment of Women in the Armed Forces, 1001 Pennsylvania Avenue NW., suite 275N, Washington, DC 20004. Such request, as well as the envelope containing the request, shall be clearly marked "Freedom of Information Act Request" and shall reasonably describe the record requested. Requests lacking a reasonable description will be filled only after a more comprehensive description is provided. The staff of the Commission will make reasonable efforts to assist a requester in formulating this request. Nothing in this section shall preclude staff of the Commission from complying with oral, unmarked, or generally stated requests for information and documents.

(c)(1) The Executive Secretary or her designee shall, within ten days after its receipt (excepting Saturdays, Sundays, and legal federal holidays), either comply with or deny a request for records, provided that when additional time is required because of:

(i) A need to search for, collect and examine a voluminous amount of separate and distinct records demanded in a single request; or

(ii) A need for consultation with another agency having a substantial interest in the determination of the request.

(2) The time limit for disposing of the request may be extended for up to ten additional working days by written notice to the requester setting forth the reasons for and the anticipated length of the delay.

(d) The requester will be notified promptly of the determination made pursuant to paragraph (c) of this section. If the determination is to release the

requested record, such record shall promptly be made available. If the determination is not to release the record, the person making the request shall, at the same time he is notified of such determination, be notified of:

(1) The reason for the determination;

(2) The name and title or position of each person responsible for the denial of his request; and

(3) The right to appeal the determination to the Chairman of the Commission within 30 days of receipt of a notice denying the request. An appeal shall be made in writing to the General Counsel, Presidential Commission on the Assignment of Women in the Armed Forces, 1001 Pennsylvania Avenue, NW., suite 275N, Washington, DC 20004. Both the envelope and the letter of appeal must be clearly marked "Freedom of Information Act Appeal." Unless the Chairman of the Commission otherwise directs, the General Counsel shall act on behalf of the Chairman of the Commission on all appeals. In no case, however, shall the individual who made the initial denial of the request render a decision on an appeal. A decision shall be rendered on an appeal within 20 days (excepting Saturdays, Sundays, and legal federal holidays) after the receipt of such appeal. The requester shall be notified promptly of the decision and, if the appeal is denied, the reasons therefor and the requester's right to seek judicial review of such determination pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552(a)(4).

§ 2900.3 Schedule of fees and methods of payment.

(a) *Definitions*. The following definitions apply in this section.

(1) *Direct costs* means those expenditures which the Commission actually incurs in searching for, duplicating, and (in the case of commercial use requests) reviewing documents to respond to a FOIA request.

(2) *Search* means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Line-by-line search will not be done when duplicating an entire document is a less expensive and quicker method of complying with a request. "Search" is distinguished from "review" (see paragraph (a)(4) of this section).

(3) *Duplication* means the process of making a copy of a document available to a requester. Copies can take the form of paper copy or audio-visual materials among others; however, copies will be provided in a form that is reasonably usable by requesters.

(4) *Review* means the process of examining documents located in response to an information request to determine whether any portion of any document is permitted to be withheld under FOIA. It also includes processing any documents for disclosure, *e.g.*, doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) *Commercial use request* refers to a request from or made on behalf of one who seeks information to further the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. This would include a request made for information to further such interests through litigation. In determining whether a requester properly belongs in this category, the Commission may request information concerning the use to which a requester will put the requested documents.

(6) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Non-commercial scientific institution* means an institution that is not operated on a "commercial" basis (as that term is defined in paragraph (a)(5) of this section) and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(8) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances where they qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Commission may also look to the past publication record of a requester in making this determination.

(b) *Cost to be included in fees.* The agency costs included in fees will vary according to the following categories of requests:

(1) *Commercial use requests.* Fees will include the Commission's full direct costs of searching for, reviewing for release, and duplicating the requested records.

(2) *Educational and non-commercial scientific institution requests.* The Commission will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first two hours of search time and the first 100 pages (see paragraph (e) of this section). To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) *Requests from representatives of the news media.* The Commission will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first two hours of search time and the first 100 pages (*see* paragraph (e) of this section). To be eligible for inclusion in this category a requester must meet the criteria in paragraph (a)(8) of this section.

(4) *All other requests.* The Commission will charge requesters who do not fit into any of the categories in paragraphs (b) (1) through (3) of this section fees which cover the full direct costs of searching for and reproducing records that are responsive to the request, except for the first two hours of search time and the first 100 pages (*see* paragraph (e) of this section). However, requests from persons for records about themselves will be treated under the fee provision of the Privacy Act of 1974, 5 U.S.C. 552a.

(c) *Fee calculation.* The Commission will calculate fees as follows:

(1) *Search.* $16.50 per hour.

(2) *Review (commercial-use requests only).* $16.50 per hour. Only the review necessary at the initial administrative level to determine the applicability of

any exemption, and not review at the administrative appeal level, will be included in the fee. The Commission may charge for each review conducted to determine the applicability of different exemptions.

(3) *Duplication.* At 20 cents per page for paper copy. For copies of records prepared by computer, requester will be charged reasonable direct costs of making a copy, including operator time. A request for records prepared by computer must be accompanied by either 3.5" diskette with 1.44 MB capacity or a 5.25" diskette with 1.2 MB capacity. Computer printouts will be charged at 20 cents per page.

(4) *Additional services.* Postage and other additional services requested above and beyond normal FOIA processing, such as express mail or courier delivery, will be charged at actual cost.

(d) *Assessment of interest.* The Commission may begin assessing interest charges on the 31st day following the day the fee bill is sent. Interest will be at the rate prescribed in section 31 U.S.C. 3717.

(e) *Free search and duplication.* Except for commercial use requests, the Commission (in accordance with 5 U.S.C. 552(a)(4)(A)(iv)) will provide the first 100 pages of duplication and the first two hours of search time to requesters without charge. In addition, the Commission will not impose a charge if the cost of collecting a fee will be equal to or greater than the fee itself. These provisions work together so that the Commission will not begin to assess fees until after providing the free search and reproduction.

(f) *Waiver or reduction of fees.* In accordance with 5 U.S.C. 552(a)(4)(A)(iii), the Commission will furnish documents without charge, or at a reduced charge, where disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(g) *Remittances.* (1) Remittances shall be in the form of either a bank draft drawn on a bank in the United States, a money order, or cash.

(2) Remittances shall be made payable to the order of the U.S. Treasury and mailed or delivered to the Executive Secretary, Presidential Commission on the Assignment of Women in the Armed Forces, 1001 Pennsylvania Ave., NW., suite 275N, Washington, DC 20004. The Commission will assume no responsibility for cash which is lost in the mail.

(3) A receipt for fees paid will be given only upon request.

(4) Where it is anticipated that the fees chargeable under this section amount to more than $250.00, and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester will be notified of the amount of the anticipated fee. If the requester does not agree to pay the estimated fees, the Commission may suspend the search and processing of records or, when appropriate (see paragraph (h) of this section), require an advance deposit. Requesters may confer with Commission personnel in an attempt to formulate the request so as to meet their needs at lower cost.

(h) *Advance payment fees.* The Commission will not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, except in the following situations:

(1) When the allowable charges that a requester will be required to pay are projected to exceed $250.00, the Commission may require the requester to make an advance payment of the entire fee, or a portion of the fee, before continuing to process the request.

(2) If a requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the billing date), the Commission will require the requester to pay the full amount owed plus any applicable interest, and to make an advance payment of the full amount of the estimated fee before it begins to process a new request or a pending request from the requester.

(i) *Other provisions*—(1) *Charges for unsuccessful search.* The Commission may assess charges for time spent searching for requested records, even if the search fails to locate responsive records or the records are determined, after review, to be exempt from disclosure.

(2) *Aggregating requests to avoid fees.* When the Commission reasonably determines that a requester is attempting to break a single request down into a series of requests for the purpose of evading the assessment fees, the Commission aggregate any such requests and charge the applicable fee. However, the Commission will not aggregate multiple requests on unrelated subjects from one requester.

Dated: October 27, 1992.

W.S. Orr,

Staff Director.

[FR Doc. 92-26452 Filed 10-30-92; 8:45 am]

BILLING CODE 6820-CD-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AF61

Veterans Training; Time Limit for Submitting Employer's Certifications Under the Veterans' Job Training Act

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: Payments under the Veterans Job Training Act are made to employers only after VA (Department of Veterans Affairs) receives periodic certifications concerning the number of hours worked by the veteran during the period being certified. Since the Act has a sunset provision, all work for which payments are due has been completed. This will serve notice to all employers participating under the Act that VA will not accept any certifications submitted after September 30, 1993.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On page 24447 of the Federal Register of June 9, 1992, there was published a Notice of Intent to amend 38 CFR part 21 in order to provide a final date for submitting employers' certifications under the Veterans' Job Training Act. Interested people were given 30 days in which to submit comments, suggestions or objections. VA received no comments, suggestions or corrections. Accordingly, VA is making the proposal final.

The Department of Veterans Affairs has determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that this amended regulation will not have a significant economic

impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Although the amended regulation will affect some small entities, this certification can be made because VA believes that the overwhelming majority of small entities have already submitted all the necessary periodic certifications. The department does not believe that requiring the remainder to submit them before October 1, 1993 will cause a significant economic impact. Therefore, the amended regulation will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.121.

List of Subjects in 38 CFR Part 21

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

Approved: September 15, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart F-1—Veterans' Job Training

For the reasons set out in the preamble, 38 CFR part 21, subpart F–1 is amended as set forth below.

1. The authority citation for part 21, subpart F–1 continues to read as follows:

Authority: Pub. L. 98–77, 97 Stat. 443.

In § 21.4632 paragraph (c)(4) and its authority citation are added to read as follows.

§ 21.4632 Payment restrictions.

* * * * *

(c) *Release of payments.* * * *

(4) VA will not release any payments for training provided by an employer if VA receives the employer's certification for that training after September 30, 1993.

(Authority: Sec. 8, Pub. L. 98–77, 97 Stat. 443)

* * * * *

[FR Doc. 92–26453 Filed 10–30–92; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 456

[MB-050-IFC]

RIN 0938-AF67

Medicaid Program; Drug Use Review Program and Electronic Claims Management System for Outpatient Drug Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim rule implements provisions of section 4401 of the Omnibus Budget Reconciliation Act of 1990 by specifying requirements for a Drug Use Review program, including the establishment of Drug Use Review Boards, and for an Electronic Claims Management system for outpatient drugs.

DATES: *Effective date:* These regulations are effective on January 1, 1993.

Comment period: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 4, 1993.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: MB–050–IFC, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code MB–050–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245–7890).

If you wish to submit comments on the information collection requirements contained in this rule, you may submit comments to: Laura Oliven, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Thomas Fulda, (410) 966–3343.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

Title XIX the Social Security Act (the Act) authorizes grants to States for medical assistance (Medicaid) to needy individuals. The Medicaid program is jointly financed by the Federal and State governments and administered by the States. Within Federal rules, each State decides eligible groups, types and ranges of services, payment levels for most services, and administrative and operating procedures. A State submits to HCFA a written statement, called a State plan, that describes the nature and scope of its Medicaid program. The State plan contains all information necessary for HCFA to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program. The plan is amended whenever necessary to reflect changes in Federal or State law, changes in policy, or court decisions.

B. Legislative Background

Under section 1905(a)(12) of the Act, States may provide coverage of outpatient prescription drugs as an optional service. Section 1903(a) of the Act provides for FFP in State expenditures for these drugs. Section 4401 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990) redesignated section 1927 of the Act as section 1928 and added a new section 1927 to the Act.

Section 1927(g) of the Act provides that, for FFP payment to be made under section 1903 of the Act for covered outpatient drugs, the State must have in operation, not later than January 1, 1993, a drug use review (DUR) program that consists of prospective drug review, retrospective drug use review, the application of explicit predetermined standards, and an educational program. The purpose of the DUR program is to improve the quality of pharmaceutical care by ensuring that prescriptions are appropriate, medically necessary, and that they are not likely to result in adverse medical results. Section 1927(g)(1)(A) of the Act directs that the program be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of

fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients or associated with specific drugs or groups of drugs. Section 1927(g)(1)(B) of the Act requires that the program assess data on drug use against predetermined standards consistent with peer-reviewed literature and three specified compendia. The assessment must include, but is not limited to, monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse.

Section 1927(g)(1)(C) of the Act specifies that the Secretary must pay to each State 75 percent of the sums expended by the State plan during calendar years 1991 through 1993 that the Secretary determines are attributable to the Statewide adoption of a DUR program that conforms to the statutory requirements.

Section 1927(g)(1)(D) of the Act specifies that States are not required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities that are in compliance with the drug regimen review procedures currently at 42 CFR 483.60.

Section 1927(g)(2)(A) of the Act contains the requirements for prospective drug review. The statute requires that the State plan provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under the Medicaid program. The review must include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

Section 1927(g)(2)(A)(ii) of the Act requires that, as part of the prospective drug review program, applicable State law establish standards for counseling of Medicaid recipients by pharmacists. The statute directs that State law must require pharmacists to offer to discuss, with each recipient or caregiver who presents a prescription, matters that the pharmacist, exercising his or her professional judgment (consistent with State law respecting the providing of such information), deems significant, including specified information. The statute requires that the discussion be in person, whenever practicable, or through access to a telephone service that is toll-free for long-distance calls. The statute does not require that a pharmacist provide consultation when a recipient or the recipient's caregiver refuses the consultation. The statute further requires the pharmacist to make a reasonable effort to obtain, record, and maintain specific patient profile information.

Section 1927(g)(2)(B) of the Act contains the requirements for retrospective drug use review. It requires that the DUR program provide for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and individuals receiving Medicaid benefits, or associated with specific drugs or groups of drugs.

Section 1927(g)(2)(C) of the Act requires that the DUR program assess data on drug use against explicit predetermined standards. It also requires that, as necessary, the program introduce remedial strategies to improve the quality of care and to conserve Medicare funds or personal expenditures.

Section 1927(g)(2)(D) of the Act requires that, in order to improve prescribing or dispensing practices, States provide for active and ongoing educational outreach programs to educate practitioners on common drug therapy problems.

Section 1927(g)(3) of the Act requires that States establish a DUR Board, either directly or through contract with a private organization. It contains requirements regarding the qualifications of Board members and the composition of the Board and specifies the activities of the Board. It also requires the State to prepare an annual report for submission to the Secretary that describes the activities of the DUR Board, including specified information.

Section 1927(h) of the Act requires the Secretary to encourage each State Medicaid agency to establish a point-of-sale electronic claims management (ECM) system for processing claims for covered outpatient drugs. The ECM system must be capable of performing on-line, real-time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists and other authorized persons in applying for and receiving payment. The statute specifies that, if the State acquires, through applicable competitive procurement process, the most cost-effective telecommunications network and automatic data processing services and equipment, FFP at a matching rate of 90 percent will be made for expenditures made in calendar quarters during fiscal years 1991 and 1992 for the development of the ECM system.

Section 1927(j) of the Act exempts covered outpatient drugs dispensed by health maintenance organizations from the requirements of section 1927 of the Act. Section 1927(j) further requires that the State plan provide that covered outpatient drugs dispensed by a hospital using drug formulary systems and billed to the plan at no more than the hospital's purchasing costs are not subject to the requirements of section 1927 of the Act.

II. Provisions of this Interim Rule

In developing these regulations, we have essentially relied on the language of sections 1927(g) and (h) of the Act as established by Public Law 101-508. We also sought and received advice from various national provider associations, States, pharmaceutical companies, drug utilization review firms, and others. We considered their comments as we developed this interim rule.

Note that sections 1927(g) and (h) of the Act use the term "drug use review" to describe the total program (prospective review, retrospective review, and education) and in speaking of the retrospective review activity. These same sections use the term "drug review" to mean the prospective review activity. We maintain that distinction in terminology in the following discussion.

A. Scope of Regulations

Current regulations at § 456.1 set forth the basis and purpose of 42 CFR part 456, "Utilization Control." We have revised § 456.1(a) to add that part 456 prescribes specific requirements for an outpatient DUR program. We have revised § 456.1(b), which lists the statutory basis for the requirements in part 456, by adding the statutory basis for the DUR program. We have also revised Table 1, which shows the relationship between sections of the Act and the requirements of part 456, to include this information for subparts J and K of part 456. Subpart J has been in existing regulations, but, through an apparent oversight, it was not included in the table. As discussed below, subpart K is being added to part 456 by this rule.

We are establishing a new subpart K, entitled "Drug Use Review (DUR) Program and Electronic Claims Management System for Outpatient Drug Claims," in part 456. In § 456.700, we set forth the scope of this subpart.

We state that this subpart prescribes requirements for—

• An outpatient DUR program that includes prospective drug review, retrospective drug use review, and an educational program;

• The establishment, composition, and functions of a State DUR Board; and

• An optional point-of-sale ECM system for processing claims for covered outpatient drugs.

B. Definitions

In § 456.702, we define the following terms for purposes of subpart K of part 456, using definitions already established in regulations:

• Abuse—as currently defined in § 455.2.

• Criteria—as currently defined in § 466.1.

• Fraud—as currently defined in § 455.2.

• Standards—as currently defined in § 466.1.

In addition, we have established the following definitions in § 456.702:

• "Adverse medical result" means a clinically significant undesirable effect, experienced by a patient, due to a course of drug therapy.

• "Appropriate and medically necessary" means drug prescribing and dispensing that is in conformity with predetermined standards established in accordance with § 456.703.

• "Gross overuse" means repetitive overutilization without therapeutic benefit.

• "Inappropriate and medically unnecessary" means drug prescribing and dispensing not in conformity with the definition of "appropriate and medically necessary."

• "Overutilization" means use of a drug in quantities or for durations that put the recipient at risk of an adverse medical result.

• "Predetermined standards" means criteria and standards, as defined in this section [§ 456.702], that have been established in accordance with the requirements of § 456.703.

• "Underutilization" means that a drug is used by a recipient in insufficient quantity to achieve a desired therapeutic goal.

We believe that the definitions of "adverse medical result," "overutilization," "underutilization," and "gross overuse" reflect the meaning generally given these terms by the health care community. The definitions of "appropriate and medically necessary," and "inappropriate and medically unnecessary" define these terms in relation to predetermined standards established in accordance with this rule. We believe that, by including both criteria and standards in the definition of "predetermined standards," we provide a framework for drug therapy guidelines, while allowing State Medicaid programs adequate flexibility to accommodate legitimate variations in prescribing practices.

Other terms are defined in the regulation sections in which they are used and are discussed in this preamble when discussing the contents of those sections.

C. Drug Use Review Program

In § 456.703(a), we specify that, in order for FFP to be paid under section 1903 of the Act for covered outpatient drugs, the State must have in operation, by not later than January 1, 1993, a DUR program consisting of prospective drug review, retrospective drug use review, and an educational program that meets the requirements of subpart K. This is based on section 1927(g) of the Act, which requires the establishment of a DUR program. We further specify that the goal of the State's DUR program must be to ensure appropriate drug therapy, while permitting sufficient professional prerogatives to allow for individualized drug therapy.

In § 456.703(b), we specify that prospective drug review and retrospective drug use review under the DUR program (including interventions and education) is not required for drugs dispensed to residents of nursing facilities that are in compliance with the drug regimen review procedures set forth in 42 CFR part 483. Note that this exception applies to the drugs, not to the pharmacies that dispense them. This provision for the rule is based on section 1927(g)(1)(D) of the Act, which specifies that States shall not be required to perform additional drug use review with respect to these drugs. We also specify, in accordance with the exemption at section 1927(j)(1) of the Act, that prospective drug review and retrospective drug use review are not required for drugs dispensed by health maintenance organizations (HMOs). These exemptions, however, do not affect the State's right to impose additional requirements. Therefore, we specify that the State is not precluded from making such drugs subject to prospective DUR or retrospective DUR or both, provided the State makes the drugs subject to all the requirements applicable to the type of review. (Note further, that the term "covered outpatient drugs" is generally defined at section 1927(k)(2) of the Act, subject to the limitation at section 1927(k)(3), which, among other exclusions, excludes from the definition those drugs included in the per diem rate of nursing facilities. Thus, review under the DUR program is not required for such drugs. Again, this does not preclude the State from making such drugs subject to DUR. Such review, however, would not be considered a part of the DUR program required by this subsection.)

In § 456.703(c), we require that the State plan provide that covered outpatient drugs dispensed by a hospital using drug formulary systems and billed to the plan at no more than the hospital's purchasing costs are not subject to the requirements of this subpart. This reflects the requirement in section 1927(j)(2) of the Act.

In § 456.703(d), we specify, based on the requirement in section 1927(g)(1)(B) of the Act, that prospective drug review must assess drug use information against predetermined standards. In § 456.703(e), we specify that acceptable sources of predetermined standards are those—

• Developed directly by the State or its contractor;

• Obtained by the State through contracts with commercial vendors of DUR services;

• Obtained by the State from independent organizations, such as the United States Pharmacopeial Convention, or entities receiving funding provided by the Agency for Health Care Policy and Research (an agency of the Public Health Service), HCFA, or State agencies; or

• Any combination of the above.

We specify, in § 456.703(f), that the predetermined standards used in the DUR program must meet the following requirements:

1. The source materials for their development must be consistent with the peer-reviewed medical literature and the following compendia:

—American Hospital Formulary Service Drug Information.
—United States Pharmacopeia-Drug Information.
—American Medical Association Drug Evaluations. We define "peer-reviewed medical literature" as scientific, medical, and pharmaceutical publications in which original manuscripts are published only after having been critically reviewed by unbiased independent experts.

2. Differences between source materials were resolved by physicians and pharmacists developing consensus solutions.

3. They are non-proprietary and readily available to providers of service. Systems and algorithms using the

predetermined standards may remain proprietary.

4. They are clinically-based and scientifically valid.

5. Retrospective review based on clinical criteria uses predetermined standards to determine the population at risk and applies standards, appropriate to this population, across providers to determine the provider outliers whose prescribing practices may not conform to accepted standards of care. Various statistical measures (including mean, range, or other measures at the discretion of the State) may be applied to these outliers.

6. They have been tested against claims data prior to adoption in order to validate the level of possibly significant therapeutic problems.

7. The predetermined standards for prospective and retrospective DUR are compatible.

8. They are subjected to ongoing evaluation and modification either as a result of actions by their developers or as a result of recommendations by the DUR Board.

The first requirement reflects the language of section 1927(g)(1)(B) of the Act, with the addition of a definition of "peer-reviewed literature." We believe that our definition is how this term is commonly understood. The second requirement takes into consideration the possibility that there may be differences between the compendia and peer-reviewed literature. The use by the developers of a professional consensus process involving pharmacists and physicians provides a means to resolve these differences. We believe providers should know what standards they are being judged against; therefore, we have included the third requirement. The fourth requirement recognizes the fact that criteria that are not scientifically valid and clinically-based would be substantively flawed and would be hard to apply to and unacceptable to clinicians. We established the fifth requirement because we believe there is a need to make clear that standards should not be used to decide what prescribing/dispensing practices are potential therapeutic problems. Clinical criteria are the appropriate basis for such decisions. Nonetheless, standards may be considered in deciding whether to intervene once the universe of potential therapeutic problems has been identified through the use of clinical criteria.

We established requirement number 6 because we believe testing is needed to determine the likely rate of problems to be uncovered by the use of a standard. If use of a particular standard results in an unusually large number of cases being identified as potential problems, it may be that the standard is not sufficiently precise to identify truly significant problems. We have established requirement number 7 because if prospective and retrospective predetermined standards are obtained from different sources, they might contain different recommendations. We established requirement number 8 because it is expected that experience and changes in the state of medical knowledge will make modification or elimination of predetermined standards or the addition of new ones necessary.

We believe that, as part of the educational process, providers should know against what predetermined standards they are being judged. We believe the general public also has a right to know what predetermined standards are being applied. Therefore, in addition to the requirement in § 456.703(f)(3) that the predetermined standards be non-proprietary, in § 456.703(g), we specify that, upon their adoption, predetermined standards must be available to the public and that pharmacists and physicians must be informed about how they can obtain copies.

Section 1927(g)(3)(c) of the Act indicates that, as part of conducting educational interventions, written, oral, and electronic reminders containing patient-specific and drug-specific information should be used. It also specifies that these messages must be communicated in a manner designed to ensure the privacy of patient-related information. Because of this provision and the broader issue of patient confidentiality associated with conducting DUR through an electronic claims management system, we require, in § 456.703(h), that the State establish, in regulations or through other means, policies concerning confidentiality of patient-related data that are consistent with the applicable Federal confidentiality requirements of subpart F of part 431, the State Pharmacy Practice Act, and guidelines adopted by the State Board of Pharmacy or other relevant licensing bodies. It should be noted that Federal confidentiality requirements would not apply to patient profile requirements at § 456.705(d) of this rule.

D. Prospective Drug Review (Point-of-sale or Point-of-Distribution Drug Review and Counseling Requirements)

Section 456.705 sets forth the requirements for prospective drug review, based on the prospective drug review requirements of section 1927(g)(2)(A) of the Act. In paragraph (a), we specify that the State plan must provide for review of drug therapy before each prescription (other than those for drugs for certain nursing facility residents, drugs dispensed by HMOs, and certain covered outpatient drugs dispensed by hospitals) is filled or delivered to a recipient and that applicable State law (including State Board policy incorporated in the State law by reference) must establish standards for counseling of the recipient or the recipient's caregiver. We further require that the State provide pharmacies with detailed information as to what they must do to comply with prospective drug review requirements, including guidelines on counseling, profiling, and documentation of prospective drug review activities by the pharmacists. We specify that this information is to be based on guidelines provided by part 456, subpart K and other sources that the State may specify. We specify that the pharmacies, in turn, must provide this information to their pharmacists.

In § 456.705(b), we specify that the State plan must provide for point-of-sale or point-of-distribution review of drug therapy before each prescription is filled or delivered to the recipient or the recipient's caregiver. In accordance with the exceptions provided in sections 1927(g)(1)(D), 1927(j)(1), and 1927(j)(2) of the Act, we provide exceptions to this requirement for the following drugs, respectively:

- Drugs dispensed to residents of nursing facilities that are in compliance with the drug regimen review procedures set forth in 42 CFR part 483.
- Drugs dispensed by HMOs.
- Covered outpatient drugs dispensed by a hospital using drug formulary systems and billed to the plan at no more than the hospital's purchasing costs.

We specify that the review must include screening for potential drug therapy problems because of therapeutic duplication, drug-disease contraindication, adverse drug-drug interaction, incorrect drug dosage, incorrect duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. These requirements reflect the provisions of section 1927(g)(2)(A) of the Act. We recognize that screening for these drug therapy problems will be done without direct access to diagnosis information and details about disease conditions contained in medical records available in an inpatient environment. A pharmacist conducting prospective DUR can use the patient profile to obtain information from the patient about allergies, disease condition, and other

relevant information. In addition, based upon his or her professional judgment, the pharmacist may consult a physician(s), when appropriate, to obtain additional information. We do not believe the pharmacist will incur additional liability as a result of performing prospective DUR.

While the statute does not define "therapeutic duplication," "drug-disease contraindication," "adverse drug-drug interaction," "incorrect drug dosage," "incorrect duration of drug treatment," "drug-allergy interactions," and "clinical abuse/misuse," we describe these terms in § 456.705(b), based on what we believe are the meanings generally given these terms by the health care community. We describe these terms as follows:

- "Therapeutic duplication"—the prescribing and dispensing of two or more drugs from the same therapeutic class such that the combined daily dose puts the recipient at risk of an adverse medical result or incurs additional program costs without additional therapeutic benefit.
- "Drug-disease contraindication"—the potential for, or the occurrence of, an undesirable alteration of the therapeutic effect of a given prescription because of the presence, in the patient for whom it is prescribed, of a disease condition or the potential for, or the occurrence of, an adverse effect of the drug on the patient's disease condition.
- "Adverse drug-drug interaction"—the potential for, or occurrence of, an adverse medical effect as a result of the recipient using two or more drugs together.
- "Incorrect drug dosage"—the dosage lies outside the daily dosage range specified in predetermined standards as necessary to achieve therapeutic benefit. Dosage range is the strength multiplied by the quantity dispensed divided by days supply.
- "Incorrect duration of drug treatment"—the number of days of prescribed therapy exceeds or falls short of the recommendations contained in the predetermined standards.
- "Drug-allergy interactions"—the significant potential for, or the occurrence of, an allergic reaction as a result of drug therapy.
- "Clinical abuse/misuse"—the occurrence of situations referred to in the definitions of abuse, gross overuse, overutilization, and underutilization, as defined in § 456.702, and incorrect dosage and duration, as defined in paragraphs (b)(4) and (b)(5) [of § 456.705], respectively.

In accordance with the counseling requirements of section 1927(g)(2)(A)(ii) of the Act, we require, in § 456.705(c), that standards for counseling by pharmacists of recipients or the recipients' caregivers be established by State law or other method that is satisfactory to the State. We believe that the standards should address questions such as whether an offer to counsel must be oral; whether or not posted signs may substitute for an oral offer to counsel; the applicability of this requirement to new and refill prescriptions; and the extent to which written material may or may not be substituted for the oral provision of information. Because we believe that the special nature of mail order pharmacy operations requires clarification as to how the counseling requirements apply to those entities, we require that the State law or State Medicaid agency policy include such clarification. We specify that the standards must meet the following requirements:

1. They require pharmacists to offer to counsel (in person, whenever practicable, or through access to a telephone service that is toll-free for long-distance calls) each recipient or recipient's caregiver who presents a prescription. A pharmacist whose primary patient population is accessible through a local measured or toll-free exchange need not be required to offer toll-free service. The standards need not require a pharmacist to provide consultation when a Medicaid recipient or the recipient's caregiver refuses such consultation. The standards must specify what documentation by the pharmacy of refusal of the offer of counseling is required.

2. They specify that the counseling include those matters listed below that, in the exercise of his or her professional judgment (consistent with State law regarding the provision of such information), the pharmacist considers significant, as well as other matters the pharmacist considers significant.

- The name and description of the medication.
- The dosage form, dosage, route of administration, and duration of drug therapy.
- Special directions and precautions for preparation, administration, and use by the patient.
- Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.
- Techniques for self-monitoring drug therapy.
- Proper storage.
- Prescription refill information.
- Action to be taken in the event of a missed dose.

Note that although section 1927(g)(2)(A)(ii)(I)(b) of the Act includes, in the list of matters to be discussed, both "route" and "route of administration," we believe the use of both terms is redundant. Therefore, we include "route of administration" but not "route" in the regulation.

Consistent with the recordkeeping requirements of section 1927(g)(2)(A) of the Act, we specify, in § 456.705(d), that the State must require that, in the case of Medicaid recipients, the pharmacist make a reasonable effort to obtain, record, and maintain patient profiles containing at least the following information:

- Name, address, telephone number, date of birth (or age), and gender of the patient.
- Individual medical history, if significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.
- Pharmacist's comments relevant to the individual's drug therapy.

We have not defined "reasonable effort" in the above context. It is the responsibility of the State, through the State Board of Pharmacy or, in the absence of such effort, the State Medicaid program's DUR Board to define "reasonable effort."

E. Retrospective Drug Use Review

Section 456.709 sets forth the requirements for retrospective DUR, based on the retrospective DUR requirements of section 1927(g)(2)(B) of the Act and the application of standards requirements of section 1927(g)(2)(C). In paragraph (a), we require that the State plan provide for the establishment of a retrospective DUR program for ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and Medicaid recipients, or associated with specific drugs or groups of drugs. We specify that this examination must involve pattern analysis, using predetermined standards, of physician prescribing practices, drug use by individual patients and, where appropriate, dispensing practices of pharmacies. We also specify that this periodic examination must occur no less frequently than quarterly. Quarterly processing is the usual Medicaid agency practice to support postpayment utilization review activities. It facilitates the timely accomplishment of educational interventions.

Section 1927(g)(2)(B) of the Act further states that the examination of claims data is to be made through the mechanized drug claims processing and information retrieval systems "or otherwise". We interpret "mechanized drug claims processing and information retrieval systems" to include both the Medicaid Management Information System (MMIS) and separate electronic drug claims processing systems that are integrated with MMIS. Accordingly, we further require in § 456.709(a) that retrospective review be provided through the State's mechanized drug claims processing and information retrieval system (that is, MMIS) or an electronic drug claims processing system that is integrated with MMIS. States that do not have MMIS systems may use their existing systems provided that the results of the examination of drug claims as described in this section are integrated with their existing claims processing system. However, we request comments to provide a basis for defining "or otherwise" as used in the statute.

In paragraph (b), we specify that retrospective DUR includes, but is not limited to, using predeterminated standards to monitor for the following:

- Therapeutic appropriateness.
- Overutilization and underutilization.
- Appropriate use of generic products.
- Therapeutic duplication.
- Drug-disease contraindication.
- Drug-drug interaction.
- Incorrect drug dosage.
- Incorrect duration of drug treatment.
- Clinical abuse or misuse.

We specify that "therapeutic appropriateness" is drug prescribing and dispensing that is in conformity with the predetermined standards. We specify that "appropriate use of generic products" is use of such products in conformity with State product selection laws. We believe these definitions reflect the meanings generally given these terms.

F. Educational Program

In § 456.711, we require that the State plan provide for ongoing educational outreach programs that educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices. We specify that the program may be established by the DUR Board directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists' associations/societies, or other organizations. We further specify that the program must include, in appropriate instances, the following types of interventions:

- Dissemination of information to physicians and pharmacists in the State concerning the duties and powers of the DUR Board and the basis for the standards used in assessing drug use.
- Written, oral, or electronic reminders containing patient-specific or drug-specific information (or both) and suggested changes in prescribing or dispensing practices. These reminders must be conveyed in a manner designed to ensure the privacy of patient-related information.
- Face-to-face discussions, with follow up discussions when necessary, between health care professionals expert in appropriate drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention on optimal prescribing, dispensing, or pharmacy care practices.
- Intensified review or monitoring of selected prescribers or dispensers.

We specify that the DUR Board determines the content of education regarding common therapy problems and circumstances in which each of the interventions specified in § 456.711 (a) through (d) is to be used. These requirements are based on the requirements contained in sections 1927(g)(2)(D) and 1927(g)(3)(C)(iii) of the Act. The Medicaid agency is responsible for the education programs and for the actual interventions. The education and intervention functions may be carried out by a contractor responsible for retrospective DUR or by a contractor responsible for the DUR Board. It is left to State discretion as to whether the education and intervention functions are to be carried out by the same contractor or different contractors.

G. Annual report

In § 456.712(a), we specify, in accordance with section 1927(g)(3)(D) of the Act, that the State must require the DUR Board to prepare and submit, on an annual basis, a report to the Medicaid agency that contains information specified by the State.

In § 456.712(b) we specify that the Medicaid agency must prepare and submit, on an annual basis, a report to the Secretary that incorporates the DUR Board's report and includes the following information:

(1) A description of the nature and scope of the prospective drug review program.

(2) A description of how pharmacies performing prospective DUR without computers are expected to comply with the statutory requirement for written criteria.

(3) Detailed information on the specific criteria and standards in use. After the first annual report, information regarding only new or changed criteria must be provided and deleted criteria must be identified.

(4) A description of the steps taken by the State to include in the prospective and retrospective DUR program drugs dispensed to residents of a nursing facility that is not in compliance with the drug regimen review procedures set forth in part 483 of this chapter.

(5) A description of the actions taken by the State Medicaid agency and the DUR Board to ensure compliance with the requirements for predetermined standards at § 456.703(f) and with the access to the predetermined standards requirement at § 456.703(g).

(6) A description of the nature and scope of the retrospective DUR program.

(7) A summary of the educational interventions used and an assessment of the effect of these educational interventions on the quality of care.

(8) A description of the steps taken by the State Agency to monitor compliance by pharmacies with the prospective DUR counseling requirements contained in Federal and State laws and regulations.

(9) Clear statements of purpose that delineate the respective goals, objectives, and scopes of responsibility of the DUR and surveillance and utilization review (SUR) functions. These statements must clarify the working relationships between DUR and SUR functions and other entities such as the Medicaid Fraud Control Unit and the State Board of Pharmacy. The annual report also must include a statement delineating how functional separation will be maintained between the fraud and abuse activities and the educational activities.

(10) An estimate of the cost savings generated as a result of the DUR program. This report must identify costs of DUR and savings to the Medicaid drug program attributable to prospective and retrospective DUR.

We have included some requirements regarding the content of the annual report submitted to the Secretary not specified in the statute, in order to carry out the stated requirements effectively and efficiently. We ask for specifics about criteria and standards in use in order to have access to data that would make possible a national, as opposed to a State, evaluation of criteria. Conducting such a national evaluation would be done either by HCFA or outside researchers. We ask for clarification of the DUR and SUR review relationship. The retrospective DUR

requirements in section 1927(g)(2)(B) of the Act and in § 456.709 of this rule parallel a portion of the surveillance and utilization review (SUR) requirements in parts 455 and 456. Both programs address fraud, abuse, and quality of care issues. Both programs also use reports generated by automated systems approved by the Secretary under section 1903(r) of the Act. The overlapping responsibilities between the DUR program and the SUR program and the relationship between the two functions require clarification. With regard to the estimate of cost savings attributable to the DUR program (item 10 above), this estimate must take into account savings to the pharmacy budget, savings resulting from changes in physicians' visits, and changes in hospital costs.

The statute assigns responsibility for preparation of the full report to the State, based on information provided by the Board's report. We expect that the State will make the Board responsible for providing information to the Medicaid agency on those areas where its particular professional expertise makes it the suitable source of the information. For example, the DUR Board may be the appropriate source for the information in items 2, 3, 6, and 7 above.

H. DUR Boards

Section 456.716 sets forth the requirements for State DUR Boards, based on the requirements regarding these Boards contained in sections 1927(g)(2)(D) and 1927(g)(3) of the Act. In paragraph (a), we require each State to establish, either directly or through a contract with a private organization, a DUR Board. We require that the Board include health care professionals who have recognized knowledge and expertise in at least one of the following:

- Clinically appropriate prescribing of covered outpatient drugs.
- Clinically appropriate dispensing and monitoring of covered outpatient drugs.
- Drug use review, evaluation, and intervention.
- Medical quality assurance.

In paragraph (b), we require that at least one-third but not more than 51 percent of the DUR Board members be physicians and that at least one-third of the Board members be pharmacists. We further require that these physicians and pharmacists be actively practicing and licensed by the State on whose DUR Board they are serving. While the statute does not specify the source of the license, we are requiring that the licensure be "by the State on whose DUR Board they are serving" because we believe that professionals who are involved in the provision of pharmaceutical care in the State would have a greater interest in the activities of the Board than individuals from outside the State.

In paragraph (c), we clarify the relationship between the Medicaid agency and the DUR Board. We specify that the Medicaid agency is ultimately responsible for ensuring that the DUR program is operational and conforms with the requirements of part 456, subpart K, and that it has the authority to accept or reject the recommendations or decisions of the Board.

In paragraph (d), we specify that the State agency must ensure that the operational tasks involved in carrying out the DUR Board activities set forth at section 1927(g)(3)(C) of the Act are assigned, limited only by the requirements of section 1927(g)(3)(C) of the Act, based on consideration of operational requirements and on where the necessary expertise resides. We further specify that, except as limited by section 1927(g)(3)(C) of the Act, the State agency may alter the suggested working relationship we set forth in § 456.716. Section 1927(g)(3)(C) of the Act assigns three activities to the Board: Retrospective DUR; application of predetermined standards, and ongoing interventions. Section 1927(g)(2)(D) of the Act requires that the DUR program, through the DUR Board, provide for educational outreach programs (including interventions). Section 1927(g)(3)(D) of the Act specifies that the State must require the Board to submit a report to it on an annual basis. Section 1927(g)(1) of the Act, however, leaves to the State the overall responsibility for ensuring that the DUR program is operational and comports with all requirements for FFP. Therefore, the Medicaid agency must retain the authority to accept or reject the recommendations of the DUR Board, particularly on matters not given to the Board by the statute. Additionally, there are operational areas, such as the daily operation of the DUR portion of the MMIS system and intensified review or monitoring of selected prescribers or dispensers, that we suggest are more appropriately assigned to the Medicaid agency. In setting forth the activities of the Board and the Medicaid agency in § 456.716(d), we accommodate both the statutory dictates and the operational concerns. In those areas that are assigned to the Board by the statute, we suggest a division of labor under which the Board is responsible for those areas that require its expertise in medicine and pharmacy and the Medicaid agency is responsible for those areas requiring its expertise in the ongoing operation of the program.

With regard to the application of predetermined standards, we suggest that the Board perform the following activities:

- Review and make recommendations on predetermined standards submitted to it by the Medicaid agency or the agency's contractor.
- Evaluate the use of the predetermined standards, including assessing the operational effect of the predetermined standards in use, and make recommendations to the Medicaid agency or the agency's contractor concerning modification or elimination of existing predetermined standards or the addition of new ones.
- Recommend guidelines governing written predetermined standards that pharmacies not using approved software must use in conducting prospective drug review.

We request comments on whether the DUR Board should evaluate DUR software available to pharmacies to determine whether it enables pharmacies to meet the requirements of prospective review and advise the Medicaid agency or its contractor concerning software acceptable for use by pharmacies in conducting prospective drug review.

We suggest that the Medicaid agency or its contractor perform the following activities related to application of predetermined standards:

- Submit predetermined standards to the DUR Board for its review and recommendations before the Medicaid agency applies them to drug claims data.
- If prospective drug review is conducted using an electronic claims management (ECM) system, apply software recommended by the Board.
- If prospective drug review is not conducted through an ECM system, as part of general compliance monitoring, ensure that Medicaid participating pharmacies conduct prospective drug review that screens for the potential drug therapy problems listed in section 1927(g)(2)(A) of the Act.

We request comments as to whether the Medicaid agency (or its contractor) should disseminate to pharmacies information concerning prospective drug review software provided to it by the Board.

With regard to retrospective DUR, we suggest that the DUR Board perform the following activities:

- Review and make recommendations on predetermined standards submitted to it by the Medicaid agency or the agency's contractor.

• Make recommendations to the Medicaid agency or the agency's contractor concerning modification or elimination of existing predetermined standards or the addition of new ones.

With regard to retrospective DUR, we suggest that the Medicaid agency or its contractor apply the predetermined standards to drug claims data in order to generate reports that identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care.

With regard to the education program (including interventions), we suggest that the Board perform the following activities:

• Identify and develop educational topics if education of practitioners on common drug therapy problems is needed to improve prescribing or dispensing practices.

• Make recommendations as to which mix of the interventions set forth in §§ 456.711 (a) through (d) would most effectively lead to improvement in the quality of drug therapy.

• Periodically re-evaluate and, if necessary, modify the interventions.

With regard to the education program (including interventions), we suggest that the Medicaid agency or its contractor perform the following activities:

• Apply predetermined standards to drug claims data to generate reports that provide the basis for retrospective education and intervention and furnish those reports to the Board.

• Carry out the educational programs and interventions specified by the Board.

In § 456.716(e), we specify that FFP is available for expenses associated with the operation of the DUR Board at the rate of 75 percent for funds expended by the State during calendar years 1991 through 1993. This is in accordance with the funding provision of section 1927(g)(1)(C) of the Act. We also specify that, after December 31, 1993, if the requirements for skilled professional medical personnel set forth in § 432.50 are met, FFP is available at the rate established by that section, that is, a rate of 75 percent. If the requirements for skilled professional medical personnel are not met, we specify, in accordance with the rate established at § 433.32(b)(7), that the rate for funds expended after December 31, 1993 is 50 percent.

I. Funding of DUR Program

Based on the funding provision of section 1927(g)(1)(C) of the Act, we specify, in § 456.719, that FFP is available at the rate of 75 percent for sums that the Secretary determines are attributable to the Statewide adoption of a DUR program as described in subpart K and that were expended by the State during calendar years 1991 through 1993. We further specify, in accordance with the rate established at § 433.32(b)(7), that the rate for funds expended by the State after December 31, 1993, is 50 percent. We specify that payment is made under procedures established in part 433.

J. Electronic Claims Management System

Section 456.722 sets forth the requirements for an ECM system, based on section 1927(h) of the Act. Section 1927(h) requires the Secretary to encourage each Medicaid agency to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale ECM system and contains requirements for such a system.

In paragraph (a), we specify that each Medicaid agency, at its option, may establish, as its principal (but not necessarily exclusive) means of processing claims for covered outpatient drugs, a point-of-sale ECM system to perform on-line, real-time (that is, immediate) eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists and other authorized persons (including dispensing physicians) in applying for and receiving payment. The ECM systems should assist pharmacists in applying for and receiving payment by electronically providing information, at point of sale, as to whether the recipient is eligible, the drug is covered, etc., thereby facilitating payment of claims. Since the statute specifies that the ECM system is to be the "principal" (not exclusive) means of processing claims, universal participation in the system is not required. Who must participate in an ECM system is to be determined by the State. Therefore, we also specify, in paragraph (a), that the State makes this determination. We further specify that, if the State exercises the option to establish an ECM system and wishes to receive FFP for its system, the system must meet the functional and additional procurement and system requirements discussed below. We request comments on how and to what extent these ECM requirements may affect the use of existing automated systems, the use of alternative techniques, such as "smart cards," and the participation of pharmacies in the Medicaid drug program.

In paragraph (b), we require that the ECM system developed by the State must include at least the following on-line, real-time capabilities:

• Eligibility verification, including identification of the following:

—Third-party payers.
—Recipients in managed care programs.
—Recipients and providers in restricted service programs (for example, lock-in and lock-out).
—Properly-enrolled providers.

• Claims data capture, including the following:

—Processing of prescription drug claims.
—Identification of prescriber.
—Minimum data set for claims (as defined in Part 11 of the State Medicaid Manual).

• Claims adjudication, including the following:

—Performing all edits and audits contained in the State's MMIS applicable to prescription drugs.
—Notifying the pharmacist (or another authorized person, such as the dispensing physician) about the claim status.
—Taking steps up to but not including, payment of the claim.

We provide that the real-time requirement for prescriptions filled for nursing facilities and prescriptions filled by mail order dispensers may be waived by the State and claims may be processed in the batch mode at the end of the day or other time mutually agreed to by the nursing facility or mail order dispenser and the Medicaid agency. We provide this waiver because the large volume of claims from mail order and nursing home pharmacies make on-line, real-time processing impractical. It should be noted that, if the State allows batch claims processing, this does not exempt the pharmacy from any other requirements of this subpart.

In paragraph (c), we specify that in order to receive FFP for its ECM system, the State must meet the following requirements:

• The ECM system must be acquired through applicable competitive procurement process in the State and must be the most cost-effective telecommunications network and automatic data processing services and equipment. The procurement must meet the procurement requirements set forth in 45 CFR part 74, subpart P, and appendix G–O of OMB circular A–102. In accordance with section 1927(h)(2)(B) of the Act, we permit the substitution of a request for proposal (RFP) for the advance planning and implementation documents otherwise required by part 433 of this chapter, 45 CFR 95.205, and 45 CFR part 307. We require that a cost-benefit analysis accompany the RFP. Also, we provide that, if in its advance planning document a State establishes

that a separate procurement is not cost-effective, modification of an existing fiscal agent contract will be acceptable. In this case, we specify that network services and equipment (but not software modifications) that are available from a variety of sources be competitively procured.

We also specify that States wishing to do prospective drug review as part of their ECM must do the following:

• Submit a cost benefit analysis showing the cost-effectiveness of such a system. We also require that State decisions as to who must participate in the ECM system and who may decline to do so must be included in the cost-benefit analysis.

• Establish a central State-wide electronic repository for capturing, storing, and updating data for all prescriptions dispensed and for providing access to such data by all authorized participants.

• Design the system to assess data for a review of drug therapy before each prescription is filled or delivered to a Medicaid recipient. The type of review conducted must meet the requirements for prospective drug review set forth in § 456.705.

We also specify that ECM is considered a subsystem of the MMIS and must be fully integrated with other components of the State's MMIS. In addition, information about ECM claims must be part of the single comprehensive utilization and management reporting system used by the DUR program.

States developing ECM systems are strongly encouraged, but not required, to design their systems to receive and progress claims formatted according to the recommended Medicaid transaction data set of the Telecommunication Standard Format, Version 3.2, as issued by the National Council for Prescription Programs.

In § 456.725(a), we specify, as provided in section 1927(h)(2)(1)(A) of the Act, that for funds expended during calendar quarters in fiscal years 1991 and 1992 and attributable to the design, development, and implementation of an on-line, real-time claims management system that meets the requirements of § 456.722, FFP is available at a matching rate of 90 percent. We further specify that after fiscal year 1992 ECM subsystems will be funded at the standard applicable MMIS enhanced rates, subject to the requirements in part 433, subpart A.

Based on the Federal matching provisions in part 433, subpart A, we specify, in § 456.725(b), that FFP is available at a matching rate of 75 percent for funds expended for the following:

(1) Telecommunications equipment and other equipment to directly access MMIS files.

(2) Telecommunications equipment (such as modems and point of sale terminals) furnished to providers.

(3) Operational costs including telecommunications network costs, provided that the ECM system includes eligibility verification systems, electronic claims capture, claims adjudication (except for payment), and a claims data process that is integrated into a single comprehensive utilization and information reporting system.

III. Regulatory Impact Analysis

Executive Order 12291 (E.O. 12291) requires us to prepared and publish a regulatory impact analysis for any rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

• An annual effect on the economy of $100 million or more;

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

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

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, will pharmacies and prescribing physicians are considered to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact analysis since we have determined, and the Secretary certifies, that this interim final rule with comment will not have a significant impact on the operations of a substantial number of small rural hospitals.

This interim final rule with comment period constitutes a major rule since total costs are estimated to exceed $100 million annually. Also, we anticipate that a large percentage of pharmacists and prescribers will be affected. Therefore, the following discussion, in combination with the discussion presented in the preamble, constitutes a regulatory impact and regulatory flexibility analysis.

A. Background

A primary purpose of the DUR program is to improve the quality of pharmaceutical care by ensuring that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical results. The statute also directs that the DUR program be designed to educate physicians and pharmacists on common drug therapy problems and assessments of whether usage complies with predetermined standards.

Additionally, the Congressional Budget Office estimated that annual total Federal and State savings as a result of the DUR provisions of Public Law 101–508 will be in the $10 million to $40 million range. This savings is the result of an expected reduction in the number of prescriptions written and dispensed. We welcome comments concerning savings that States may expect from implementation of DUR requirements.

B. Impact on Pharmacies

Most of the work and responsibility for implementing a meaningful DUR program will fall upon the estimated 58,000 retail pharmacies in the United States, virtually all of which participate in the Medicaid program. During 1991, pharmacy payments from the Medicaid program totaled approximately $5.5 billion, approximately 17 percent of the total revenue for prescription drugs. For some pharmacies, depending upon the pharmacy's location and the number of Medicaid recipients in the area, the Medicaid program payments represent a significant portion of their total pharmacy income.

1. Prospective Drug Review and Counseling

Section 1927(g)(2)(A) of the Act requires the State plan to provide for a review of drug therapy before each prescription is filled or delivered to a Medicaid recipient. Unless the State adopts an optional point-of-sale electronic claims management (ECM) system that includes prospective drug

review where prospective screening is done at the State level, prospective drug review screening will be done by individual pharmacies. Pharmacists will either have to rely on approved prospective drug review software programs or rely on written criteria, approved by the State, to properly perform manual prospective drug review.

Though an estimated 85 percent of pharmacies use computers, results of a survey of 12,456 pharmacists conducted in 1991 by the National Pharmacy Forum on Medicaid Drug Amendments showed significant differences in their ability to use computers for prospective DUR screening. The majority of pharmacists, for example, reported in that survey that they were able to screen for drug-drug interactions (85.6 percent), and drug-allergy interactions (82.2 percent) but very few pharmacists reported that they were able to screen for incorrect drug dosage (16.0 percent) and drug-disease contraindication (29.2 percent). Overall, 55 percent of the pharmacists surveyed indicated that they could not use their computers to screen for six of the nine types of prospective DUR screening required by OBRA 1990. The great majority of pharmacists will, as a result, have to update their prospective DUR software to meet the statutory requirements. We estimate the one time cost of upgrading prospective DUR software to be between $1000 and $2000 for the average pharmacy. In the event that the pharmacy's computer is not adequate to handle the demands of prospective DUR software, the pharmacy may also have to upgrade or replace their computer hardware. The $1000 to $2000 original estimate does not include any costs associated with upgrading the computer hardware. The majority of pharmacies have computers which are used for billing purposes, inventory control, prescription pricing, printing of the prescription labels, and generating handout information concerning drug interactions. The estimated initial cost for these computer systems is $12,000 to $15,000. Special computer programs, linking multiple stores, could increase the initial costs. In general, we believe it is unlikely that many pharmacies will have to significantly change their entire computer system to meet these DUR requirements. We would like to receive comments or additional information on this issue. It should be noted that pharmacists not wishing to upgrade their computer software may conduct prospective DUR screening manually, which must be based on approved written standards that satisfactorily meet statutory requirements.

Section 1927(g)(2)(A)(ii) of the Act requires that applicable State law establish standards for counseling of recipients receiving prescriptions. The State law must require a pharmacist to offer to counsel (in person, whenever practicable, or through access to a telephone service that is toll free for long-distance calls), each recipient or recipient's caregiver who presents a prescription. A pharmacist whose primary patient population is accessible through a toll free exchange, need not be required to offer toll free service. In addition, the State law must specify how counseling requirements apply to mail order pharmacies.

Little up to date information is available on the extent to which counseling is occurring in pharmacy practice. Seventeen States already require an offer of counseling by the pharmacist. Recent studies suggest that counseling occurs more frequently for new prescriptions than for refill prescriptions and that counseling is more frequent if done by a pharmacist than by a clerk. The effectiveness of counseling is also related to the training in counseling received by the pharmacist and the educational level of the recipient. At the present time we believe that counseling is provided for less than 50 percent of the total prescriptions dispensed and that the percentage of Medicaid recipients receiving counseling is lower than the general population.

The pharmacist must also make a reasonable effort to obtain and record patient information and maintain the patient profiles that are essential for the pharmacist to counsel the recipient concerning medication problems unique to the recipient. We expect that counseling and profiling requirements of OBRA 1990 will involve additional pharmacist time, which is costly. Our best estimate is that making the offer to counsel, reviewing a patient profile, and conducting counseling (exclusive of establishing a patient profile and interventions where the pharmacist takes an action such as telephoning the physician) could take two to four minutes at a cost of $1 to $2 per prescription. Assuming that counseling services are actually provided for 25 percent of all Medicaid prescriptions, and there are approximately 280 million Medicaid prescriptions filled each year, the annual cost for the pharmacists to provide this service is $70 million to $140 million. We would welcome comments with regard to the accuracy of this cost estimate.

2. Retrospective DUR and Educational Outreach

Section 1927(g)(2)(B) of the Act contains the requirements for retrospective DUR. Nineteen states already have retrospective DUR programs. Retrospective DUR provides, through its mechanized drug claims processing and information retrieval systems, for the ongoing, periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and individuals receiving pharmacy benefits. Costs of establishing retrospective DUR programs for those States which do not already have them will depend on the size of the State's drug program. We estimate that implementation of retrospective DUR could cost an average of $250,000 to $300,000 annually per State, for a total national cost of $12.5 million to $15 million annually. We welcome comments with regard to the accuracy of this estimate.

Section 1927(g)(2)(D) of the Act requires that the State DUR board, either directly or through contracts with accredited health care educational institutions, State medical societies, or State pharmacists associations/societies or other organizations as specified by the State, provide for active and ongoing educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices. The resulting intervention may involve written, oral, or electronic reminders containing patient-specific or drug-specific information along with suggested changes in prescribing or dispensing practices. Included will be face-to-face discussions, when appropriate and necessary, with prescribers and pharmacists who have been selected for educational intervention. The DUR Board will make policy recommendations concerning the circumstances under which each type of intervention will occur. We have no way of knowing how many practitioners will be selected for intervention or of knowing what types of intervention will be used. The level and type of intervention will determine the cost of the education/intervention component of retrospective DUR. We estimate that sending letters could cost from $5 to $8 each and more extensive encounters such as face-to-face interventions could cost as much as $200 per encounter. The costs to States will vary with the number of interventions and the type

ecessary to perform effective etroactive DUR. We welcome omments on the accuracy of these stimates.

. Impact on the Pharmacy Dispensing ee

The requirements for DUR and ounseling that Public Law 101–508 nposes on pharmacists will increase ne costs of operating a pharmacy and e reflected by surveys conducted by tates to determine the cost of filling a rescription. This increased cost of perating a pharmacy may result in ressure to raise dispensing fees. Since nese fees are set by the States, the dditional costs incurred by pharmacies vill not necessarily translate directly or nmediately into increased Federal Medicaid costs. Historically, Medicaid ispensing fees have grown slowly, an verage of under 3 percent per year etween 1985 and 1991. The rate of ncrease has been higher (4.45 percent) n the last 2 years as many States ncreased fees that had been level for a umber of years. Given the current udget climate and the States' likely esistance to granting increases, the net npact on Medicaid program xpenditures is not expected to be large. At current Medicaid drug program pending levels, every 1 percent ncrease in the average dispensing fee ranslates into an estimated $5 million to 10 million in additional Federal unding. Thus, if the provisions of Public Law 101–508 cause dispensing fees to ise 2 percentage points above the verage, the impact could be on the rder of $10 million to $20 million and ould offset the expected range of avings due to DUR implementation.

C. Impact on Recipients

The primary impact of DUR on the ecipient should be to improve the uality of care received by Medicaid ecipients by reducing their exposure to nazards resulting from the inappropriate prescribing, dispensing and use of prescription drugs. According to one study that reviewed several potentially problem drugs, up to 30 percent of the patients receiving prescriptions for these drugs received an inappropriate prescription. DUR will be expected to catch some of these problems, but not all of them. Individual pharmacy DUR will not catch problems if conflicting prescriptions are filled at different pharmacies nor will it catch problems esulting from beneficiaries taking medication found in the home originally prescribed for someone else. The majority of these inappropriate prescriptions do not entail a significant health risk to the patient but some inappropriate prescriptions, for various reasons, may be harmful or even potentially life threatening. Since DUR is an educational process, the benefit to the recipient should be a gradual reduction in the incidence of inappropriate prescribing and improved health outcomes for some beneficiaries. Since no reliable research data on likely benefits are known to us, we request information concerning this item. There may, however, be some reduction in pharmacy participation in the Medicaid program, resulting in some hardship on those beneficiaries who must travel longer distances to obtain pharmacy services.

D. Impact on States

States will incur increased costs to implement the DUR requirements of Public Law 101–508. Unless a State chooses to conduct prospective DUR as part of an optional ECM system, a State's cost for prospective DUR will be primarily for compliance monitoring and could cost approximately $50,000 per State except in the States such as California and New York that have large drug programs. State costs, in those States that do not have retrospective DUR in place already, should not exceed $250,000 to $300,000 per State, except in the States with large drug programs. As previously indicated, estimating the cost of educational intervention required by the statute is not possible without knowing the likely level of each type of intervention. States also have the option of establishing ECM systems and also of conducting prospective DUR as part of such systems. We welcome comments and cost information from States that have already implemented ECM systems that include prospective DUR or from States that have received cost estimates for implementing similar systems.

E. Conclusion

The provisions of this interim final rule with comment are required by section 4401 of OBRA 1990. We believe any discretion we have exercised in defining certain terms will not impose a significant burden on participating pharmacies and prescribing physicians, particularly in comparison to the costs mandated by the statute or costs which States may voluntarily elect to incur.

We do recognize that the provisions to offer counseling and to maintain profiles may impose some additional burden on those pharmacies that are not already performing similar tasks. In addition, responding to educational outreach may require some response time on the part of both physicians and pharmacists, but we believe all parties should benefit.

The impact on States will vary. The 31 States that do not yet have retrospective DUR programs will be required to initiate both retrospective and prospective drug review systems by January 1, 1993. The 19 States with retrospective DUR programs will have to implement some form of prospective drug review program to comply with this interim final regulation with comment.

This regulation leaves pharmacies free to conduct prospective drug review either electronically or manually. Further, with regard to the requirements for Federal matching funds for a State's ECM system, it allows an exception to the on-line, real time eligibility verification requirements to mail order pharmacies and for prescriptions filled for nursing facility residents. These exceptions are attempts to reduce the burden or unnecessary costs to pharmacies to meet the DUR program requirements. We specifically request comments on other ways to reduce costs or burdens on participating pharmacies.

IV. Waiver of Proposed Rulemaking

Because the Secretary is exercising discretion in implementing section 1927 (g) and (h) of the Act, ordinarily we would publish a notice of proposed rulemaking and afford a period for public comment. However, section 4207(j) of Public Law 101–508 permits the Secretary to issue interim final regulations to implement the provisions of that law. Because States need sufficient lead time to recruit DUR board members, release RFPs, pass the required legislation, etc., so that the DUR program can be in place as of January 1, 1993, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day comment period for public comment.

V. Response to Comments

Because of the large number of items of correspondence we normally receive concerning regulations, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and we will respond to the comments in the preamble of that rule.

VI. Collection of Information Requirement

Regulations at §§ 456.705(d) and 456.712 contain information collection or recordkeeping requirements or both that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44

U.S.C. 3501 et seq.). The information collection requirements concern the collection of information for patient profiles of Medicaid recipients, preparation by State DUR Boards of annual reports to the State agency, and preparation by the State agency of annual reports to the Secretary. These are statutory requirements. The respondents who will provide the information include Medicaid recipients, who will provide information for profiles to pharmacists, State DUR Boards that will provide annual report information to the States, and States that will provide annual reports to the Secretary. Public reporting burden for the collection of the profile information is estimated to be 5 minutes for each initial encounter and 2 minutes for each subsequent encounter. Public reporting burden for the collection of the annual report information, which includes activities by the DUR Board and by the State agency, is estimated to be up to 60 hours per year per State. A notice will be published in the **Federal Register** after approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the "ADDRESSES" section of this preamble.

List of Subjects in 42 CFR Part 456

Administrative practice and procedure, Grant Programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

42 CFR part 456 is amended as set forth below:

PART 456—UTILIZATION CONTROL

1. The authority citation continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. In § 456.1, the introductory text of paragraph (a) is republished, a new paragraph (a)(3) is added, the introductory text of paragraph (b) is republished, a new paragraph (b)(8) is added, and the introductory text of Table 1 is republished and new subparts J and K are added to the table to read as follows:

§ 456.1 Basis and purpose of part.

(a) This part prescribes requirements concerning control of the utilization of Medicaid services including—

* * * * *

(3) Specific requirements for an outpatient drug use review program.

(b) The requirements in this part are based on the following sections of the Act. Table 1 shows the relationship between these sections of the Act and the requirements in this part.

* * * * *

(8) *Drug use review program.* Section 1927(g) of the Act provides that, for payment to be made under section 1903 of the Act for covered outpatient drugs, the State must have in operation, by not later than January 1, 1993, a drug use review (DUR) program. It also requires that each State provide, either directly or through a contract with a private organization , for the establishment of a DUR Board.

Table 1

[This table relates the regulations in this part to the sections of the Act on which they are based.]

* * * * *

Subpart J—Penalty for Failure To Make a Satisfactory Showing of An Effective Institutional Utilization Control Program (1903(g))

Subpart K—Drug Use Review (DUR) Program and Electronic Claims Management System for Outpatient Drug Claims (1927(g) and (h))

3. A new subpart K is added to part 456 to read as follows:

Subpart K—Drug Use Review (DUR) Program and Electronic Claims Management System for Outpatient Drug Claims

Sec.

456.700 Scope.
456.702 Definitions.
456.703 Drug use review program.
456.705 Prospective drug review.
456.709 Retrospective drug use review.
456.711 Educational program.
456.712 Annual report.
456.714 DUR/surveillance and utilization review relationship.
456.716 DUR Board.
456.719 Funding of DUR program.
456.722 Electronic claims management system.
456.725 Funding of ECM system.

Subpart K—Drug Use Review (DUR) Program and Electronic Claims Management System for Outpatient Drug Claims

§ 456.700 Scope.

This subpart prescribes requirements for—

(a) An outpatient DUR program that includes prospective drug review, retrospective drug use review, and an educational program;

(b) The establishment, composition, and functions of a State DUR Board; and

(c) An optional point-of-sale electronic claims management system for processing claims for covered outpatient drugs.

§ 456.702 Definitions.

For purposes of this subpart—

Abuse is defined as in § 455.2 of this chapter.

Adverse medical result means a clinically significant undesirable effect, experienced by a patient, due to a course of drug therapy.

Appropriate and medically necessary means drug prescribing and dispensing that is in conformity with the predetermined standards established in accordance with § 456.703.

Criteria is defined as in § 466.1 of this chapter.

Fraud is defined as in § 455.2 of this chapter.

Gross overuse means repetitive overutilization without therapeutic benefit.

Inappropriate and medically unnecessary means drug prescribing and dispensing not in conformity with the definition of *appropriate and medically necessary.*

Overutilization means use of a drug in quantities or for durations that put the recipient at risk of an adverse medical result.

Predetermined standards means criteria and standards that have been established in accordance with the requirements of § 456.703.

Standards is defined as in § 466.1 of this chapter.

Underutilization means that a drug is used by a recipient in insufficient quantity to achieve a desired therapeutic goal.

§ 456.703 Drug use review program.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in order for FFP to be paid or made available under section 1903 of the Act for covered outpatient drugs, the State must have in operation, by not later than January 1, 1993, a DUR program consisting of prospective drug review, retrospective drug use review, and an educational program that meets the requirements of this subpart. The goal of the State's DUR program must be to ensure appropriate drug therapy, while permitting sufficient professional prerogatives to allow for individualized drug therapy.

(b) *Exception for drugs dispensed to certain nursing facility residents and for drugs dispensed by health maintenance organizations.* Prospective drug review and retrospective drug use review (including inventions and education) under the DUR program are not required for drugs dispensed to residents of

ırsing facilities that are in compliance ith the drug regimen review ocedures set forth in part 483 of this apter and for drugs dispensed by ealth maintenance organizations. This es not preclude the State from making ich drugs subject to prospective DUR retrospective DUR or both, provided e State makes the drugs subject to all e requirements of this subpart oplicable to the respective review.

(c) *Exemption for certain covered itpatient drugs dispensed by hospitals.* he State plan must provide that vered outpatient drugs dispensed by a ospital using drug formulary systems id billed to the plan at no more than e hospital's purchasing costs are not ibject to the requirements of this ibpart.

(d) *Use of predetermined standards.* A UR program must assess drug use formation against predetermined andards.

(e) *Source of predetermined andards.* The predetermined standards ust be—

(1) Developed directly by the State or contractor;

(2) Obtained by the State through ontracts with commercial vendors of UR services;

(3) Obtained by the State from dependent organizations, such as the nited States Pharmacopeial onvention, or entities receiving funding om the Public Health Service, HCFA, State agencies; or

(4) Any combination of paragraphs (1) through (f)(3) of this section.

(f) *Requirements for predetermined andards.* The predetermined standards ed in the DUR program must meet the llowing requirements:

(1) The source materials for their evelopment are consistent with peer-viewed medical literature (that is, ientific, medical and pharmaceutical iblications in which original anuscripts are rejected or published ly after having been critically viewed by unbiased independent perts) and the following compendia:

(i) American Hospital Formulary ervice Drug Information.

(ii) United States Pharmacopeia-Drug formation.

(iii) American Medical Association rug Evaluations.

(2) Differences between source aterials were resolved by physicians id pharmacists developing consensus lutions.

(3) They are non-proprietary and adily available to providers of ervices. Systems and algorithms using e predetermined standards may main proprietary.

(4) They are clinically-based and scientifically valid.

(5) The review based on clinical criteria uses predetermined standards to determine the population at risk and applies standards, appropriate to this population, across providers to determine the provider outliers whose prescribing practices may not conform to accepted standards of care. Various statistical measures (including mean, range, or other measures at the discretion of the State) may be applied to these outliers.

(6) They have been tested against claims data prior to adoption in order to validate the level of possibly significant therapeutic problems.

(7) The predetermined standards for prospective and retrospective DUR are compatible.

(8) They are subjected to ongoing evaluation and modification either as a result of actions by their developer or as a result of recommendations by the DUR Board.

(g) *Access to predetermined standards.* Upon their adoption, predetermined standards must be available to the public. Pharmacists and physicians must be informed of the existence of predetermined standards and of how they can obtain copies of them.

(h) *Confidentiality of patent-related data.* In implementing the DUR program, the State must establish, in regulations or through other means, policies concerning confidentiality of patent-related data that are consistent with applicable Federal confidentiality requirements at part 431, subpart F; the State Pharmacy Practice Act; and guidelines adopted by the State Board of Pharmacy or other relevant licensing bodies.

§ 456.705 Prospective drug review.

(a) *General.* Except as provided in §§ 456.703 (b) and (c), the State plan must provide for a review of drug therapy before each prescription is filled or delivered to a recipient, and applicable State law (including State Board policy incorporated in the State law by reference) must establish standards for counseling of the recipient or the recipient's caregiver. The State must provide pharmacies with detailed information as to what they must do to comply with prospective DUR requirements, including guidelines on counseling, profiling, and documentation of prospective DUR activities by the pharmacists. The pharmacies, in turn, must provide this information to their pharmacists. This information is to be based on guidelines provided by this subpart and by other sources that the State may specify.

(b) *Point-of-sale or point-of-distribution review.* Except as provided in §§ 456.703 (b) and (c), the State plan must provide for point-of-sale or point-of-distribution review of drug therapy using predetermined standards before each prescription is filled or delivered to the recipient or the recipient's caregiver. The review must include screening to identify potential drug therapy problems of the following types:

(1) Therapeutic duplication, that is, the prescribing and dispensing of two or more drugs from the same therapeutic class such that the combined daily dose puts the recipient at risk of an adverse medical result or incurs additional program costs without additional therapeutic benefit.

(2) Drug-disease contraindication, that is, the potential for, or the occurrence of—

(i) An undesirable alteration of the therapeutic effect of a given prescription because of the presence, in the patient for whom it is prescribed, of a disease condition; or

(ii) An adverse effect of the drug on the patient's disease condition.

(3) Adverse drug-drug interaction, that is, the potential for, or occurrence of, an adverse medical effect as a result of the recipient using two or more drugs together.

(4) Incorrect drug dosage, that is, the dosage lies outside the daily dosage range specified in predetermined standards as necessary to achieve therapeutic benefit. Dosage range is the strength multiplied by the quantity dispensed divided by days supply.

(5) Incorrect duration of drug treatment, that is, the number of days of prescribed therapy exceeds or falls short of the recommendations contained in the predetermined standards.

(6) Drug-allergy interactions, that is, the significant potential for, or the occurrence of, an allergic reaction as a result of drug therapy.

(7) Clinical abuse/misuse, that is, the occurrence of situations referred to in the definitions of abuse, gross overuse, overutilization, and underutilization, as defined in § 456.702, and incorrect dosage and incorrect duration, as defined in paragraphs (b)(4) and (b)(5) of this section, respectively.

(c) *Drug counseling.* As part of the prospective-drug review program, standards for counseling by pharmacists of recipients or the recipients' caregivers must be established by State law or other method that is satisfactory to the State. The State law must specify how counseling requirements apply to mail

order pharmacies. The standards must meet the following requirements:

(1) They require pharmacists to offer to counsel (in person, whenever practicable, or through access to a telephone service that is toll-free for long-distance calls) each recipient or recipient's caregiver who presents a prescription. A pharmacist whose primary patient population is accessible through a local measured or toll-free exchange need not be required to offer toll-free service. The standards need not require a pharmacist to provide consultation when a Medicaid recipient or the recipient's caregiver refuses such consultation. The standards must specify what documentation by the pharmacy of refusal of the offer of counseling is required.

(2) They specify that the counseling include those matters listed below that, in the exercise of his or her professional judgment (consistent with State law regarding the provision of such information), the pharmacist considers significant, as well as other matters the pharmacist considers significant.

(i) The name and description of the medication.

(ii) The dosage form, dosage, route of administration, and duration of drug therapy.

(iii) Special directions and precautions for preparation, administration, and use by the patient.

(iv) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

(v) Techniques for self-monitoring drug therapy.

(vi) Proper storage.

(vii) Prescription refill information.

(viii) Action to be taken in the event of a missed dose.

(d) *Profiling.* The State must require that, in the case of Medicaid recipients, the pharmacist make a reasonable effort to obtain, record, and maintain patient profiles containing, at a minimum, the information listed in paragraphs (d)(1) through (d)(3) of this section.

(1) Name, address, telephone number, date of birth (or age), and gender of the patient.

(2) Individual medical history, if significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

(3) Pharmacist's comments relevant to the individual's drug therapy.

§ 456.709 Retrospective drug use review.

(a) *General.* The State plan must provide for a retrospective DUR program for ongoing periodic examination (no less frequently than quarterly) of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and Medicaid recipients, or associated with specific drugs or groups of drugs. This examination must involve pattern analysis, using predetermined standards, of physician prescribing practices, drug use by individual patients and, where appropriate, dispensing practices of pharmacies. This program must be provided through the State's mechanized drug claims processing and information retrieval systems approved by HCFA (that is, the Medicaid Management Information System (MMIS)) or an electronic drug claims processing system that is integrated with MMIS. States that do not have MMIS systems may use existing systems provided that the results of the examination of drug claims as described in this section are integrated within their existing system.

(b) *Use of predetermined standards.* Retrospective DUR includes, but is not limited to, using predetermined standards to monitor for the following:

(1) Therapeutic appropriateness, that is, drug prescribing and dispensing that is in conformity with the predetermined standards.

(2) Overutilization and underutilization, as defined in § 456.702.

(3) Appropriate use of generic products, that is, use of such products in conformity with State product selection laws.

(4) Therapeutic duplication as described in § 456.705(b)(1).

(5) Drug-disease contraindication as described in § 456.705(b)(2).

(6) Drug-drug interaction as described in § 456.705(b)(3).

(7) Incorrect drug dosage as described in § 456.705(b)(4).

(8) Incorrect duration of drug treatment as described in § 456.705(b)(5).

(9) Clinical abuse or misuse as described in § 456.705(b)(7).

§ 456.711 Educational program.

The State plan must provide for ongoing educational outreach programs that, using DUR Board data on common drug therapy problems, educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices. The program may be established directly by the DUR Board or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies, or other organizations. The program must include the interventions listed in paragraphs (a) through (d) of this section. The DUR Board determines the content of education regarding common therapy problems and the circumstances in which each of the interventions is to be used.

(a) Dissemination of information to physicians and pharmacists in the State concerning the duties and powers of the DUR Board and the basis for the standards required by § 456.705(c) for use in assessing drug use.

(b) Written, oral, or electronic reminders containing patient-specific or drug-specific information (or both) and suggested changes in prescribing or dispensing practices. These reminders must be conveyed in a manner designed to ensure the privacy of patient-related information.

(c) Face-to-face discussions, with follow up discussions when necessary, between health care professionals expert in appropriate drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention on optimal prescribing, dispensing, or pharmacy care practices.

(d) Intensified review or monitoring of selected prescribers or dispensers.

§ 456.712 Annual report.

(a) *DUR Board report.* The State must require the DUR Board to prepare and submit an annual DUR report to the Medicaid agency that contains information specified by the State.

(b) *Medicaid agency report.* The Medicaid agency must prepare and submit, on an annual basis, a report to the Secretary that incorporates the DUR Board's report and includes the following information:

(1) A description of the nature and scope of the prospective drug review program.

(2) A description of how pharmacies performing prospective DUR without computers are expected to comply with the statutory requirement for written criteria.

(3) Detailed information on the specific criteria and standards in use. After the first annual report, information regarding only new or changed criteria must be provided and deleted criteria must be identified.

(4) A description of the steps taken by the State to include in the prospective and retrospective DUR program drugs dispensed to residents of a nursing facility that is not in compliance with the drug regimen review procedures set forth in part 483 of this chapter. After the first annual report, only changes must be reported.

(5) A description of the actions taken by the State Medicaid agency and the DUR Board to ensure compliance with the requirements for predetermined standards at § 456.703(f) and with the access to the predetermined standards requirement at § 456.703(g). After the first annual report, only changes must be reported.

(6) A description of the nature and scope of the retrospective DUR program.

(7) A summary of the educational interventions used and an assessment of the effect of these educational interventions on the quality of care.

(8) A description of the steps taken by the State Agency to monitor compliance by pharmacies with the prospective DUR counseling requirements contained in Federal and State laws and regulations. After the first annual report, only changes must be reported.

(9) Clear statements of purpose that delineate the respective goals, objectives, and scopes of responsibility of the DUR and surveillance and utilization (SUR) functions. These statements must clarify the working relationships between DUR and SUR functions and other entities such as the Medicaid Fraud Control Unit and State Board of Pharmacy. The annual report also must include a statement delineating how functional separation will be maintained between the fraud and abuse activities and the educational activities. After the first annual report, only changes must be reported.

(10) An estimate of the cost savings generated as a result of the DUR program. This report must identify costs of DUR and savings to the Medicaid drug program attributable to prospective and retrospective DUR.

§ 456.714 DUR/surveillance and utilization review relationship.

The retrospective DUR requirements in this subpart parallel a portion of the surveillance and utilization review (SUR) requirements in subpart A of this part and in part 455.

§ 456.716 DUR Board.

(a) *State DUR Board requirement and member qualifications.* Each State must establish, either directly or through a contract with a private organization, a DUR Board. The DUR Board must include health care professionals who have recognized knowledge and expertise in at least one of the following:

(1) Clinically appropriate prescribing of covered outpatient drugs.

(2) Clinically appropriate dispensing and monitoring of covered outpatient drugs.

(3) Drug use review, evaluation, and intervention.

(4) Medical quality assurance.

(b) *Board composition.* At least one-third but not more than 51 percent of the DUR Board members must be physicians, and at least one-third of the Board members must be pharmacists. These physicians and pharmacists must be actively practicing and licensed by the State on whose DUR Board they are serving.

(c) *Medicaid agency/DUR Board relationship.* The Medicaid agency is ultimately responsible for ensuring that the DUR program is operational and conforms with the requirements of this subpart. The agency has the authority to accept or reject the recommendations or decisions of the DUR Board.

(d) *DUR Board activities.* The State agency must ensure that the operational tasks involved in carrying out the DUR Board activities set forth at section 1927(g)(3)(C) of the Act are assigned, limited only by the requirements of section 1927(g)(3)(C) of the Act, based on consideration of operational requirements and on where the necessary expertise resides. Except as limited by the requirements of section 1927(g)(3)(C) of the Act, the State agency may alter the suggested working relationships set forth in this paragraph.

(1) *Application of predetermined standards: Board's activities.* The DUR Board should perform the following activities:

(i) Review and make recommendations on predetermined standards submitted to it by the Medicaid agency or the agency's contractor.

(ii) Evaluate the use of the predetermined standards, including assessing the operational effect of the predetermined standards in use, and make recommendations to the Medicaid agency or the agency's contractor concerning modification or elimination of existing predetermined standards or the addition of new ones.

(iii) Recommend guidelines governing written predetermined standards that pharmacies not using approved software must use in conducting prospective DUR.

(2) *Application of predetermined standards: Medicaid agency role.* The Medicaid agency or its contractor should perform the following activities:

(i) Submit predetermined standards to the DUR Board for its review and recommendations before the Medicaid agency applies them to drug claims data.

(ii) If prospective DUR is conducted using an electronic claims management (ECM) system, apply software approved by the Board.

(iii) If prospective DUR is not conducted through an ECM system, as part of general compliance monitoring, ensure that Medicaid participating pharmacies conduct prospective drug review that screens for the potential drug therapy problems listed in section 1927(g)(2)(A) of the Act.

(3) *Retrospective DUR: Board's activities.* The DUR Board should perform the following activities:

(i) Review and make recommendations on predetermined standards submitted to it by the Medicaid agency or the agency's contractor.

(ii) Make recommendations to the Medicaid agency or the agency's contractor concerning modification or elimination of existing predetermined standards or the addition of new ones.

(4) *Retrospective DUR: Medicaid agency role.* The Medicaid agency or its contractor should apply the predetermined standards to drug claims data in order to generate reports that identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care.

(5) *Education program (including interventions): Board's activities.* The DUR Board should perform the following activities:

(i) Identify and develop educational topics if education of practitioners on common drug therapy problems is needed to improve prescribing or dispensing practices.

(ii) Make recommendations as to which mix of the interventions set forth in §§ 456.711 (a) through (d) would most effectively lead to improvement in the quality of drug therapy.

(iii) Periodically re-evaluate and, if necessary, modify the interventions.

(6) *Education program (including interventions): Medicaid agency's role.* The Medicaid agency or its contractor should perform the following activities.

(i) Apply predetermined standards to drug claims data to generate reports that provide the basis for retrospective education and interventions and furnish those reports to the Board.

(ii) Carry out the educational programs and interventions specified by the Board.

(e) *Funding for the Board.* FFP is available for expenses associated with the operation of the DUR Board in carrying out its responsibilities, and payment is made under procedures established in part 433 of this chapter as follows:

(1) If the requirements for skilled professional medical personnel at § 432.50 of this chapter are met, at the rate of 75 percent.

(2) If the requirements for skilled professional medical personnel at § 432.50 of this chapter are not met, at the rate specified in § 456.719.

§ 456.719 Funding for DUR program.

FFP is available for sums that the Secretary determines are attributable to the Statewide adoption of a DUR program as described in this subpart, and payment is made under procedures established in part 433 of this chapter as follows:

(a) For funds expended by the State during calendar years 1991 through 1993, at the rate of 75 percent.

(b) For funds expended by the State after December 31, 1993, at the rate of 50 percent.

§ 456.722 Electronic claims management system.

(a) *Point-of-sale system.* Each Medicaid agency, at its option, may establish, as its principal (but not necessarily exclusive) means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management (ECM) system to perform on-line, real-time (that is, immediate) eligibility verifications, claims data capture, adjudication of claims, and to assist pharmacists and other authorized persons (including dispensing physicians) in applying for and receiving payment. The State determines who must participate in an ECM system and who may decline to do so. If the State exercises this option and wishes to receive FFP for its ECM system, the system must meet the functional and additional procurement and system requirements in paragraphs (b) and (c) of this section.

(b) *Functional requirements.* The ECM system developed by the State must include at least the on-line, real-time capabilities specified in paragraphs (b)(1) through (3) of this section. The real-time requirement for prescriptions filled for nursing facilities and prescriptions filled by mail order dispensers may be waived by the State to permit claims to be processed in the batch mode at the end of the day or other time mutually agreed to by the nursing facility or mail order dispenser and Medicaid agency.

(1) Eligibility verification, including identification of the following:

(i) Third-party payers.

(ii) Recipients in managed care programs.

(iii) Recipients and providers in restricted service programs (for example, lock-in and lock-out).

(iv) Properly enrolled providers.

(2) Claims data capture, including the following:

(i) Transfer of claims information from the pharmacy to the Medicaid agency or the Medicaid agency's contractor.

(ii) Identification of prescriber.

(iii) Minimum data set (as defined in Part 11 of the State Medicaid Manual).

(3) Claims adjudication, including the following:

(i) Performing all edits and audits contained in the State's Medicaid Management Information System (MMIS) applicable to prescription drugs.

(ii) Notifying the pharmacist (or other authorized person, such as the dispensing physician) about the claim status.

(iii) Taking steps up to, but not including, payment of the claim.

(c) *Additional requirements.* In order to receive FFP for its ECM system, the State must meet the following requirements:

(1) The ECM system must be acquired through applicable competitive procurement process in the State and must be the most cost-effective telecommunications network and automatic data processing services and equipment. The procurement must meet the procurement requirements set forth in 45 CFR part 74, subpart P, and appendix G–O of OMB circular A–102. The request for proposal (RFP) may be substituted for the advance planning and implementation documents otherwise required by part 433 of this chapter, 45 CFR 95.205, and 45 CFR part 307. A cost-benefit analysis must accompany the RFP. If in its advance planning document, a State establishes that a separate procurement is not cost-effective, modification of an existing fiscal agent contract will be acceptable. In this case, procurement of network services and equipment (but not software modifications) must be competitively procured.

(2) States wishing to do prospective DUR as part of their ECM must do the following:

(i) Submit a cost benefit analysis showing the cost-effectiveness of such a system. A State's decisions as to who must participate in the ECM system and who may decline to do so must be included in the cost-benefit analysis.

(ii) Establish a central State-wide electronic repository for capturing, storing, and updating data for all prescriptions dispensed and for providing access to such data by all authorized participants.

(iii) Design the system to assess data for a review of drug therapy before each prescription is filled or delivered to a Medicaid recipient. The type of review conducted must meet the requirements for prospective drug review set forth in § 456.705.

(3) ECM is considered a subsystem and must be fully integrated with the remainder of the State's MMIS. In addition, information about ECM claims must be part of the single comprehensive utilization and management reporting system used by the DUR program.

§ 456.725 Funding of ECM system.

(a) For funds expended during calendar quarters in fiscal years 1991 and 1992 and attributable to the design, development, and implementation of an on-line, real-time claims management system (that is, the most cost-effective telecommunications network and automatic data processing services and equipment) that meets the requirements of § 456.722, FFP is available at a matching rate of 90 percent. After fiscal year 1992, ECM subsystems are funded at the standard applicable MMIS enhanced rates, subject to the requirements of part 433, subpart A of this chapter.

(b) FFP is available at a matching rate of 75 percent for funds expended for the following:

(1) Telecommunications equipment and other equipment to directly access MMIS files.

(2) Telecommunications equipment (such as modems and point of sale terminals) furnished to providers.

(3) Operational costs including telecommunications network costs, provided that the ECM system includes eligibility verification systems, electronic claims capture, claims adjudication (except for payment), and claims data process that is integrated into a single comprehensive utilization and information reporting system.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: June 10, 1992.

William Toby,

Acting Administrator, Health Care Financing Administration.

Approved: June 25, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–26155 Filed 10–30–92; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–21; Notice No. 3]

RIN 2127–AC88

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard No. 217, *Bus Window Retention and Release*, by revising the minimum requirements for school bus emergency exits and improving access to school bus emergency doors. Instead of requiring all school buses to have the same number of exits, as the standard currently does, this rule sets requirements for minimum emergency exit space based upon the seating capacity of each bus. Thus, larger school buses are required to have an increased number of exits. This rule also requires school buses to provide improved access to side emergency doors. In addition, this rule includes requirements to improve the visibility of school bus emergency exits. This rule is intended to facilitate the exiting of occupants from a bus after an accident and thus improve the likelihood of their survival.

DATES: This rule is effective May 2, 1994.

Any petitions for reconsideration of this rule must be received by NHTSA no later than December 7, 1992.

ADDRESSES: Any petition for reconsideration should refer to Docket No. 88–21; Notice No. 3 and be submitted to: NHTSA Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Patricia Breslin, NRM–10, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0842.

SUPPLEMENTARY INFORMATION:

Background

School buses are an extremely safe means of transportation. The most recent available information (i.e., data for the 1989–90 school year) indicates that approximately 370,000 public school buses traveled over 3.5 billion miles to transport over 22 million children to public schools. In its May 1989 report, "Improving School Bus Safety," the National Academy of Sciences estimated that another 20,000 school buses traveled 0.5 billion miles to transport 3 million school children to private schools. The safety record of school buses in protecting school bus occupants while traveling these billions of miles is impressive. On a vehicle-mile basis, school buses are about four times safer than passenger cars. Despite this outstanding safety record, school bus crashes do occur and occasionally serious injuries and fatalities result.

An important factor in minimizing post-crash injuries and deaths on buses is the speed and ease with which occupants can evacuate the vehicle in an emergency. When Standard No. 217, *Bus Window Retention and Release* originally became effective on September 1, 1973, it required that buses other than school buses have exits whose combined area, in square inches, equaled or exceeded 67 times the number of designated seating positions. The type of exit used to comply with this requirement was left to the choice of the manufacturer, although the agency assumed that most manufacturers would meet the standard primarily by installing push-out side windows.

School buses were excluded from this requirement for the reasons explained in the notice of proposed rulemaking [NPRM]:

> In view of discipline problems associated with mandatory quick-release and exit devices throughout a school bus which may interfere with the school bus driver's task, and the added risk of children falling from moving school buses, push-out windows for school buses would remain optional. 35 FR 13025; August 15, 1970.

The Standard did require that when a school bus was voluntarily equipped with push-out windows or with other emergency exits, those exits must conform to the same requirements specified in the Standard for exits in buses other than school buses.

In response to the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93–492), Standard No. 217 was amended to include emergency exit requirements for school buses. Instead of simply specifying that the total combined area, in square inches, of all the exits had to equal or exceed 67 times the number of designated seating positions, and leaving the choice of exit type to the manufacturer, the agency required (and continues to require) that all new school buses have either (1) one rear emergency door, or (2) "one emergency door on the vehicle's left side that is in the rear half of the bus passenger compartment and is hinged on its forward side, and one push-out rear window." Like all of the agency's safety standards for motor vehicles, Standard No. 217 is a minimum safety standard, in this instance specifying the fewest permissible number of emergency exits for a school bus.

In May 1988, 27 persons died of smoke inhalation in the fire resulting from the high-speed crash of a pick-up truck (driven by a drunk driver) and a used school bus in Carrollton, Kentucky. Several factors were involved in this tragic event, which represented the first fire-related occupant deaths on a school bus-type vehicle since NHTSA began compiling statistics on traffic fatalities in 1975. Some observers suggested that more occupants might have survived the fire if the bus had been equipped with additional (or more accessible) emergency exits. That bus had been manufactured in March 1977, shortly before the new NHTSA school bus safety standards took effect, including upgraded requirements for Standard No. 217. This crash focused considerable public interest on several school bus safety issues, including emergency exits, as well as on the continuing problem of drunk driving. More recently, attention was again focused on school bus exits by the September 1989 crash in Alton, Texas, in which a tractor semi-trailer struck a school bus, which then rolled into a water-filled gravel pit. Twenty-one students drowned as a result of this crash.

Following the Carrollton crash, NHTSA undertook a comprehensive review of its vehicle standards and other programs for school bus safety, and published a summary report in November 1988. That report noted the excellent overall safety record of school buses, but also highlighted areas where further improvements might be made. The National Academy of Sciences [NAS] reached similar conclusions in its report on school bus safety, issued in May 1989.

In November 1988, NHTSA issued an advanced notice of proposed rulemaking [ANPRM] on whether to upgrade Standard No. 217 to specifically enhance the requirements for school bus emergency exits (53 FR 44627; November 4, 1988). The notice explored whether rulemaking to require additional emergency exits was warranted. It posed a series of 24 questions divided into six categories: safety need, requirements for additional exits, the effect of additional exits on other aspects of safety, cost of additional exits, encouraging the correct use of emergency exits, and other factors incident to requiring more emergency

exits. NHTSA received 49 comments in response to the ANPRM. The commenters included Federal, State and local government agencies, local school districts, pupil transportation services and associations, bus and equipment manufacturers, and the general public.

After considering the responses to the November 1988 ANPRM, NHTSA issued an NPRM proposing to amend Standard No. 217 to require that the minimum emergency exit space on school buses be based upon the seating capacity of the school bus so that emergency exit capability would be proportional to the maximum occupant capacity of the school bus and the school bus emergency exits requirements would be comparable to the requirements for non-school buses (56 FR 11153; March 15, 1991). The NPRM proposed two options for how the additional emergency exit space required by the proposed formula would be provided. That notice described the options as follows:

> Option A would provide that all additional exits required under the proposal be side exit doors. * * * Option B would require likewise, that where one additional exit is required, it must be a side exit emergency door, but that where the additional exit space required exceeds the area created by that door (1080 square inches), the next 540 square inches of exit space must be provided by a roof exit, and the next 540 square inches provided by a second roof exit. The maximum credit for one roof exit would be 540 square inches, regardless of its actual size. If additional exit space beyond that provided by the side exit door and two roof exits is required (i.e., more than 2160 square inches of additional exit space is required), the proposal would require a second additional side exit emergency door. * * *

The location for emergency exits under each option was specified. Additionally, the NPRM proposed to require that: Roof exits have a forward hinge and comply with the emergency release requirements of S5.3; emergency exit doors have a device to cause them to remain open once they have been opened past a certain point; seats adjacent to side emergency exit doors have flip-up seat bottoms; and the outline of school bus emergency exits be marked with retroreflective tape on both the interior and exterior sides of the bus.

NHTSA received 29 comments in response to this NPRM. All of these comments were considered while formulating this final rule, and the most significant comments are addressed below.

The most significant difference between the final rule and the NPRM concerns the means by which the additional emergency exit space will be provided. The requirement in the final rule is most similar to Option B in the NPRM, in that the first additional exit must be a side door and the second additional exit must be a roof exit. However, the final rule allows manufacturers to choose between side door exits, roof exits, and window exits in providing any additional required exit space. Additionally, the exact location of additional emergency exits is no longer specified. The final rule also differs from the NPRM in the types of markings that must be provided for emergency exits.

1. Capacity-based Emergency Exit Requirements

The NPRM proposed to require that school buses provide minimum emergency exit spaces equal, in square inches, to 67 times the number of seating positions. Several commenters, including the National Transportation Safety Board [NTSB], the National School Transportation Association [NSTA], and several states, specifically voiced support for capacity-based emergency exit requirements for school buses. However, the Minnesota Department of Education [Minnesota] stated its belief that "the rule as proposed goes too far in trying to prevent or minimize damages from events that are extremely rare. Greater safety can be provided by targeting funds to other areas, such as driver training." The agency acknowledges the extremely safe record of school buses, but believes that it is important to safeguard against catastrophic-type crashes by ensuring that the occupants of school buses have adequate amounts of emergency exit space located in several locations throughout the bus. This is particularly important as more higher-capacity school buses are being manufactured. Based upon information in the annual statistical issue of "School Bus Fleet Magazine," in comparing 1991 to 1987, the number of Type C buses (24–76 passengers) sold decreased by approximately 8,000, while the number of Type D buses (78 passengers and over) sold increased by approximately 5,600.

Additionally, while the agency recognizes the importance of school bus driver training programs, it notes the importance of school bus drivers having the best equipment available to them in order to do their job. Even the best drivers cannot do their best with inferior equipment. Conversely, the best equipment in the hands of untrained drivers does not guarantee the safe operation of a school bus.

The Oregon Department of Education [Oregon] agreed that a capacity-based method for determining the amount of emergency exit area should be adopted, but stated that using the same formula leaves a discrepancy between school buses and non-school buses. Oregon believed that school buses establish the maximum seating capacity based on a 13 inch wide seat space per individual, while non-school buses use a 15–18 inch space for a seating position. Oregon suggested this difference be taken into consideration by either developing "a more compatible seating position definition * * * or by utilizing a reduced square inch criteria * * * for the determination of number of required exits."

There is no specific mention of a 13 inch seating width in any safety standard. Oregon apparently based the 13 inch figure on the requirements of Standard No. 222, *School Bus Passenger Seating and Crash Protection.* Section S4.1 of Standard No. 222 calculates the maximum number of seating positions on a school bus bench seat by dividing the seat width by 15, and rounding the result to the nearest whole number. Using the industry "standard" seat width of 39 inches, the calculated maximum number of seating positions is 3 (39/15 = 2.6, rounded to 3). If one then divides the actual seat width (39 inches) by the calculated maximum number of seating positions (3), a 13 inch seating width can be inferred. This requirement is intended to ensure that the seat will be constructed to provide adequate crash protection when occupied by the maximum number of passengers. Many of those passengers are likely to be younger and smaller than the typical passengers who ride in non-school buses.

It appears that Oregon's concerns stem from the resulting number and cost of additional emergency exits for school buses. If the agency adopted Oregon's suggestions for calculating the total amount of emergency exit space, a smaller number of exits would result. The agency believes that it is appropriate to base the emergency exit requirements for school buses on the maximum potential capacity of the bus rather than a lesser number, just as it is appropriate to base the crash protection requirements on the maximum potential capacity of each seat. School buses are often operated at or near capacity. Further, it is important to ensure that adequate emergency exit space is available no matter whether the school bus is filled with kindergarten-size students or high school-size students. Therefore, the final rule provides that "(t)he area in square inches of unobstructed openings for emergency exit shall collectively amount to at least

67 times the number of designated seating positions in the bus."

2. Option A (Emergency Exit Doors) or Option B (Doors and Roof Hatches)

As explained previously, the NPRM proposed two options for adding emergency exits to school buses. Option A would have required that only side emergency exit doors be installed to meet the proposed additional emergency exit requirements. Option B would have required that a combination of side emergency exit doors and roof hatches be installed to meet the additional emergency exit requirements.

Several commenters expressed support for Option A. However, many of these also expressed support for roof hatches. For example, Oregon stated that Option A "appears to provide the most equal distribution of emergency exits," but "recommended that Option A be amended to include at least 1 roof exit."

Most commenters expressed support for Option B or a variation of it adopted by the 11th National Conference on School Transportation. But many of these commenters also expressed support for even greater usage of roof hatches than Option B would have required. For example, the Arizona Department of Transportation [Arizona-DOT] noted that buses with a capacity of "48 passengers or less should be required to have at least one roof hatch." The Iowa Department of Education [Iowa] stated that Option B should be adopted, but that it should be "amended to require at least one emergency roof escape for most, if not all school bus applications."

Only the Colorado Department of Education [Colorado] expressed total opposition to roof hatches, and therefore to Option B. It expressed technical concerns with roof hatches, particularly the "draft effect" of a roof hatch in a fire, as well as the potential dangers of dripping plastic from the hatch in a fire. Colorado also questioned whether or not the installation of a roof hatch would compromise a bus's ability to withstand rollover crashes. (A discussion of these concerns appears under Section 5, Roof Exits—Design and Size.) Further, it noted that in 5 years, only .7 percent of the Colorado school bus crashes have involved a bus rolling over on its side. This means that "(s)tudents would not have had the need to use roof hatches as an exit 99.3% of the time."

A number of commenters expressed strong convictions on the efficacy of various types of emergency exits. The NSTA supported "the use of push-out windows, side door or roof hatches to meet the emergency exit space requirements. The type of exit used to comply with the requirement should be the choice of the purchaser and manufacturer." The Montana Office of Public Instruction [Montana] believed that the states should have "some choice in choosing emergency escape windows, doors or roof hatches."

The Eagle County Colorado School District [Eagle County] noted that while it supported the need for more emergency exits, it believed "(d)ifferences among school districts such as in terrain and types of pupils transported must necessitate local decisions on the number, type and location of emergency exits." The Salem-Keizer Oregon Public Schools [Salem-Keizer] supported the agency's proposals for establishing emergency exit requirements based on school bus capacity, however, it believed push-out windows serve a useful purpose. It liked the "approach for providing a variety of exits for meeting a variety of uncertainties," and asked that the agency not "rule against push-out windows!"

Based on the comments, the agency believes that there are benefits to providing a variety of emergency exit types distributed throughout the bus as a precaution against a wide variety of potential emergency exit situations. Roof hatches would be a very beneficial type of emergency exit when the bus is on its side; however, it would be difficult for many students to use roof exits in other situations. It is also possible to envision a situation in which a bus comes to rest in a position where one or more emergency exits on a side would be too close to a tree, pole, guardrail, bridge abutment or other vehicle to allow it to open, or to open completely. In such an instance, it would be useful to have emergency exits distributed in other areas of the bus. Accordingly, the agency has decided that school buses should have a variety of exit types distributed throughout the passenger compartment.

The agency has determined that after calculating the total amount of additional emergency exit area [AEEA] needed for a school bus, using the formula proposed in the NPRM, the first additional amount of emergency exit area must be met with a side emergency exit door; the second additional amount of emergency exit area must be met with an emergency roof exit. Unlike Option B in the NPRM, however, the final rule provides that any remaining emergency exit area can be met with either a side emergency exit door, a roof emergency exit, or an emergency exit window. The specification of a side emergency exit door as the first priority is consistent with the NPRM which noted that, "if a bus is required to have only one additional exit * * *, that exit should be a side exit emergency door." Allowing AEEA to be met with an emergency exit window in some circumstances, however, differs from the agency's position in the NPRM.

In the NPRM, the agency stated three reasons why it did not want to encourage the use of push-out windows. First, push-out "windows are usually higher off the ground and smaller in size then exit doors, which makes them difficult for school age occupants to use." Second, "push-out windows are almost never used as a means of escape during school bus evacuation drills." Third, "push-out windows are likely targets of tampering." (56 FR 11153, 11155)

Nearly all commenters responding to the NPRM expressed an opinion concerning push-out windows. Most of these comments were based on the commenters' own successful experiences with such devices. For example, the Lake Oswego Oregon School District [Lake Oswego] stated that it has used push-out windows for nearly twenty years and that push-out windows "are at no greater risk of 'tampering' than any other emergency exit. (T)hey certainly are of less of a threat of students falling if they 'play' with them, than a side door." Minnesota believed that "pushout windows will maintain structural integrity of the vehicle better than numerous side emergency doors." Summing up the sentiment of commenters like these, Blue Bird stated that "(i)n the final analysis, state governments have the ultimate responsibility for selecting the features that they believe will best protect the safety of the passengers they transport."

Given the almost uniformly negative response to the agency's position on push-out windows, the agency reexamined its position. First, given the experiences with tampering reported by the commenters and that students may be sitting near side emergency doors, the agency no longer believes that push-out windows are a more likely target for tampering than an emergency exit door. While the agency continues to believe that push-out windows are less likely to be used in an emergency, the agency does not have any accident data to suggest that these windows are unsafe. Given that a large number of school districts currently require push-out windows in addition to the requirements of Standard No. 217 and have not reported any problems with them, the

agency has been persuaded to allow push-out windows to be counted towards the AEEA requirements for some buses. Since the first amount of AEEA must be met with a side emergency door, the second amount of AEEA with a roof exit, only large-capacity buses, typically those with a seating capacity exceeding 70, will be able to take advantage of this option.

NHTSA suggests that states and school districts consider the agency's concerns about the use of push-out windows when choosing between side doors, roof exits and push-out windows for larger school buses. For states and school districts that allow or require push-out windows in school buses, the agency suggests further that training programs include instruction in the use of these windows.

3. Emergency Exit Doors

While there were a number of comments to the docket in support of requiring only emergency exit doors and roof hatches, some commenters expressed concerns over the structural impact of additional side emergency exit doors. Thomas Built Buses [Thomas Built] stated that in terms of intrusion, it has been shown "that the structural integrity of the area around the side emergency door can be just as sound as an area along the side of the bus that does not have a side emergency door." However, on the subject of fatigue strength, Thomas Built has "seen evidence that the bus's fatigue strength has been compromised when a side door is installed on various types and brands of buses. This evidence shows up after years of use and is in the form of cracked structural members and panels." The placement of the door, depending on the "body length, front engine, rear engine, and operating conditions," can have "detrimental effects on structural fatigue." "Problems can show up early (1–2 years) or later (3–10 years)."

The agency does not believe the fatigue strength concerns expressed by Thomas Built are unique to side emergency exit doors. In-use fatigue problems can result from a variety of operational factors, including climate and roadway factors, that can affect many areas in all types of buses.

With respect to these "fatigue strength" concerns, the agency notes that: (1) rear-engine school buses have been equipped with a left side emergency exit door since 1977; (2) several states (e.g., California, New York, and Washington) already require additional side emergency doors in their school buses; (3) a large number of school buses are equipped with wheelchair lifts which essentially represent an oversized side emergency exit door; and (4) these buses do not appear to be suffering from large numbers of design structural integrity problems or fatigue strength life cycle problems. For these reasons, the agency believes requiring a single side emergency exit door in school buses currently equipped with a rear emergency door or an additional side emergency exit door on a school bus with a left side emergency exit door will not compromise the structural or life cycle characteristics of school buses.

4. Window Size

Three commenters directly addressed the size of the standard (non-emergency exit) windows on school buses. These comments attempted to separate emergency evacuation situations into two types. The first were the routine evacuations where time is not necessarily critical and the service entry door and other floor level emergency exits would be utilized. The second were catastrophic-type crashes where the school bus occupants have to evacuate the vehicle as fast as possible. In its comments to the NPRM, the California Department of Education [California] noted that "NHTSA could have also enhanced passenger safety by requiring the passenger window opening to be at least 12" by 22" in area:" (Currently, most school buses are built with split-sash windows which drop to provide an opening of 9" high x 22" wide.) California stated that while each window should not be a designated emergency exit, "a larger window opening would provide passenger(s) in each seat location direct egress from the bus in a catastrophic accident similar to the accidents in Carrollton, Kentucky and Alton, Texas. Many lives may have been saved if only the passenger windows would have provided a large enough opening to permit the passengers to escape." A similar comment was submitted by Washington.

TAM–USA stated that one of the conclusions from the NTSB's investigation of the Alton, Texas, school bus crash was that "larger vertical openings of the side windows would have improved the occupants' ability to escape." TAM–USA further commented that establishing minimum window size openings as a

> remedy for total and immediate evacuation from catastrophic accidents * * * serves a number of purposes. First, it recognizes that such accidents are unique, and normal rules of, and training for, evacuation in such accidents do not apply. Second, it recognizes that no single set of measures can address every possible accident scenario. Third, addressing the problem in this way permits NHTSA to focus the rest of its thinking and logic on the vast majority of accidents which are not catastrophic, and to which passenger training and coordination with safety features can produce optimum and measurable results.

Finally, TAM–USA stated that in the Alton crash "push-out windows would not have worked, since each window would have had several hundred pounds of water pressure on it." Accordingly, it believed "simple sliding passenger windows, with large window openings, are far less expensive, could be applied to the entire bus, and do not possess most of the problems associated with push-out windows."

Along the same vein, Blue Bird stated that it has several side emergency exit designs under development, including a vertical slide open window and side exit hatch or shorter emergency exit door. In order to encourage, and certainly not to prohibit, further development and use of these types of exits, Blue Bird believed language should be included in the school bus requirements that would provide for emergency exit side windows with a maximum amount of credit of 536 square inches.

While the agency understands the comments concerning the wisdom of larger standard windows in school buses to facilitate evacuation during catastrophic situations, it is concerned about the potential negative aspects of larger windows. Specifically, the agency is concerned about the greater potential danger to a child who sticks a hand, arm, or head out of the window while the bus is in motion. It is clearly easier for a child to hang out of a 12 inch x 22 inch window than a 9 inch x 22 inch window. The agency recognizes that some state and local school districts are currently using school buses with larger windows, without large numbers of incidents where children are hurt because of them. Taken all together, the information available to the agency appears to provide some evidence that the potential benefits may be greater than the potential risks.

As was stated in Washington's comments, states do not want "every school bus window to be considered a designated exit." If windows were so regarded, each of them would be required to meet the Standard No. 217 requirements for emergency exits, including audible warnings, locking devices, labeling, etc. Also, as was stated in the TAM-USA comments, the importance of evacuation routes at every seat is relevant only in catastrophic crashes. Since the overwhelming majority of school bus

evacuations do not occur in connection with catastrophic crashes, the agency believes there is a need for designated emergency exits, which can be accomplished with doors, hatches, and/or push-out windows. However, the agency does not believe there is sufficient justification to support a Federal mandate for non-designated emergency exits, which could be obtained from larger school bus window openings throughout the bus.

Accordingly, while the agency supports the concept of each student having a personal escape route, whether it be through a designated or non-designated emergency exit, it does not believe there are sufficient grounds for establishing minimum window opening sizes for non-designated emergency exits. However, the agency notes that the use of larger windows is permissible for those states that wish to have them.

5. Roof Exits—Design and Size

Support for roof exits came from a wide range of commenters. As noted earlier, some commenters (Iowa and Arizona-DOT) went so far as to state that all school buses should be equipped with at least one roof hatch. Only Colorado expressed concern about roof exits, particularly in a fire situation where a roof hatch could create a "chimney effect" and worsen the fire. While Colorado is correct that an open roof hatch would create a chimney for smoke and heat to escape, such a result is desirable. Heat and smoke are at least as much of a threat to bus occupants as the fire itself. While the open roof hatch would help vent heat and smoke out of the bus, it can also result in more oxygen being drawn into the bus. While this additional oxygen will provide additional "fuel" for the fire, it will also provide additional oxygen for anyone in the bus. On balance, the agency believes the positive aspects of open roof hatches in a bus fire outweigh any potential negative aspects.

A number of commenters discussed their beliefs that recessed roof hatch requirements, as mentioned in the NPRM, would be more susceptible to binding in a crash and would require some type of internal draining system that would add cost to the bus. Thomas Built stated that "(r)ecessing the hatch would create greater problems than the 'predicted' problem attempting to be solved." It cites potential jamming from body twist, as well as a water drainage (and rust) problems. Blue Bird stated its belief that current roof hatch designs are safe and added that it does not support recessed designs because they are "more likely to be jammed shut in an accident." Two roof hatch manufacturers, Transpec and Salem Vent International [Salem Vent], also agreed that recessed vents would be more susceptible to binding in a crash, and believed that the current overlay roof hatch designs are the best. Based on these comments, the agency does not believe that overlay roof hatches are a safety problem or that it is necessary to require recessed roof exits.

A number of commenters addressed the issue of roof exit size. The preamble to the NPRM stated that, "The maximum credit for one roof exit would be 540 square inches, regardless of its actual size." The proposed regulatory language stated that, "The roof exit shall provide an opening with a minimum clearance of 16 inches and an area of at least 540 square inches." Only Thomas Built makes a roof vent that meets the 540 square inch requirement proposed in the regulatory text. There are no other known manufacturers of a roof hatch that large. Transpect stated that they believe the proposed size requirements "will obsolete virtually every roof exit design currently available; and force bus body manufacturers and equipment suppliers to spend potentially millions of dollars in re-designing and re-tooling." It suggested a minimum size of 20" x20", which is "about 50% larger than the current minimum size" and will allow passage of the 13" x 20" ellipsoid currently required for push-out windows under S5.2.2(b) of Standard No. 217. Other commenters stated that additional leadtime would be needed while existing roof exits were redesigned to meet the minimum area requirements.

After reviewing the comments to the docket on this topic, the agency has decided to delete the requirement that the roof hatch have an area of at least 540 square inches. The agency was not aware that current roof exit designs did not meet the proposed requirements. However, the agency believes that a minimum size must be specified for roof hatches. Therefore, consistent with the NPRM, each open roof hatch must provide an unobstructed space of not less than 16 inches by 16 inches. As with all other openings, there is no limit on the maximum size of the opening. The regulatory language has been revised accordingly.

The NPRM also proposed that roof exits be operable from the outside to assist rescue personnel in being able to open a roof hatch on an overturned school bus in an emergency situation. Since no commenters objected to this requirement, it is included in the final regulatory language.

6. Location of Emergency Exits

The NPRM proposed amending existing S5.2.3.1, governing minimum emergency exit locations, to specify the location of the additional exits required by Options A and B. The NPRM stated, "(t)he agency is concerned that the required exits maximize emergency egress while not compromising the structural integrity of the vehicle." The NPRM then proposed specific locations for the additional exits under both Options A and B.

All of the comments concerning the location of any type of emergency exit supported the concept of an even distribution of the exits around the bus. However, the locations proposed in the NPRM were not always deemed possible or practicable. For example, Thomas Built stated that the left side emergency door on rear engine buses "cannot be placed at the extreme rear section * * * because of the interference with the engine compartment/davenport seat." Additionally, the company said that the left and right side emergency exit doors should not be "within the same post and roof bow panel space."

Blue Bird stated that because of design restrictions related to such items as wheelhousings, fuel filler necks, seat placements, etc., there are a number of problems in specifying side door locations. Accordingly, Blue Bird "strongly recommends that NHTSA conduct further research to determine the effects and feasibility of requiring specific exit locations."

Other commenters endorsed the even distribution of emergency exits, but believed that states should have the flexibility of establishing the location of emergency exits. California believed "(t)he location of the side exit doors and roof vent/exits should be optional to each state."

Washington, which has required additional side emergency exit doors on most buses since 1954, supported the concept of specifying the locations of emergency exits. Its experience indicated that if the locations of emergency exits are left to the discretion of the manufacturers, doors could be installed in a manner that "meets the letter of the law * * * (but) does not meet the intent of the requirement."

Transpec commented that when two roof exits are utilized, "they should be located equidistant between the mid-point and the front and rear of the passenger compartment * * * in other words the forward ¼ and the rearward ¼ of the overall passenger compartment length." This differs from the proposal of

the forward ⅓ and rearward ⅓. Transpec stated that its alternative would better minimize the distance any single passenger would have to travel to reach a roof exit.

Based on the above, the agency has concluded that there are legitimate technical issues relative to establishing specific locations for side door exits in school buses. Differences in chassis and body designs among manufacturers would necessitate the establishment of standards on a make/model basis, which could hinder school bus safety improvements in the future. The agency has concluded that emergency exits should be evenly distributed throughout the bus, to the extent possible. For example, if an emergency exit door is added to a school bus with an existing rear door emergency exit, the additional door must be located on the left side of the bus and as close to the center of the bus as is practicable. If an emergency exit door is added to a school bus with an existing left side emergency exit door, the additional door must be located on the right side of the bus.

With respect to roof hatches, the agency agrees with the location specifications suggested by Transpec because these specifications minimize the distance from the roof exits to the farthest school bus seat. Therefore, the agency has concluded that when a single roof hatch is installed in a school bus, it must be located as near as practicable to the longitudinal mid-point of the passenger compartment, and must be installed such that the centerline of the hatch is on the longitudinal centerline of the bus. When 2 roof hatches are utilized, they shall be located as near as practicable to the points equidistant between the longitudinal mid-point of the passenger compartment and the front and the rear of the passenger compartment. When multiple roof hatches are utilized, they may be installed either on the longitudinal centerline of the bus or offset from the centerline. For each roof hatch that is installed in an offset manner, there must be another roof hatch offset an equal amount to the other side of the centerline.

If a state chooses to install emergency exit windows in order to satisfy some of the exit space required by the standard, there must be an even number of such windows and they must be evenly distributed between the left and right side of the bus.

Consistent with giving states the flexibility of selecting some of the types of emergency exits used (doors versus hatches versus windows), the agency has concluded that states are in the best position to specify the exact locations of emergency exits on school buses. The final rule, therefore, establishes general requirements for school bus emergency exit locations. The agency anticipates that the individual states will include more specific location information in their school bus specifications and work with the school bus manufacturers during the construction of their school buses to establish emergency exit locations that provide for the safe, organized, and efficient egress of passengers from all school bus seats.

7. Improved Access to Emergency Exits

The NPRM proposed that if school bus manufacturers placed seats adjacent to a side emergency exit door, those seats must have flip-up bottoms in order to provide a path to the door. The path would have been somewhat less than 24 inches wide. The location of the path in relation to sides of the door opening would have been fixed by a reference to the forward edge of the door. If this proposal were adopted, manufacturers not wishing to install flip-up seats would have had the option of complying by providing an open aisle to the side door. Under that option, the aisle would have extended the full width of the door, a minimum of 24 inches.

The agency considered, but tentatively rejected, two more costly alternatives. One would have required the unobstructed passage of a rectangular parallelepiped (12" X 24" X 45") through each side door opening a distance of one foot inside the outside door frame edge. The other would have required the unobstructed passage of a rectangular parallelepiped through the door opening all the way to the center of the aisle, thereby creating a dedicated aisle to the side door. The path to the door created by the passage of the parallelepiped would not have been referenced to either the forward or the rearward edge of the door. Although the agency tentatively rejected both of these other options, the agency sought comment on them to aid in determining what requirements regarding access should be adopted.

Several states and school districts, two bus manufacturers, and a national association supported the proposal to require that seats adjacent to side emergency exit doors have flip-up seat bottoms. Oregon, Salem-Keizer, Minnesota, Eagle County, Thomas Built, TAM–USA, and NSTA indicated that they preferred providing a flip-up seat at side emergency exit doors, instead of a dedicated aisle, primarily because of perceived capacity loss and resulting additional costs associated with the latter alternative. Thomas Built commented that if an aisle were mandated, the aisle should have a minimum width of 12 inches.

Several states supported dedicated aisles. Maryland did not support the use of flip-up seats. It did not believe a child should be allowed to sit next to a door, and that a clear aisle leading to the side door is just as important as a clear aisle leading to the rear emergency door. Washington preferred "a clear aisle to the side door." Washington added that it was "aware of the concern for lost seating capacity. However, unless the bus is already at maximum length, adding a longer bus body will regain any loss in seating capacity." While Washington did not have production data, it suspected that most buses are not produced at maximum length.

Washington also noted that it has recently started purchasing flip-up seats and has already had "two incidences reported where children have stepped on the seat cushion in a fashion that allowed the leg to become lodged in between the seat cushion and the seat back. Once the leg was stuck, it was a major task to dislodge the leg. Such an occurrence would have been a disaster if it happened when the bus was being evacuated because of an emergency." For this reason, Washington believed that "(i)f the flip-up seat is allowed, there needs to be a performance requirement that will not allow a child's foot to slip through the space between the seat cushion and seat back."

Blue Bird favored requiring a dedicated aisle at least 12 inches wide. It expressed concern that "there is limited experience with the use of side emergency doors and access to these doors." Only four states require additional side emergency exit doors, and "two have no seat alignment or aisle clearance requirements to these doors." Blue Bird noted that Washington has recently required seat alignment and a clear aisle, and Kentucky has recently required a staging area at side emergency doors. Kentucky's requirement appears to have been adopted in response to the Carrollton, Kentucky crash. However, "(n)o field experience with this exit configuration has been accumulated."

Blue Bird stated that the installation of a flip-up seat at side emergency exit doors instead of a dedicated aisle does not always eliminate a loss of capacity. It also noted that it is "not aware of a flip-up seat design that assures proper functioning in all circumstances or that will totally eliminate possible pinching or entrapment potentials." Blue Bird further stated its concern that in "certain accident scenarios, occupants could be thrown off the seat cushion,

allowing it to flip up, and then be rebounded into the upright cushion which allows the potential for injury." Blue Bird cautioned "NHTSA to thoroughly evaluate the proposed requirement for flip-up seats at side emergency doors before specifying their use."

In view of the concerns expressed by commenters regarding flip-up seat bottoms, the agency believes that the preferable manner of providing access to side emergency exit doors is through creating a dedicated aisle. However, the agency recognizes that some states believe flip-up seats are reasonable alternatives to providing access to side emergency exit doors. While recognizing there are some advantages to a dedicated aisle over a flip-up seat, the agency does not believe there is sufficient justification or experience to require dedicated aisles. Accordingly, the agency has decided to permit either dedicated aisles or seats with flip-up bottoms. The current Standard No. 217 language which allows a standard school bus seat to be next to a side emergency exit door has been eliminated. No special provisions have been adopted to address the issue of entrapment since the agency lacks sufficient information to specify performance requirements for flip-up seats.

The NPRM also requested comment on whether the agency should allow a tolerance in the relationship of a seat back to the forward edge of a side emergency door opening. Thomas Built and Blue Bird suggested that the proposed language regulating the location of a seat back in relation to the forward edge of the side emergency door could be misinterpreted. Thomas Built suggested that the S5.4.2.1(b) language be: "A vertical transverse plane tangent to the rearmost point of a seat back shall pass through any points between 0.5 inches forward of the forward edge of the door opening and 0.5 inches rearward of the edge." Blue Bird also suggested rewording of this section to say that: "the seat back shall be positioned such that the vertical transverse plane passes anywhere between points .5 inches forward or rearward of the door opening." Washington also agreed that some flexibility in seat back location relative to the side door must be allowed and suggested a "tolerance of one-half of the manufacturers seat back thickness."

After reviewing the proposal and the tentatively rejected alternatives, as well as the public comments, the agency has determined that a provision requiring that there be a seat back aligned with the forward edge of each side emergency exit door would be unnecessarily design restrictive, even if the agency were to provide a tolerance of 0.5 inches. Since the requirement has the effect of requiring that a seat be installed immediately forward of a side door opening, it could have undesirable consequences. For example, a manufacturer would be prohibited from placing a wheelchair securement location in that area, even though the areas near a side door might be the most logical area if a wheelchair lift were installed in that door.

However, the agency has determined that the location of the path to the door should be referenced to the real edge of the door to ensure access to the door release mechanism. Because side emergency exit doors are required to be hinged on their forward edge, the release mechanisms are located near the rearward edge of the door. Therefore, the agency has decided to require an aisle at least 12 inches wide, referenced to the rear edge of the emergency exit door. In addition, no seat or restraining barrier will be allowed to extend rearward of the forwardmost portion of the latch mechanism when it is in the latched position. Some latch mechanisms include a long lever that extends well forward of the 12 inch clear aisle required by this rule. A flip-up seat is allowed in the aisle area adjacent to a side emergency exit door so long as no portion of the seat bottom is within this aisle area when the seat bottom is in the up position.

8. Three-Point Door Latch

The NPRM requested comment on the likelihood of side door ejections because of additional side emergency exit doors on school buses. Additionally, the agency requested comment on whether additional or improved door exit mechanisms (e.g., a 3-point latching mechanism with latch points at the top, bottom, and side of the door) would reduce the risk of ejection.

Several state and local school districts supported the concept of providing multiple latches on side doors. Washington, for example, voiced its support by noting that "(a)ny time there are multiple latches to fail, the probability of failure is reduced." Washington and Eagle County believed that 3-point latches should be used on rear emergency exit doors as well. Oregon supported a 3-point latching mechanism, provided it is "based on test data and the vehicles ability to meet overall construction standards."

Blue Bird and Thomas Built stated that a side emergency exit door retention test would be more appropriate than requiring a 3-point latching mechanism. Thomas Built noted that passengers would not be ejected through current side emergency exit doors because of inadequate latching mechanisms. It stated that "(p)assengers inside the bus, impacting the door, would not exert enough force to cause the latch to fail." Thomas Built believed that "(a) detrimental effect from the three-point latch is possible jamming" in a crash. Blue Bird also asserted that "a 3-point latch mechanism could result in increased susceptibility to jamming in an accident."

No commenters provided any information to suggest that side emergency exit doors on school buses are currently of potential risk of opening in a crash. The agency is aware that the July 1991 crash of a school bus in Palm Springs, California, in which the school bus body separated from the bus chassis and was severely twisted during the high-speed crash into a series of large boulders, resulted in the opening of the left side emergency exit door. The National Transportation Safety Board has not completed its investigation of that accident to determine if there were any passengers injured or killed because of the door opening during the crash. The structural damage to the bus body was so severe that it is hard to imagine that multiple door latches would have kept the door closed. The door appears to have opened due to severe damage to the bus body, not because a passenger was thrown against the door.

After considering the comments of school districts and the bus manufacturers, the agency has concluded that, if a side emergency exit door retention problem existed, it would be more appropriate to develop a door retention test, rather than specifying a specific type of latching mechanism, e.g., a 3-point latch. Even with the recent crash in Palm Springs, California, the agency does not believe there is a safety problem with side emergency exit doors opening due to the force of passengers being thrown against them. Additionally, as with emergency roof exits, the agency is concerned about establishing requirements that could increase the potential for jamming shut in a crash, as was suggested by Blue Bird and Thomas Built. Accordingly, the final rule does not include requirements for a 3-point latching mechanism for side emergency exit doors.

9. Positive Door Opening Device

The NPRM discussed the agency's belief that an exit should not only be reachable, but also not shut once it has been opened, regardless of the

orientation of the bus after a crash. The agency's concern was directed specifically to emergency exit doors. Accordingly, the NPRM proposed that each emergency exit door "be equipped with a device capable of bearing the weight of the door and keeping the door from closing past the point that is perpendicular to the side or rear of the bus once the door is opened to that point."

The NTSB expressed its support for a device that would hold an emergency exit door open "to accommodate passenger egress, particularly in a rollover situation." This was one of the recommendations that was included in the NTSB's report on the September 1989 Alton, Texas, school bus crash. Two bus manufacturers and four states also expressed their support for such a device. Thomas Built and Washington also noted that such devices were included in the requirements of the 11th National Conference on School Transportation. Blue Bird requested an opportunity to comment on the technical performance requirements of such a device before it becomes a final rule.

Based on the above support for such a device, the agency has concluded that a device to keep floor-level emergency exit doors from shutting after they have been opened is necessary on school buses. The requirements specified in the NPRM have been adopted. The technical requirements for this aspect of Standard No. 217 are identical to those included in the NPRM. Therefore, the agency does not believe the opportunity requested by Blue Bird to review further the technical requirements of this device is merited.

10. Improving the Conspicuity of Emergency Exits

A number of commenters supported the proposal to improve the conspicuity of emergency exits. However, there were some differences of opinion on how to accomplish the improved conspicuity. The NPRM proposed to require a 1-inch wide strip of retroreflective tape to outline the inside and outside perimeter of each designated emergency exit opening. Additionally, the agency sought comment on whether school buses should be required to have an interior light source to illuminate the retroreflective tape around the interior perimeter of emergency exits at night.

Blue Bird commented that it is "unaware of any problems or concerns regarding emergency exit identification or operating instructions under the current exit requirements" and suggests that NHTSA "establish and document a need for such markings before including this requirement in the final rule." It strongly recommended "that NHTSA construct and evaluate prototype vehicles and/or conduct field tests of this proposed requirement before finalizing the rule." Thomas Built also suggested that the effects of standard interior lighting on driver's night vision be studied. Transpec commented that reflective markings of roof exits would "not be difficult to accomplish" but questioned whether the need for such markings had been "established" and said that the "cost-effectiveness of such expenditures might be questioned."

Minnesota did not believe retroreflective tape should be required at emergency exits. First, it noted that "(s)tudents usually ride the same bus every day and usually during periods of time when there is adequate light." Second, Minnesota is "particularly concerned that reflective material on the inside of the vehicle would create vision problems for the driver at night. The light from oncoming vehicle headlights could reflect off the material and back to the driver's eyes via the inside mirror or the windshield."

Thomas Built also stated that since retroreflective tape requires "a direct beam of light originating from the point of the observer" to function properly, it is unlikely that retroreflective tape would perform well on the inside of a school bus. "A stripe of fluorescent paint would probably be more useful than the reflective tape with respect to background lighting without direct lighting." "Retroreflective tape would work best on the outside of the exits where it is likely to be illuminated by rescuers or passing car headlights." Several other commenters, such as NSTA, West Virginia, and Salem-Keizer, supported the use of reflective markings on emergency exits.

Oregon supported making emergency exits more visible, but believed that establishing a "labeling criteria for emergency exits to include a retroreflective background material" is better than merely adding a 1-inch stripe of tape around the perimeter of the exit. Even in no-light or limited-light conditions, the words "Emergency Exit" would be at least as visible as currently required. It based this recommendation on the fact that retroreflective tape is used for many other purposes around school buses in various states, as well as on other vehicles, and it may not be clear what the tape represents. Using retroreflective tape to call attention to the words "Emergency Exit" seemed more reasonable to Oregon.

Washington believed all emergency exits should be identified on the interior and exterior, and should be labelled with instructions for use. "These instructions and location markings will benefit students who walk to school and only ride school buses on field trips and extracurricular trips."

3M Traffic Control Materials Division [3M] agreed with the proposal to provide retroreflective markings at all emergency exits and provided the necessary technical information, in terms of Minimum Specific Intensity per Unit Area (SIA), for the color yellow. The NPRM proposed to use the intensities from Standard No. 125, *Warning Devices*, which only covers the colors red and white. 3M noted that the "(r)eflective emergency exit markings visible from the exterior of the bus have the other benefit of alerting motorists. This provides an added benefit of accident prevention." However, 3M believed "a two inch wide strip is needed (at the rear emergency exit) to provide the important added benefit of crash avoidance made possible by making the vehicle visible at greater distances by fast approaching motor vehicles during times when headlights are being used. This two inch strip is consistent with the dimensions of other similar strips recommended in the 1990 National Standards for School Buses and Operations."

3M stated that "(w)hen retro-reflective markings are used in the interior of school buses equipped with passenger compartment electric lights, the reflective markings provide the added benefit of enhancing identification of exits while lights are operable. In situations where the electric system fails to function during the post crash situation, the reflective material will return light to any light source within hundreds of feet of the bus. Examples of these light sources include rescuer flashlights, street and building lights and motor vehicles, to name only the most common sources."

Finally, 3M felt that the interior markings "would be considerably more valuable if the markings were both retro-reflective and fluorescent and therefore highly visible even during all light conditions without presence of a (sic) artificial light source of any kind."

After review of the above comments, the agency has concluded that there are legitimate concerns over the efficacy of requiring retroreflective tape on the inside perimeters of emergency exits. The agency believes that the issues raised by Minnesota and Thomas Built, with respect to mandatory interior lights and light reflected into the eyes of the driver, are legitimate. On the other hand, the agency has concluded that retroreflective tape identifying the outside perimeter of emergency exits

has significant potential benefit, for both post crash rescue and crash avoidance because of enhanced conspicuity of the bus. Accordingly, the final rule requires a minimum 1 inch wide strip of retroreflective tape, either red, white, or yellow in color, to be placed around the outside perimeter of the emergency exit opening, not the emergency exit itself. The required reflectivity properties of the tape will be provided in a Table, consistent with the requirements for the reflective material allowed under Standard No. 131, *School Bus Pedestrian Safety Devices.*

11. Hinge Placement for Roof Exits and Side Emergency Exit Doors

The NPRM proposed that roof hatches be hinged on the forward edge and that side emergency exit doors be hinged on the forward edge, as is currently required by Standard No. 217 for a single left side door.

Transpec and NSTA supported the forward hinging for roof hatches, and the agency has adopted such a requirement in the final regulatory language.

Thomas Built Buses noted an error in the proposed wording of S5.2.3.2(b) under Option B. The proposed language required a left side emergency door which is hinged on its "rearward" side, rather than its "forward" side. This error is corrected in the final regulatory language.

12. Warning Alarms for Roof Exits and Side Emergency Exit Doors

The NPRM proposed that all emergency exits be equipped with a continuous audible alarm at the driver's position that sounds when the ignition is in the "on" position and the emergency exit release mechanism is not in the closed position.

Transpec commented that roof exits do not need to be equipped with alarm devices because: (1) Roof exits are in "areas where it's virtually impossible for passengers to lean against them * * * let alone accidently fall through one;" (2) unlatched roof exits (for ventilation purposes) are seen in real-world operations, and an alarm "could distract the driver's attention"; and (3) "requiring alarms on roof exits will serve to discourage retrofit installations of roof exits on school buses * * * something that should be encouraged."

The Arizona Department of Public Safety [Arizona-DPS] forwarded a copy of their proposed State school bus specifications which include audible alarms for emergency exit doors and emergency exit windows, as required by Standard No. 217, but do not propose to require audible alarms for roof exits. California, NSTA, and Blue Bird expressed support for audible alarms on emergency exit doors and emergency exit windows.

The agency agrees with the comments by Transpec and others, that there is no safety need for an audible alarm on a roof exit. Unlike doors or windows, it is unlikely that someone could accidently fall out of the bus through a roof exit. Additionally, the requirement for such a device would make retrofitting of a roof exit significantly more difficult. For these reasons, the final regulatory language does not require an audible alarm for roof exits.

13. Combination Roof Exits and Roof Ventilators

Transpec, California, and Iowa commented on roof ventilators. Transpec stated its belief that the standard should include a specification for a "combination roof ventilator/exit," since that would "result in a specification that coincides with established industry practices." California stated that "revisions to the roof exit language to permit the use of the * * * (combination) roof exit/vent is strongly encouraged." Finally, because of the positive operational aspects of ventilation roof hatches, Iowa believed that "(a)ny standard that is established should not prohibit the ability of the emergency roof escape system to incorporate ventilation capability as an option."

The agency is not aware of any language in the proposed standard that would have prohibited the use of combination roof exit/vent units. Also, the agency does not believe that there is any need to create unique specifications for such combination units. A combination exit vent should meet the same requirements as a dedicated roof emergency exit.

14. Roof Exit Release Mechanisms

The NPRM proposed that roof exits shall have "a single locking mechanism which locks and unlocks the roof exit with a single force application not greater than 40 pounds." A number of commenters objected to the single force application requirement based on safety concerns.

Blue Bird noted that it had examined roof exit designs which incorporated a single force application device for unlatching the exit. Blue Bird commented that "the proposed wording would allow and possibly encourage roof exit latch design that could function like crash-bars on auditorium doors. Latches that actuate by being pushed in the direction of the initial push-out motion of the exit could be knocked open unintentionally in a rollover accident and occupant ejection could result."

Thomas Built also requested a roof exit release mechanism that is "similar to the rear push-out window release requirement. Namely, that the roof exit be releasable by not more than two mechanisms which do not have to be operated simultaneously."

Transpec said that single force release mechanisms "should not be used in vehicles where passengers can be thrown against them and ejected accidently." Accordingly, Transpec suggested a "double action" release mechanism for roof exits rather than the proposed "single action" release mechanism.

Finally, Oregon expressed its belief that a double action latch for roof exits would be safer than the single action latch that was proposed.

The agency agrees with the above comments and is concerned about the potential for ejection in a rollover if a single release mechanism is allowed that will allow the roof exit to open upon the application of force in the direction the roof exit opens. Accordingly, the final regulatory language adopts language similar to the existing Standard No. 217 requirements for rear push-out windows. Specifically, not more than two release mechanisms can be used. The mechanism or, if two mechanisms are used, each mechanism, shall require either one or two force applications to open. At least one of these force applications must differ from the direction of the initial push-out motion by no less than 90 degrees and no more than 180 degrees.

15. Wheelchair Lifts

Thomas Built Buses commented that many school buses are equipped for wheelchair passengers, including the installation of a wheelchair lift. It suggested that NHTSA "allow replacement of one emergency door with a wheelchair lift door if the bus is equipped with at least one wheelchair placement."

There are two types of wheelchair lifts: passive and active. Passive lifts are devices which are normally located in an existing doorway used both by persons with disabilities and those without disabilities. When stowed, a passive lift allows persons without disabilities the unimpeded use of the door in which the lift is located. By contrast, active lifts are devices that require a separate opening in the bus body and which impede the use of that opening when stowed.

The agency believes that doorways incorporating active lifts should be reserved for wheelchair-bound or other disabled children who cannot easily use other exits on the bus. Additionally, the agency notes that, if the bus driver is not available, it may not be as easy for a child to operate an active lift to open the doorway, as it is for a child to operate other emergency exit mechanisms. Also, since active lifts take time to operate, they may not provide a sufficiently fast means of emergency exit for a child without disabilities.

Based on the above, the agency has concluded that door openings that contain a passive lift equipment can be used to fulfill the minimum emergency exit requirements. However, openings for active lifts cannot.

16. Title of Standard

The NPRM proposed to change the name of Standard No. 217 to reflect more accurately the scope and purpose of the standard. Only NSTA and Washington commented on the proposal, and both agreed with the change. Accordingly, the final rule establishes a new title for Standard No. 217, *Bus Emergency Exits and Window Retention and Release.*

17. Leadtime

The NPRM proposed an 18-month leadtime for the effective date of any new school bus emergency exit requirements. Because of its concerns about structural fatigue from additional side emergency exit doors, Thomas Built requested a two-year leadtime. Blue Bird stated that the proposed 18-month lead time is adequate "providing no new or unusual requirements are incorporated in the final rule that are significantly different from the proposals." Also, Blue Bird asserted that the agency would need "to respond to requests for interpretations or clarifications in a timely manner and to make available associated test procedures and references in a timely manner" if the 18-month leadtime is to be acceptable.

Given the agency's conclusion that the Thomas Built concerns over structural fatigue due to side emergency exit doors are not significant (See Section 2, Option A (Emergency Exit Doors) or Option B (Doors and Roof Hatches.), and the fact that no more than two additional side emergency exit doors would ever have to be installed on a bus, the agency has concluded that an 18-month leadtime is adequate.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

(Note: For the convenience of the reader, the preamble uses U.S. units of weights and measurements since these units were used in the NPRM. However, pursuant to E.O. 12770 (56 F.R. 35801; July 29, 1991), the agency is in the process of converting all safety standards to metric units. Therefore, metric equivalents, rounded to the nearest whole unit, are used in the regulatory text of this notice will be used throughout future Standard No. 217 notices.)

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impacts of this final rule and determined that it is not major within the meaning of E.O. 12291. However, it is "significant" within the meaning of the Department of Transportation's regulatory policies and procedures because of the public interest in school bus safety and emergency exits, resulting in large part from the Carrollton, Kentucky, and Alton, Texas, school bus crashes. The agency has prepared a Final Regulatory Evaluation (FRE) for this proposal, and placed a copy of the FRE in the public docket for this rulemaking action. The average consumer cost of the final rule is estimated to be $557 per vehicle. The consumer cost range is calculated to be $418–$696 per vehicle. Given a total annual school bus sales of 38,000, the agency estimates the total annual consumer cost to be $15.9–$26.4 million. A copy of the FRE may be obtained by writing to: Docket Section, NHTSA, room 5109, 400 Seventh Street, SW., Washington, DC 20590.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. This analysis appears in the FRE. Based on this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires each agency to evaluate the potential effects of its rules on small businesses, small organizations, and small governmental jurisdictions. The small businesses and organizations most likely to be affected by this final rule are: (1) School bus manufacturers, (2) emergency exit equipment manufacturers/suppliers, (3) school bus dealers and distributors, and (4) public and private school bus transportation owners/operators.

Most, if not all, school bus manufacturers are small businesses. All of the manufacturers are installing, on a regular or optional basis, the types of emergency exit equipment required in this final rule. No new manufacturing techniques or tooling are required to comply. If school bus manufacturers add a mark-up to their cost of complying with this rule, the incorporation of additional emergency exit equipment to each bus will contribute to the overall profitability of each school bus. Similarly, for the manufacturers/suppliers or push-out windows and roof exits, many of which are small businesses, this final rule will increase the sales of their products, hence increase profits.

The approximately 465 school bus dealers and distributors in the United States are small businesses. It is anticipated that the small average increase in the retail price of a new school bus, estimated to be 1.10–1.80 percent, will not have an adverse affect on school bus sales.

Public and private school bus transportation owner/operators are the largest group that could potentially be affected by a final rule requiring an increased number of emergency exits. Although recognizing that most school districts operate under tight budget constraints, the estimated consumer cost increase per bus is small, in the range of 1.10–1.80 percent of the price of a new 66 passenger school bus ($40,000 retail value).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant

impact on the quality of the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612, and the agency has determined that this rule does not have significant federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR 571.217 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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.

§ 571.217 [Amended]

2. The title of Standard No. 217, *Bus Window Retention and Release,* (49 CFR 571.217) is revised to read as follows:

§ 571.217 Standard No. 217, Bus Emergency Exits and Window Retention and Release.

* * * * *

3. Paragraph S4 of Standard No. 217 is amended by adding the following definitions in alphabetical order:

Daylight opening means the maximum unobstructed opening of an emergency exit when viewed from a direction perpendicular to the plane of the opening.

Mid-point of the passenger compartment means any point on a vertical transverse plane bisecting the vehicle longitudinal centerline that extends between the two vertical transverse planes which define the foremost and rearmost limits of the passenger compartment.

Passenger compartment means space within the school bus interior that is between a vertical transverse plane located 76 centimeters in front of the forwardmost passenger seating reference point and a vertical transverse plane tangent to the rear interior wall of the bus at the vehicle centerline.

Post and roof bow panel space means the area between two adjacent post and roof bows.

4. Paragraph S5.2.3 of Standard No. 217 is revised to read as follows:

S5.2.3 *School buses.* Each school bus shall comply with S5.2.3.1 through S5.2.3.3.

S5.2.3.1 Each bus shall be equipped with the exists specified in either S5.2.3.1(a) or S5.2.3.1(b), chosen at the option of the manufacturer. The area in square centimeters of the unobstructed openings for emergency exit shall collectively amount to at least 170 times the number of designated seating positions in the bus. The amount of emergency exit area credited to an emergency exit is based on the daylight opening of the exit opening.

(a)(1) One rear emergency door that opens outward and is hinged on the right side (either side in the case of a bus with a GVWR of 4,536 kilograms or less), and exits providing an additional emergency exit area (AEEA) calculated in accordance with the following formula:

AEEA = [TA−FSDA−RDEA]

Where:

TA (total area) = 170 × number of designated seating positions;

FSDA (front service door area) = size of the available front service door opening; and

RDEA (rear door exit area) = size of the available rear emergency exit door opening.

(2) The exits installed to provide the AEEA shall be of the types specified in paragraphs (a)(2) (i) through (iii) of this section, selected in the sequence specified in those paragraphs—

(i) A left side emergency exit door that meets the requirements of S5.2.3.2(a);

(ii) An emergency roof exit that meets the requirements of S5.2.3.2(b);

(iii) Any of the following types of exits, if necessary to provide the AEEA: Side emergency exit doors that meet the requirements of S5.2.3.2(a), emergency roof exits that meet the requirements of S5.2.3.2(b), or emergency window exits that meet the requirements of S5.2.3.2(c), at the option of the manufacturer.

(b)(1) One emergency door on the vehicle's left side that is hinged on its forward side and meets the requirements of S5.2.3.2(a), and a push-out rear window that provides a minimum opening clearance 41 centimeters high and 122 centimeters wide and meets the requirements of S5.2.3.2(c), and exits providing an additional emergency exit area (AEEA) calculated in accordance with the following formula:

AEEA=[TA—FSDA—SDEA—POWA]

Where:

TA (total area)=170 × number of designated seating positions;

FSDA (front service door area)=size of the available front service door opening;

SDEA (side door exit area)=size of the available side emergency exit door opening; and

POWA (push-out window area)=size of the available rear emergency push-out window opening.

(2) The exits installed to provide the AEEA shall be of the types specified in paragraphs (b)(2) (i) through (iii) of this section, selected in the sequence specified in those paragraphs—

(i) A right side emergency exit door that meets the requirements of S5.2.3.2(a);

(ii) An emergency roof exit that meets the requirements of S5.2.3.2(b);

(iii) Any of the following types of exits, if necessary to provide the AEEA: side emergency exit doors that meet the requirements of S5.2.3.2(a), emergency roof exits that meet the requirements of S5.2.3.2(b), or emergency window exits that meets the requirements of S5.2.3.2(c), at the option of the manufacturer.

(c) The area of an opening equipped with a wheelchair lift is counted toward meeting the AEEA requirement under paragraph (a) or (b) of this section only if the lift is of a design which allows it to be folded or stowed in such a manner that the area is available for use by persons not needing the lift. The daylight opening of such an exit is calculated with the lift in the folded or stowed position.

S5.2.3.2 All emergency exits required by S5.2.3.1(a) and S5.2.3.1(b) shall meet the following criteria:

(a) *Side emergency exit doors.*

(1) Each side emergency exit door shall be hinged on its forward side.

(2) A side emergency exit door installed pursuant to S5.2.3.1(a)(2)(i) shall be located on the left side of the bus and as near as practicable to the midpoint of the passenger compartment. A single side emergency exit door installed pursuant to S5.2.3.1(a)(2)(iii) shall be located on the right side of the bus. In the case of a bus equipped with two emergency door exits pursuant to S5.2.3.1(a)(2)(iii), the first shall be located on the right side and the second on the left side of the bus.

(3) A side emergency exit door installed pursuant to S5.2.3.1(b)(2)(i) shall be located on the right side of the bus. A single side emergency exit door installed pursuant to S5.2.3.1(b)(2)(iii) shall be located on the left side of the bus. In the case of a bus equipped with two emergency door exits pursuant to S5.2.3.1(b)(2)(iii), the first shall be located on the left side and the second on the right side of the bus.

(4) No two side emergency exit doors shall be located, in whole or in part, within the same post and roof bow panel space.

(b) *Emergency roof exit.* (1) Each emergency roof exit shall be hinged on its forward side, and shall be operable from both inside and outside the vehicle.

(2) In a bus equipped with a single emergency roof exit, the exit shall be located as near as practicable to the midpoint of the passenger compartment.

(3) In a bus equipped with two emergency roof exits, one shall be located as near as practicable to a point equidistant between the midpoint of the passenger compartment and the foremost limit of the passenger compartment and the other shall be located as near as practicable to a point equidistant between the midpoint of the passenger compartment and the rearmost point of the passenger compartment.

(4) In a bus equipped with three or more emergency roof exits, the roof exits shall be installed so that, to the extent practicable, the longitudinal distance between each pair of adjacent roof exits is the same and equal to the distance from the foremost point of the passenger compartment to the foremost roof exit and to the distance from the rearmost point of that compartment to the rearmost roof exit.

(5) Except as provided in paragraph (b)(6) of this section, each emergency roof exit shall be installed with its longitudinal centerline coinciding with a longitudinal vertical plane passing through the longitudinal centerline of the school bus.

(6) In a bus equipped with two or more emergency roof exits, for each roof exit offset from the longitudinal vertical plane specified in paragraph (b)(5) of this section, there shall be another roof exit offset from that plane an equal distance to the other side.

(c) *Emergency exit windows.* A bus equipped with emergency exit windows shall have an even number of such windows, not counting a push-out rear window required by S5.2.3.1(b). Any side emergency exit windows shall be evenly divided between the right and left sides of the bus.

S5.2.3.3 The engine starting system of a bus shall not operate if any emergency exit is locked from either inside or outside the bus. For purposes of this requirement, "locked" means that the release mechanism cannot be activated and the exit opened by a person at the exit without a special device such as a key or special information such as a combination.

5. Paragraph S5.3.3 is revised to read as follows:

S5.3.3 *School bus emergency exit release.*

S5.3.3.1 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency exit door shall allow manual release of the door by a single person, from both inside and outside the passenger compartment, using a force application that conforms to paragraphs (a) through (c), except a school bus with a GVWR of 4,536 kilograms or less does not have to conform to paragraph (a). The release mechanism shall operate without the use of remote controls or tools, and notwithstanding any failure of the vehicle's power system. When the release mechanism is not in the position that causes an emergency exit door to be closed and the vehicle's ignition is in the "on" position, a continuous warning sound shall be audible at the driver's seating position and in the vicinity of that emergency exit door.

(a) *Location:* Within the high force access region shown in Figure 3A for a side emergency exit door, and in figure 3D for a rear emergency exit door.

(b) *Type of motion:* Upward from inside the bus; at the discretion of the manufacturer from outside the bus. Buses with a GVWR of 4,536 kilograms or less shall provide interior release mechanisms that operate by either an upward or pull-type motion. The pull-type motion shall be used only when the release mechanism is recessed in such a manner that the handle, lever, or other activating device, before being pulled, does not protrude beyond the rim of the recessed receptacle.

(c) *Magnitude of force:* Not more than 178 newtons.

S5.3.3.2 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency exit window shall allow manual release of the exit by a single person, from inside the passenger compartment, using not more than two release mechanisms located in specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform to either paragraph (a) or (b). In the case of windows with one release mechanism, the mechanism shall require two force applications to open. In the case of windows with two release mechanisms, each mechanism shall require either one or two force applications to open. at least one of these force applications for each window shall differ from the direction of the initial push-out motion of the exit by no less than 90° and no more than 180°. Each release mechanism shall operate without the use of remote controls or tools, and not withstanding any failure of the vehicle's power system. When the release mechanism is open and the vehicle's ignition is in the "on" position, a continuous warning shall be audible at the driver's seating position and in the vicinity of that emergency exit.

(a) Emergency exit windows—Low-force application.

(1) *Location:* Within the low-force access regions shown in Figures 1 and 3 for an emergency exit window.

(2) *Type of motion:* Rotary or straight.

(3) *Magnitude:* Not more than 89 newtons.

(b) Emergency exit windows—High-force application.

(1) *Location:* Within the high-force access regions shown in Figures 2 and 3 for an emergency exit window.

(2) *Type of motion:* Straight and perpendicular to the undisturbed exit surface.

(3) *Magnitude:* Not more than 178 newtons.

S5.3.3.3 When tested under the conditions of S6., both before and after the window retention test required by S5.1, each school bus emergency roof exit shall allow manual release of the exit by a single person, from both inside and outside the passenger compartment, using not more than two release mechanisms located in specified low-force or high-force regions (at the option of the manufacturer) with force applications and types of motions that conform to either paragraph (a) or (b). In the case of roof exits with one release mechanism, the mechanism shall require two force applications to open. In the case of roof exits with two release mechanisms, each mechanism shall require either one or two force applications to open. At least one of these force applications for each roof exit shall differ form the direction of the initial push-out motion of the exit by no less than 90° and no more than 180°.

(a) Emergency roof exits—Low-force application.

(1) *Location:* Within the low force access regions shown in Figure 3B, in the case of buses whose roof exits are not offset from the plane specified in S5.2.3.2(b)(5). In the case of buses which have roof exits offset from the plane specified in S5.2.3.2(b)(5), the amount of offset shall be used to recalculate the dimensions in Figure 3B for the offset exits.

(2) *Type of motion:* Rotary or straight.

(3) *Magnitude:* Not more than 89 newtons.

(b) Emergency roof exits—High-force application.

(1) *Location:* Within the high force access regions shown in Figure 3B, in the case of buses whose roof exits are not offset from the plane specified in S5.2.3.2(b)(5). In the case of buses which

have roof exits offset from the plane specified in S5.2.3.2(b)(5), the amount of offset shall be used to recalculate the dimensions in Figure 3B for the offset exits.

(2) *Type of motion:* Straight and perpendicular to the undisturbed exit surface.

(3) *Magnitude:* Not more than 178 newtons.

6. Paragraph S5.4.2.1 is revised to read as follows:

S5.4.2.1 *School buses with a GVWR of more than 4,536 kilograms*

(a) *Emergency exit doors.* After the release mechanism has been operated, each emergency exit door of a school bus shall, under the conditions of S6., before and after the window retention test required by S5.1, using the force levels specified in S5.3.3, be manually extendable by a single person to a position that permits:

(1) In the case of a rear emergency exit door, an opening large enough to permit unobstructed passage of a rectangular parallelepiped 114 centimeters high, 61 centimeters wide, and 30 centimeters deep, keeping the 114 centimeter dimension vertical, the 61 centimeter dimension parallel to the opening, and the lower surface in contact with the floor of the bus at all times; and

(2) In the case of a side emergency exit door, an opening at least 114 centimeters high and 61 centimeters wide.

(i) Except as provided in paragraph (a)(2)(ii) of this section, no portion of a seat or a restraining barrier shall be installed within the area bounded by the opening of a side emergency exit door, a vertical transverse plane tangent to the rearward edge of the door opening frame, a vertical transverse plane parallel to that plane at a distance of 30 centimeters forward of that plane, and a longitudinal vertical plane passing through the longitudinal centerline of the bus. (See Figure 5A).

(ii) A seat bottom may be located within the area described in paragraph (a)(2)(i) of this section if the seat bottom pivots and automatically assumes and retains a vertical position when not in use, so that no portion of the seat bottom is within the area described in paragraph (i) when the seat bottom is vertical. (See Figure 5B).

(iii) No portion of a seat or restraining barrier located forward of the area described in paragraph (a)(2)(i) of this section and between the door opening and a longitudinal vertical plane passing through the longitudinal centerline of the bus shall extend rearward of a vertical transverse plane tangent to the forwardmost portion of a latch mechanism on the door. (See Figures 5B and 5C.)

(3)(i) Each emergency exit door of a school bus shall be equipped with a positive door opening device that, after the release mechanism has been operated, under the conditions of S6, before and after the window retention test required by S5.1—

(A) Bears the weight of the door;

(B) Keeps the door from closing past the point at which the door is perpendicular to the side of the bus body, regardless of the body's orientation; and

(C) Provides a means for release or override.

(ii) The positive door opening device shall perform the functions specified in paragraph (a)(3)(i) (A) and (B) of this section without the need for additional action beyond opening the door past the point at which the door is perpendicular to the side of the bus body.

(b) *Emergency roof exits.* After the release mechanism has been operated, each emergency roof exit of a school bus shall, under the conditions of S6, before and after the window retention test required by S5.1, using the force levels specified in S5.3.3, be manually extendable by a single person to a position that permits an opening at least 41 centimeters high and 41 centimeters wide.

7. Paragraph S5.5.3 is revised to read as follows:

S5.5.3 *School Bus.*

(a) Each school bus emergency exit provided in accordance with S5.2.3.1 shall have the designation "Emergency Door" or "Emergency Exit," as appropriate, in letters at least 5 centimeters high, of a color that contrasts with its background. For emergency exit doors, the designation shall be located at the top of, or directly above, the emergency exit door on both the inside and outside surfaces of the bus. The designation for roof exits shall be located on an inside surface of the exit, or within 30 centimeters of the roof exit opening. For emergency window exits, the designation shall be located at the top of, or directly above, or at the bottom of the emergency window exit on both the inside and outside surfaces of the bus.

(b) Concise operating instructions describing the motions necessary to unlatch and open the emergency exit shall be located within 15 centimeters of the release mechanism on the inside surface of the bus. These instructions shall be in letters at least 1 centimeter high and of a color that contrasts with its background

Example:

(1) Lift to Unlatch, Push to Open

(2) Turn Handle, Push Out to Open

(c) Each opening for a required emergency exit shall be outlined around its outside perimeter with a minimum 3 centimeters wide retroreflective tape, either red, white, or yellow in color, that when tested under the conditions specified in S6.1 of 571.131, meets the criteria specified in Table 1.

Issued on October 27, 1992.

Howard M. Smolkin,

Executive Director.

[FR Doc. 92-26410 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 920109-2009]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restrictions, and request for comments.

SUMMARY: NOAA announces cessation of the large-scale target fishery for Pacific whiting caught off Washington, Oregon, and California, and implements a 3,000-pound trip limit for the remainder of 1992. This action is authorized under the "points of concern" mechanism in the Pacific Coast Groundfish Fishery Management Plan (FMP). The large-scale target fishery, which is capable of harvesting 30,000 metric tons (mt) of whiting per week, must be curtailed to avoid exceeding the 208,800-metric ton harvest guideline by more than a negligible amount. The trip limit is intended to accommodate the very small amounts of whiting caught as bycatch which otherwise would have to be discarded, or caught in small target fisheries which normally operate in the winter.

EFFECTIVE DATE: Effective from 0001 hours (local time) October 31, 1992, until 2400 hours (local time) December 31, 1992. Comments will be accepted through November 17, 1992.

ADDRESSES: Submit comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700—Bldg. 1, Seattle, Washington 98115; or Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., suite 4200, Long Beach, California 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140; or Rodney McInnis at (310) 980–4040.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) (56 FR 736, January 8, 1991) provides a "point of concern" framework which enables the Pacific Fishery Management Council (Council) to recommend management measures to the National Marine Fisheries Service (NMFS) Northwest Regional Director to address a resource conservation issue. The "points of concern" process is the Council's second major tool (along with setting harvest levels) in exercising its resource stewardship responsibilities.

The emergency rule allocating the harvest guideline for Pacific whiting between domestic user groups in 1992 (57 FR 13661, April 17, 1992; extended at 57 FR 32181, July 21, 1992; corrected at 57 FR 35765, August 11, 1992) was effective through October 14, resulting in no allocation limits restricting the harvest of whiting for the balance of 1992. Due to the failure of negotiations with Canada to keep landings within the 232,000-mt acceptable biological catch (ABC) for the United States and Canada combined, the sum of the amounts projected to be taken by both countries in 1992 is 28 percent above the combined ABC, even if landings are kept within each country's harvest guideline.

At the September 1992 Council meeting, the Council's Groundfish Management Team (GMT) advised the Council that a point of concern for Pacific whiting would be reached (i.e., its harvest guideline would be exceeded substantially) if landings are not curtailed when the harvest guideline is reached. The GMT believes that the U.S. Pacific whiting harvest should not exceed the 208,800 mt specified for the U.S., and therefore that the large-scale target fishery supporting at-sea and shoreside processors should be closed when the harvest guideline is projected to be reached. If the large-scale target fishery is not curtailed, harvest could continue at rates exceeding 30,000 mt per week.

The GMT also acknowledged that whiting are caught incidentally or in very small target amounts for bait or fresh markets. These removals are inconsequential relative to the harvest guideline, but are important to their respective fisheries. To accommodate the bycatch of whiting in other fisheries, a 2,000-pound trip limit was implemented when the directed whiting fishery shoreward of 100 fathoms in the Eureka area was prohibited by emergency rule in 1992 in order to reduce the bycatch of salmon. This rule remained in effect through October 19, 1992 (57 FR 14663, April 22, 1992; extended at 57 FR 32924, July 24, 1992). The GMT and Council both recommended implementation of a 3,000-pound trip limit after the harvest guideline is projected to be reached, because it appears to accommodate the small target fisheries and conforms with the levels used to define incidental catch in other groundfish fisheries. The 3,000-pound trip limit is expected to result in negligible catch relative to the magnitude of the harvest guideline.

The points of concern mechanism requires that the Council consider three factors: (1) How the action will address the resource conservation issue consistent with the objectives of the FMP; (2) likely impacts on other management measures and other fisheries; and (3) economic impacts, particularly the cost to the commercial and recreational segments of the fishing industry. These issues were included in the GMT's written statement and discussed at the September Council meeting. A copy of the GMT's report is available from the Office of the Director, Northwest Region (see **ADDRESSES**).

This action is consistent with the FMP's Objective 2 to adopt harvest specifications and management measures consistent with resource stewardship responsibilities; Objective 5 to extend marketing opportunities during the year; Objective 9 to minimize discards; and Objective 13 to cause the least disruption of current domestic fishing practices, marketing procedures, and environment.

In preparing its analysis under the points of concern framework, the Council addressed the likely impacts of this action on other management measures and other fisheries. According to the GMT's written statement, the trip limits made effective by this action would be so small as not to have an impact on other management measures or fisheries, except to allow incidental levels of whiting to be landed (thereby avoiding discards) and to enable the very small bait and fresh fish fisheries for whiting to continue. The closure of the large-scale target fishery would eliminate one potential market for shore-based vessels which may be diverted into other groundfish fisheries. The GMT has found it unlikely that this will have a large effect on the management of other groundfish fisheries since the shift will occur late in the year when fishing effort usually is reduced and more restrictive landing limits already have been implemented.

The Council also addressed the economic impacts, particularly the cost to the commercial and recreational segments of the fishing industry. The GMT found that the magnitude of the incidental/small target fishery is so small that it would have a negligible impact on the commercial whiting fishery. There is no known impact on any recreational fishery.

Secretarial Action

For the reasons given above, the Secretary concurs with the Council's recommendations and herein announces that, from 0001 hours (local time) October 31, 1992 until 2400 hours (local time) December 31, 1992, no more than 3,000 pounds of Pacific whiting may be taken and retained, possessed, or landed per vessel per fishing trip. Taking and retaining, possessing, or landing Pacific whiting is prohibited from 0001 hours (local time) January 1, 1993, until 2400 hours (local time) April 14, 1993 according to the current regulations at 50 CFR 663.23(b)(3).

As in the past, it is unlawful to land more than the current legal trip limit. Therefore, after the date and time that the above mentioned trip limit becomes effective, it is illegal to possess or land more than the current trip limit, even if those fish were caught when it was legal to do so. If in doubt, it is prudent to contact a local, State or Federal enforcement agent.

Classification

This action is taken under the authority of the appendix to 50 CFR part 663 section III.B.2., implementing sections 6.2 and 6.2.2 of the FMP.

This action is intended to have a temporary effect and was recommended at at least one Council meeting, thus qualifying as a "notice" action under section III.B.2 of the appendix to 50 CFR part 663. The reason for implementing this action by a "notice" action is the need for a timely cessation of the large-scale target fishery for Pacific whiting, to avoid exceeding the 208,800 mt harvest guideline by more than a negligible amount, while accommodating the very small amounts of whiting caught as bycatch in the small target fisheries which normally operate in the winter.

The scope of probable impacts of this action has been previously analyzed in section 3.4 of the Supplemental Environmental Impact Statement for Amendment 4 to the FMP, which was prepared in accordance with the National Environmental Policy Act. Because this action and its impacts have not changed significantly from those

considered in the SEIS, this action is categorically excluded from the requirement to prepare an environmental assessment in accordance with section 6.02c.3.(f) of the NOAA Administrative Order 216-6.

This action is in compliance with Executive Order 12291.

The public has had the opportunity to comment on this action. The public participated in the meetings of the GMT, the Groundfish Advisory Subpanel, the Scientific and Statistical Committee, and the Council in July and September 1992 that resulted in the Council's recommendation to take this action.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 28, 1992.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-26549 Filed 10-28-92; 2:22 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 212
Monday, November 2, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

RIN 0575-AB34

Business and Industrial Loan Program

AGENCY: Farmer Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes revision of its guaranteed loan program regulations to clarify the requirement for the submission of feasibility studies. The intended affect of this action will clarify the application process and enhance delivery to rural business entities and lenders.

DATES: Comments must be received on or before December 2, 1992.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, Washington, DC 20250. All written comments will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Beverly I. Craver, Business and Industry Loan Specialist, Farmers Home Administration, USDA, room 6327, 14th & Independence Avenue SW., Washington, DC 20250. Telephone (202) 690-3805.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Review

The program impacted by this action is listed in the Catalog of Federal Domestic Assistance under number 10.422, Business and Industrial Loans and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29122, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J.

Paperwork Reduction Act

The reporting and recordkeeping requirements contained in this regulation have been approved under an emergency clearance through December 1992 by the Office of Management and Budget and have been assigned OMB control number 0575-0029. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 70 hours per response, with an average of 6.1 hours per response including 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 this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0029), Washington, DC 20503.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Background

The current regulation for the FmHA Business and Industrial guaranteed loan program requires that feasibility studies will be required for loans in excess of $2 million and for new business ventures involved in unproven products, services or markets. In addition, the current regulation grants authority to the State Director to waive the requirement for a feasibility study for loans of $2 million or less.

The regulation is being amended to require feasibility studies for all new business ventures *involved in unproven products, services or markets.* In addition, the regulation is being revised to grant FmHA State Directors authority to waive the requirement for a feasibility study for existing businesses when the financial history and current condition of the business and collateral offered for the loan are sufficient to protect the lender and FmHA.

List of Subjects in 7 CFR Part 1980

Loan programs—Business and industry, Rural development assistance, rural areas.

Accordingly, as proposed, part 1980 of chapter XVIII, title 7 of the Code of Federal Regulations is amended as follows:

PART 1980—General

1. The authority citation for part 1980 continues to read as follows:

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

Subpart E—Business and Industrial Loan Program

2. Section 1980.441 is amended by removing the *Administrative* paragraph.

3. Section 1980.442 is amended by revising the introductory text and adding an *Administrative* paragraph at the end of the section to read as follows:

§ 1980.442 Feasibility studies.

A feasibility study by a recognized independent consultant will be required for all loans, except as provided in this paragraph. The cost of the study will be borne by the borrower and may be paid from funds included in the loan.

The FmHA State Director may waive the feasibility study for loans to existing businesses when the financial history of the business, the current financial condition of the business, and guarantees or other collateral offered for the loan are sufficient to protect the interest of the lender and FmHA. The State Director will thoroughly document the justification for waiving the feasibility study for such businesses. An acceptable feasibility study should include but not be limited to:

* * * * *

Administrative

The State Director will be selective in approving borrowers for new business ventures involved in uproven products, services, or markets. Should such businesses be considered by the State Director, feasibility studies and additional equity will be required.

Dated: January 17, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

Editorial Note: This document was received in the Office of the Federal Register on October 27, 1992.

[FR Doc. 92-26454 Filed 10-30-92; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 50

[Docket No. 92-061-1]

Indemnity for Additions to Tuberculosis-Reactor Herds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow indemnity claims for cattle and bison that are destroyed because of tuberculosis after being added to a herd under quarantine for tuberculosis. This action appears necessary to make it cost-effective for owners of quarantined herds to destroy cattle or bison affected with tuberculosis in a timely manner, expediting tuberculosis-eradication efforts in the United States.

DATES: Consideration will be given only to comments received on or before January 4, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-061-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8715.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis (referred to below as tuberculosis) is a serious communicable disease of cattle, bison, and other species, including humans, caused by *Mycobacterium bovis*. Tuberculosis causes weight loss, general debilitation, and sometimes death. The regulations in 9 CFR part 50 (referred to below as the regulations) provides for payment of Federal indemnity to owners of cattle or bison destroyed because of tuberculosis.

As part of our program to control and eradicate tuberculosis in cattle and bison the payment of indemnity is intended to provide owners with an incentive for promptly destroying animals affected with or exposed to tuberculosis. Because the continued presence of tuberculosis in a herd seriously threatens the health of animals in that herd and possibly other herds, the prompt destruction of tuberculosis-affected cattle or bison is critical if tuberculosis-eradication efforts in the United States are to succeed.

The basis for classifying cattle and bison as "affected with tuberculosis" and "exposed to tuberculosis" is set forth in § 50.4 of the regulations. The term "reactor cattle and bison" is defined in 9 CFR part 77, § 77.1. For clarity, the same definition would be added to § 50.1 of the regulations.

In accordance with § 50.14 of the regulations, certain claims for indemnity for cattle or bison destroyed because of tuberculosis are not allowed. Paragraph (e) of § 50.14 disallows claims for indemnity for cattle or bison affected with tuberculosis that have been added to a herd under quarantine for tuberculosis. This provision, intended to minimize the number of cattle or bison at risk of contracting the disease by limiting the number of animals in a quarantined herd, has had the unintended consequence of discouraging herd owners from destroying marginal animals. This has been particularly unfortunate for dairy herd owners, who, to a far greater extent than owners of beef cattle or bison herds, depend on animals from other herds to replace destroyed animals. As must any other producer seeking to remain profitable, a dairy herd owner must maintain a base level of production. Therefore, because § 50.14(e) of the regulations currently states that Federal indemnity will not be paid for cattle or bison affected with tuberculosis that have been added to a herd quarantined for tuberculosis, the owner of a quarantined dairy herd will often retain older, marginally productive dairy cattle that would, under normal circumstances, be culled, slaughtered, and replaced. In effect, then, the regulations currently provide a disincentive for good herd-management practices.

Retention of dairy cattle, beef cattle, or bison past their prime, barely producing at a level necessary to pay for their care, is neither cost-effective nor prudent. Older animals are often anergic and non-responsive to the tuberculin skin test (and other tests), and represent a main source of tuberculosis-perpetuation in a herd. Their retention, inadvertently encouraged by the current regulations, is impeding tuberculosis eradication efforts in the United States. As a practical matter, owners have resisted adding new cattle to quarantined herds because of their ineligibility for indemnity payments, should those herd additions later develop tuberculosis. For that reason, many dairy herd owners and, to a lesser extent, beef cattle herd owners accept the economic inefficiency and disease threat attendant upon a decision to keep older cattle they would otherwise replace. Owners of bison herds tend to raise their own replacement animals, but could be encouraged to replace marginal animals more promptly if replacement bison from other herds could be eligible for indemnity if they were to develop tuberculosis.

We are therefore proposing to change the regulations by allowing indemnity claims for cattle and bison added to herds quarantined for tuberculosis, if an approved herd plan is in effect at the time the claim is filed. The approved herd plan, designed by the herd owner and the State or APHIS representative and approved by the State animal health official and the Veterinarian in Charge would be a herd management and testing plan based on the disease history and movement patterns of the individual herd. Common to all herd plans would be the health requirements set forth in § 50.14(e), which would require that any cattle or bison added to a herd quarantined for tuberculosis be: (1) From an accredited herd, as defined in 9

CFR part 77, § 77.1; or (2) from a herd that tested negative to an official tuberculin test (complete herd test), as defined in 9 CFR part 77, § 77.1, no more than 12 months before any cattle or bison were added to the claimant's herd, in which case the individual animal would be required to have tested negative to an official tuberculin test during the 60 days before being added to the claimant's herd. These provisions would ensure, to the extent possible, that any cattle or bison added to a herd quarantined for tuberculosis would not spread the disease but would, as intended, contribute to the health and productivity of the herd.

By establishing herd-management practices that simultaneously promote economic interests and animal health, our proposal should encourage herd owners to cooperate with our tuberculosis-eradication efforts. That being the case, we may achieve our goal of tuberculosis-free status for the United States by 1998. Among the many benefits of tuberculosis-free status would be the enhanced international competitiveness of U.S. dairy and beef products, for which new export markets would open.

A definition of "approved herd plan," as explained above, would be added to § 50.1.

Executive Order 12291 and Regulatory Flexibility Act

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

Of the 16 herds currently under quarantine for tuberculosis, 11 are dairy herds, 1 is a bison herd, and 4 are beef cattle herds. The total number of animals in the quarantined herds is approximately 18,200; roughly 18,000 are in the quarantined dairy herds.

As a rule, dairy herd owners cull between 25 and 30 percent of their herd animals each year. They purchase about 40 percent of their replacement cattle, raising the remaining 60 percent themselves. Owners of beef cattle herds cull at a rate of between 5 and 8 percent, purchasing only about 10 percent of their replacements. Bison herd owners tend to raise all of their own replacements.

Approximately 1.67 percent of the cattle and bison tested for tuberculosis and designated as exposed in 1991 were found to be reactors.

Based on the above figures, we would expect the total cost of allowing indemnity payments for dairy herd additions to be $27,000 (of the 30 percent of 18,000 animals culled per year (5400), 40 percent of their replacements would be added from other herds; of this 40 percent of 30 percent (2160), 1.67 percent (36) would be reactors eligible for indemnity ($750)). The cost of allowing indemnity payments for beef cattle herd additions would be marginal.

The total number of herds (16) that would be affected by the proposed rule is insubstantial compared to the total number of herds in the United States (approximately 1.6 million). Of the 11 dairies that would be affected in 1992, 6 are small entities, with a gross value of approximately $2.7 million. This represents an extremely small fraction of the $40 billion cattle industry.

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

Executive Order 12372

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceedings would not be required before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 35012 *et seq.*).

List of Subjects in 9 CFR Part 50

Animal diseases, Bison, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements, Tuberculosis.

Accordingly, 9 CFR part 50 would be amended as follows:

PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS

1. The authority citation for part 50 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 50.1, definitions of "approved herd plan" and "reactor cattle and bison" would be added, in alphabetical order, to read as follows:

§ 50.1 Definitions.

* * * * *

Approved herd plan. A herd management and testing plan based on the disease history and movement patterns of an individual herd, designed by the herd owner and a State representative or APHIS representative to determine the disease status of animals in the herd and to eradicate tuberculosis within the herd. The plan must be jointly approved by the State animal health official and the Veterinarian in Charge.

* * * * *

Reactor cattle and bison. Cattle are classified as reactors for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on a positive response to an official tuberculin test. Bison are classified as reactors for tuberculosis in the same manner as cattle.

* * * * *

3. In § 50.14, paragraph (e) would be revised to read as follows:

§ 50.14 Claims not allowed.

* * * * *

(e) If the cattle or bison were added to the herd while the herd was quarantined for tuberculosis, unless an approved herd plan was in effect for the herd at the time the claim was filed. As part of the approved herd plan, cattle or bison added to a herd quarantined for tuberculosis must:

(1) Be from an accredited herd, as defined in § 77.1 of this chapter; or

(2)(i) Be from a herd that tested negative to an official tuberculin test (complete herd test), as defined in § 77.1 of this chapter, no more than 12 months before the cattle or bison were added to the claimant's herd; and

(ii) Have been found negative to an official tuberculin test, as defined in § 77.1 of this chapter, during the 60 days before the cattle or bison were added to the claimant's herd.

Done in Washington, DC, this 27th day of October.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-26536 Filed 10-30-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-ASW-37]

Airworthiness Directives; Sikorsky Aircraft Model S-76B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Sikorsky Aircraft Model S-76B helicopters, that currently requires initial and repetitive 25 hours' time in service inspections of the left and right engine input driveshaft assemblies for loose balance weights or cracks. This action would limit the initial and repetitive 25 hours' time in service inspections to specifically identified left and right engine input driveshaft assemblies. This proposal is prompted by availability from the manufacturer of a new engine input driveshaft assembly that has been redesigned to eliminate the need for the initial and repetitive 25 hours' time in service inspections. The actions specified by the proposed AD are intended to prevent failure of an engine input driveshaft assembly and subsequent loss of power to the helicopter.

DATES: Comments must be received by January 4, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ASW-37, 4400 Blue Mound Road, Fort Worth, Texas 76106. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certification Office, ANE-153, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7103, fax (617) 270-2412.

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 Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of 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 postcard on which the following statement is made: "Comments to Docket Number 92-ASW-37." The postcard will be date stamped and returned to the commenter.

Availability of Notice of Proposed Rulemaking (NPRM)

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ASW-37, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Discussion: On August 26, 1991, the FAA issued AD 91-19-02, Amendment 39-8028 (56 FR 47378, September 19, 1991), to require an initial and repetitive 25 hours' time in service inspections of the left and right engine input driveshaft assemblies for loose balance weights or cracks. That action was prompted by reports of three Sikorsky Model S-76B driveshaft assemblies that developed cracks due to loose balance weights, with one driveshaft assembly failing. That condition, if not corrected, could result in failure of an engine input driveshaft assembly and subsequent loss of power to the rotor system from the engine attached to the affected driveshaft.

Since the issuance of that AD, the FAA has determined that engine input driveshaft assemblies, part number (P/N) 76361-09202-049, can be exempted, from the inspection requirements of AD 91-19-02.

Since this condition described is likely to exist or develop on other helicopters of the same type design, the proposed AD would supersede AD 91-19-02, and require inspection of only specific engine input driveshaft assemblies.

The FAA estimates that 57 helicopters of U.S. registry would be affected by this proposed AD, and it would take approximately 32 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts costs are negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $100,320. This $100,320 cost is similar to that of the current AD 91-19-02.

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 regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–8028 (56 FR 47378, September 19, 1991), and by adding the following new airworthiness directive (AD) to read as follows:

Sikorsky Aircraft: Docket No. 92–ASW–37. Supersedes AD 91–19–02, Amendment 39–8028, Docket No. 91–ASW–13.

Applicability: Model S–76B helicopters with engine input driveshaft assemblies, part numbers (P/N's) 76361–09202–042 through 76361–09202–048 inclusive, certificated in any category.

Compliance: Required within the next 25 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 25 hours' time in service from the last inspection, unless accomplished previously.

To prevent failure of the left and/or right engine input driveshaft assemblies due to cracks emanating from the balance weight rivet attachment holes, which could result in loss of power to the rotor system from the engine attached to the affected driveshaft, accomplish the following:

(a) Inspect the left and right engine input driveshaft assemblies, P/N's 76361–09202–042 through 76361–09202–048 inclusive, for loose balance weights. The inspection shall be performed by grasping the balance weights by hand and attempting to move them in both the radial and axial directions. Any movement of the balance weights constitutes looseness.

Note: Driveshaft assemblies, P/N's 76361–09202–049 and subsequent, are exempt from the requirements of this AD.

(b) Visually inspect the area surrounding the balance weights for cracks in the shaft using a 10-power or higher magnifying glass.

(c) If any loose balance weights or cracks in the shaft are found, remove the affected driveshaft assembly and replace it with an airworthy assembly prior to further flight.

(d) An alternate method of compliance or adjustment of the compliance times, which provides an equivalent level of safety, may be used when approved by the Manager, Boston Aircraft Certification Office, ANE–150, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Service.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Manager, Boston Aircraft Certification Service.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on October 9, 1992.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92–26545 Filed 10–30–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 15a

[IA-107-91]

RIN 1545-AQ48

Like-Kind Exchanges of Property—Coordination with Section 453

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed income tax regulations under section 1031(a)(3) of the Internal Revenue Code of 1986 relating to the coordination of section 1031(a)(3) with section 453. The proposed regulations would affect taxpayers who engage in certain like-kind exchanges of property under section 1031.

DATES: Written comments, requests to appear, and outlines of oral comments to be presented at a public hearing scheduled for January 6, 1993, at 10 a.m. must be received by December 18, 1992. See the notice of hearing published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments, requests to appear, and outlines of oral comments to be presented at the public hearing to: Internal Revenue Service, ATTN: CC:CORP:T:R (IA–107–91), P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Christopher F. Kane at (202) 622–4950, of the Office of Assistant Chief Counsel (Income Tax and Accounting) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On May 1, 1991, the Internal Revenue Service published in the Federal Register (56 FR 19933) final regulations under section 1031(a)(3) of the Internal Revenue Code relating to deferred like-kind exchanges. Section 1.1031(k)–1(j)(2) of the regulations, which coordinates section 1031(a)(3) with the installment sale provisions of section 453, is reserved. This notice of proposed rulemaking would add the text of § 1.1031(k)–1(j)(2) to 26 CFR part 1, Income Tax Regulations, and would amend § 15a.453–1(b)(3)(i) of 26 CFR part 15a, Temporary Regulations Under The Installment Sales Revision Act.

Technical Background

Section 1031(a)(3) and § 1.1031(k)–1 provide rules governing the treatment of deferred like-kind exchanges. Section 1.1031(k)–1(a) defines a "deferred exchange" as an exchange in which, pursuant to an agreement, the taxpayer transfers relinquished property and subsequently receives replacement property. Section 1031(a)(3) and § 1.1031(k)–1(b)(1)(ii) generally provide that a deferred exchange qualifies as a like-kind exchange under section 1031 only if the replacement property is (1) identified within 45 days of the taxpayer relinquishing its property and (2) received within the earlier of 180 days of the taxpayer relinquishing its property or the due date of the taxpayer's return.

In a typical deferred exchange, the taxpayer transfers the relinquished property to a transferee and the transferee promises to acquire replacement property and transfer that property to the taxpayer. The taxpayer may require the transferee to secure its promise through a cash-funded escrow account or trust or the taxpayer may retain an intermediary to facilitate the exchange. To ensure that these arrangements do not result in an actual or constructive receipt of funds or an agency relationship that might cause the transaction to be treated as a taxable sale rather than a deferred exchange, § 1.1031(k)–1(g) provides certain safe harbors. A taxpayer using these safe harbors is not considered to be in actual or constructive receipt of money or other property for purposes of section 1031.

One of the safe harbors permits the use of a qualified escrow account or a qualified trust to secure the transferee's promise to acquire replacement property and transfer it to the taxpayer. Section 1.1031(k)–1(g)(3)(i). Another safe harbor permits the use of a qualified intermediary to effect the exchange. Section 1.1031(k)–1(g)(4)(i). A qualified intermediary is a person who, pursuant to a written agreement with the taxpayer, (a) acquires the relinquished property from the taxpayer and transfers that property, and (b) acquires replacement property and transfers it to the taxpayer.

Section 453(a) generally provides that income from an installment sale is taken into account under the installment method. An installment sale is defined in section 453(b)(1) as a disposition of property where at least one payment is to be received after the close of the

taxable year in which the disposition occurs. The installment method is defined in section 453(c) as a method under which the income recognized for any taxable year from a disposition is the proportion of the payments received in that year that the gross profit bears to the total contract price.

Commentators have asked whether the safe harbors provided by § 1.1031(k)–1(g) (3) and (4) apply in determining whether a taxpayer has received payment for purposes of section 453 and the regulations under that section. Except as provided in section 453(f)(4) (relating to certain indebtedness that is payable on demand or readily tradable), the term "payment" under section 453(f)(3) does not include the receipt of evidences of indebtedness of the person acquiring the property. However, § 15a.453–1(b)(3)(i) of the regulations provides that receipt of an evidence of indebtedness that is secured directly or indirectly by cash or a cash equivalent is treated as the receipt of payment. Thus, under § 15a.453–1(b)(3)(i), the receipt of an obligation that is secured by a qualified escrow account or a qualified trust may be considered a payment to the taxpayer. Section 15a.453–1(b)(3)(i) also provides that the term "payment" includes amounts actually or constructively received under an installment obligation. Questions have been raised whether a qualified intermediary, although not an agent of the taxpayer for purposes of section 1031(a), may be the taxpayer's agent for purposes of section 453. If this were the case, the amount received by the qualified intermediary on its disposition of the relinquished property might also be considered a payment to the taxpayer.

Description of Provisions

The proposed regulations provide, in effect, that the safe harbors in § 1.1031(k)–1(g) (3) and (4) relating to qualified escrow accounts, qualified trusts, and qualified intermediaries apply for purposes of determining whether a taxpayer is in receipt of payment under section 453 and § 15a.453–1(b)(3)(i) if, at the beginning of the exchange period, the taxpayer had a bona fide intent to enter into a deferred exchange. The qualified escrow account, qualified trust, or qualified intermediary is disregarded for purposes of section 453 and § 15a.453–1(b)(3)(i) until the earlier of (a) the time the safe harbor would otherwise cease to apply for purposes of section 1031 (*e.g.*, when the taxpayer has the immediate right to receive the funds held in the qualified escrow account), or (b) the end of the exchange period. Thus, subject to the other requirements of sections 453 and 453A and the related regulations, taxpayers who use the safe harbors of the existing 1031 regulations and meet the requirements of these proposed regulations will be entitled to report any gain recognized on the deferred exchange under the installment method.

Under the proposed regulations, the above rules apply to a transaction that ultimately fails to qualify as a like-kind exchange under section 1031 (a "failed exchange"). In addition, in order that a failed exchange involving a qualified intermediary may qualify for installment method reporting, the proposed regulations provide that a person who otherwise satisfies the definition of a qualified intermediary is treated as a qualified intermediary (and not as the agent of the taxpayer) even if that person ultimately fails to acquire replacement property and transfer it to the taxpayer.

However, the proposed regulations do not apply if the relinquished property is ineligible for like-kind exchange treatment under section 1031 ("disqualified property"). Disqualified property is property that is not held for productive use in a trade or business or for investment, and property described in section 1031(a)(2) (*e.g.*, stock in trade or a partnership interest).

The proposed regulations also provide a special rule for a deferred exchange in which the taxpayer receives the installment note of the person to whom a qualified intermediary transfers the relinquished property. Because the qualified intermediary's transferee is not the person who acquired the property from the taxpayer—the qualified intermediary is treated as that person—the taxpayer's receipt of the transferee's evidence of indebtedness may be considered a payment to the taxpayer under § 15a.453–1(b)(3)(i). That section provides that payment includes receipt of an evidence of indebtedness of a person other than the person acquiring the property from the taxpayer. The special rule of the proposed regulations provides, however, that for purposes of section 453 and § 15a.453–1(b)(3)(i), the receipt by the taxpayer of an evidence of indebtedness of the qualified intermediary's transferee is treated as the receipt of an evidence of indebtedness of the person acquiring the relinquished property from the taxpayer. Thus, the receipt by the taxpayer of such an instrument will not be considered a payment under section 453. The Treasury and the Internal Revenue Service believe that this treatment is appropriate because generally the transferee is, in substance, the person who acquires the property. The qualified intermediary usually serves only to facilitate the acquisition.

Finally, the Internal Revenue Service requests comments regarding whether the Service should publish a revenue procedure providing guidance for evoking an election under section 453(d) to elect out of the installment method for transactions to which the proposed regulation applies.

Effective Dates

Section 1.1031(k)–1(j)(2) is proposed to apply to transfers of property made by a taxpayer after the date these regulations are published in final form. Taxpayers may apply these regulations to transfers of property occurring before that date but on or after June 10, 1991, if those transfers otherwise meet the requirements of § 1.1031(k)–1. In addition, taxpayers may apply these regulations to transfers of property occurring before June 10, 1991 but on or after May 16, 1990 if those transfers otherwise meet the requirements of either § 1.1031(k)–1 or the notice of proposed rulemaking published in the **Federal Register** on May 16, 1990 (55 FR 20278).

Special Analyses

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and seven copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be held at 10 a.m. on January 6, 1993. See notice of hearing published elsewhere in this **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Christopher F. Kane of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. Other personnel from the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects

26 CFR 1.1031(a)-1 through 1.1042-1T

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 15a

Income taxes, Installment Sales Revision Act, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

The proposed amendments to parts 1 and 15a of title 26 of the Code of Federal Regulations are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 2. The text of § 1.1031(k)-1(j)(2) is added to read as follows:

§ 1.1031(k)-1 Treatment of deferred exchanges.

* * * * *

(j) * * *

(2) *Coordination with section 453*—(i) *Qualified escrow accounts and qualified trusts.* Subject to the limitations of paragraphs (j)(2)(iii) and (j)(2)(iv) of this section, in the case of a taxpayer's transfer of relinquished property in which the obligation of the taxpayer's transferee to transfer replacement property to the taxpayer is or may be secured by cash or a cash equivalent, the determination of whether the taxpayer has received a payment for purposes of section 453 and § 15a.453-1(b)(3)(i) of this chapter will be made without regard to the fact that the obligation is or may be so secured if the cash or cash equivalent is held in a qualified escrow account or a qualified trust. This paragraph (j)(2)(i) ceases to apply at the earlier of—

(A) The time described in paragraph (g)(3)(iv) of this section; or

(B) The end of the exchange period.

(ii) *Qualified intermediaries.* Subject to the limitations of paragraphs (j)(2)(iii) and (j)(2)(iv) of this section, in the case of a taxpayer's transfer of relinquished property involving a qualified intermediary, the determination of whether the taxpayer has received a payment for purposes of section 453 and § 15a.453-1(b)(3)(i) of this chapter is made as if the qualified intermediary is not the agent of the taxpayer. However, the receipt by the taxpayer of an evidence of indebtedness of the transferee of the qualified intermediary is treated as the receipt of an evidence of indebtedness of the person acquiring property from the taxpayer for purposes of section 453 and § 15a.453-1(b)(3)(i) of this chapter. For purposes of this paragraph (j)(2)(ii), a person who otherwise satisfies the definition of a qualified intermediary is treated as a qualified intermediary even though that person ultimately fails to acquire identified replacement property and transfer it to the taxpayer. This paragraph (j)(2)(ii) ceases to apply at the earlier of—

(A) The time described in paragraph (g)(4)(vi) of this section; or

(B) The end of the exchange period.

(iii) *Bona fide intent requirement.* The provisions of paragraphs (j)(2)(i) and (j)(2)(ii) of this section shall not apply unless the taxpayer has a bona fide intent to enter into a deferred exchange at the beginning of the exchange period.

(iv) *Disqualified property.* The provisions of paragraphs (j)(2)(i) and (j)(2)(ii) of this section do not apply if the relinquished property is disqualified property. For purposes of this paragraph (j)(2), the term "disqualified property" means property that is not held for productive use in a trade or business or for investment or is property described in section 1031(a)(2).

(v) *Examples.* This paragraph (j)(2) may be illustrated by the following examples. Unless otherwise provided in an example, the following facts are assumed: B is a calendar year taxpayer who agrees to enter into a deferred exchange. Pursuant to the agreement, B is to transfer real property X. Real property X, which has been held by B for investment, is unencumbered and has a fair market value of $100,000 at the time of transfer. B's adjusted basis in real property X at that time is $60,000. B identifies like-kind replacement property before the end of the identification period, and B receives the replacement property before the end of the exchange period. The transaction qualifies as a like-kind exchange under section 1031.

Example 1. (i) On September 22, 1993, B transfers real property X to C and C agrees to acquire like-kind property and deliver it to B. C's obligation, which is not payable on demand or readily tradable, is secured by $100,000 in cash. The $100,000 is deposited by C in an escrow account that is a qualified escrow account under paragraph (g)(3) of this section. B does not have an immediate ability or unrestricted right to receive, pledge, borrow, or otherwise obtain the benefits of the cash deposited in the escrow account until the earlier of the date the replacement property is delivered to B or the end of the exchange period. On March 11, 1994, C acquires replacement property having a fair market value of $80,000 and delivers the replacement property to B. The $20,000 in cash remaining in the qualified escrow account is distributed to B at that time.

(ii) Under section 1031(b), B recognizes gain to the extent of the $20,000 in cash that B receives in the exchange. Under paragraph (j)(2)(i) of this section, the qualified escrow account is disregarded for purposes of section 453 and § 15a.453-1(b)(3)(i) of this chapter in determining whether B is in receipt of payment. Accordingly, B's receipt of C's obligation on September 22, 1993, does not constitute a payment. Instead, B is treated as receiving payment on March 11, 1994, on receipt of the $20,000 in cash from the qualified escrow account. Subject to the other requirements of sections 453 and 453A, B may report the $20,000 gain in 1994 under the installment method. *See* section 453(f)(6) for special rules for determining total contract price and gross profit in the case of an exchange described in section 1031(b).

Example 2. (i) D offers to purchase real property X but is unwilling to participate in a like-kind exchange. B thus enters into an exchange agreement with C whereby B retains C to facilitate an exchange with respect to real property X. On September 22, 1993, pursuant to the agreement, B transfers real property X to C who transfers it to D for $100,000 in cash. C is a qualified intermediary under paragraph (g)(4) of this section. B does not have an immediate ability or an unrestricted right to receive, pledge, borrow, or otherwise obtain the benefits of the money held by C until the earlier of the date the replacement property is delivered to B or the end of the exchange period. On March 11, 1994, C acquires replacement property having a fair market value of $80,000 and delivers it, along with the remaining $20,000 from the transfer of real property X, to B.

(ii) Under section 1031(b), B recognizes gain to the extent of the $20,000 cash B receives in the exchange. Under paragraph (j)(2)(ii) of this section, any agency relationship between B and C is disregarded for purposes of section 453 and § 15a.453-1(b)(3)(i) of this chapter in determining whether B is in receipt of payment. Accordingly, B is not treated as having received payment on September 22, 1993, on C's receipt of payment from D for the relinquished property. Instead, B is treated as receiving payment on March 11, 1994 on receipt of the $20,000 in cash from C. Subject to the other requirements of sections 453 and 453A, B may report the $20,000 gain in 1994 under the installment method.

Example 3. (i) D offers to purchase real property X but is unwilling to participate in a like-kind exchange. B enters into an exchange agreement with C whereby B retains C as a qualified intermediary to facilitate an exchange with respect to real property X. On December 1, 1993, pursuant to the agreement, B transfers real property X to C who transfers

it to D for $100,000 in cash. B does not have an immediate ability or an unrestricted right to receive, pledge, borrow, or otherwise obtain the benefits of the cash held by C until the earliest of the end of the identification period if B has not identified replacement property, the date the replacement property is delivered to B, or the end of the exchange period. Although B had a bona fide intent to enter into a deferred exchange at the beginning of the exchange period, B does not identify or acquire any replacement property. In 1994, at the end of the identification period, C delivers the entire $100,000 from the sale of real property X to B.

(ii) Under section 1001, B realizes gain to the extent of the amount realized ($100,000) over the adjusted basis in real property X ($60,000), or $40,000. Because B had a bona fide intent at the beginning of the exchange period to enter into a deferred exchange, paragraph (j)(2)(iii) of this section does not make paragraph (j)(2)(ii) inapplicable even though B fails to acquire replacement property. Further, under paragraph (j)(2)(ii), C is a qualified intermediary even though C does not transfer replacement property to B. Thus, any agency relationship between B and C is disregarded for purposes of section 453 and § 15a.453–1(b)(3)(i) of this chapter in determining whether B is in receipt of payment. Accordingly, B is not treated as having received payment on December 1, 1993, on C's receipt of payment from D for the relinquished property. Instead, B is treated as receiving payment at the end of the identification period in 1994 on receipt of the $100,000 in cash from C. Subject to the other requirements of sections 453 and 453A, B may report the $40,000 gain in 1994 under the installment method.

Example 4. (i) D offers to purchase real property X but is unwilling to participate in a like-kind exchange. B thus enters into an exchange agreement with C whereby B retains C to facilitate an exchange with respect to real property X. C is a qualified intermediary under paragraph (g)(4) of this section. On September 22, 1993, pursuant to the agreement, B transfers real property X to C who then transfers it to D for $80,000 in cash and D's 10-year installment obligation for $20,000. B does not have an immediate ability or an unrestricted right to receive, pledge, borrow, or otherwise obtain the benefits of the cash held by C until the earlier of the date the replacement property is delivered to B or the end of the exchange period. D's obligation bears adequate stated interest and is not payable on demand or readily tradable. On March 11, 1994, C acquires replacement property having a fair market value of $80,000 and delivers it, along with the $20,000 installment obligation, to B.

(ii) Under section 1031(b), $20,000 of B's gain (i.e., the amount of the installment obligation B receives in the exchange) does not qualify for nonrecognition under section 1031(a). Under paragraph (j)(2)(ii) of this section, B's receipt of D's obligation is treated as the receipt of an obligation of the person acquiring the property for purposes of section 453 and § 15a.453–1(b)(3)(i) of this chapter in determining whether B is in receipt of payment. Accordingly, B's receipt of the obligation is not treated as a payment. Subject to other requirements of sections 453 and 453A, B may report the $20,000 gain under the installment method on receiving payments from D on the obligation.

(vi) *Effective date.* This paragraph (j) is effective for transfers of property occurring on or after [Insert date of publication of final regulations in the Federal Register]. Taxpayers may apply this paragraph (j) to transfers of property occurring before that date but on or after June 10, 1991, if those transfers otherwise meet the requirements of § 1.1031(k)–1. In addition, taxpayers may apply this paragraph (j) to transfers of property occurring before June 10, 1991, but on or after May 16, 1990, if those transfers otherwise meet the requirements of either § 1.1031(k)–1 or IA–237–84 published at 1990–26, I.R.B. 18 (June 25, 1990). See § 601.601(d)(2)(ii)(*b*) of this chapter.

PART 15a—TEMPORARY INCOME TAX REGULATIONS UNDER THE INSTALLMENT SALES REVISION ACT

Par. 3. The authority citation for part 15a continues to read as follows:

Authority: Secs. 453(i) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2247, 68A Stat. 917; 26 U.S.C. 453(i), 7805).

Par. 4. In § 15a.453–1, paragraph (b)(3)(i) is amended by adding the following sentences, respectively, after the current first sentence, after the current third sentence, and after the current fourth sentence to read as follows:

§ 15a.453–1 Installment method reporting for sales of real property and casual sales of personal property.

* * * * *

(b) *Installment sale defined*— * * *

* * * * *

(3) *Payment*—(i) *In general.* * * * For a special rule regarding the receipt of an evidence of indebtedness of a transferee of a qualified intermediary, see § 1.1031(k)–1(j)(2)(ii) of this chapter. * * * For a special rule regarding a transfer of property to a qualified intermediary followed by the sale of such property by the qualified intermediary, see § 1.1031(k)–1(j)(2)(ii) of this chapter. * * * For a special rule regarding a transfer of property in exchange for an obligation that is secured by cash or a cash equivalent held in a qualified escrow account or a qualified trust, see § 1.1031(k)–1(j)(2)(i) of this chapter. * * *

* * * * *

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92–25938 Filed 10–30–92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 15a

[IA–107–91]

RIN 1545–AQ48

Like-Kind Exchanges of Property—Coordination With Section 453; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the coordination of section 1031(a)(3) with section 453 concerning like-kind exchanges of property.

DATES: The public hearing will be held on Wednesday, January 6, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, December 18, 1992.

ADDRESSES: The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–107–910, room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1031 of the Internal Revenue Code. These regulations appear in the proposed rules section of this issue of the Federal Register.

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, December 18, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the

panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Dale D. Goode,

Federal Register, Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-25939 Filed 10-30-92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN7-2-5595; FRL-4529-3]

Approval and Promulgation or Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a requested revision to the Indiana State Implementation Plan (SIP) for Total Suspended Particulate (TSP). The revision pertains to an emission trade or "bubble" for Navistar International Transportation Corporation (Navistar), which is located in Indianapolis, Indiana. USEPA's proposal is based upon Indiana's July 21, 1989, submittal of a revision to rule 326 Indiana Administrative Code (IAC) 6-1-12, Marion County, with supplemental material submitted on February 15, 1990. This submission also includes a recodification of the applicable rule.

DATES: Comments on this revision and on USEPA's proposed action must be received by December 2, 1992.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available at the following addresses for review: (It is recommended that you telephone Gustavo Felix at (312) 353-6009, before visiting the Region 5 office.) United States Environmental Protection Agency, Region 5, Regulation Development Branch (5AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this proposed rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (5AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Gustavo Felix, (312) 353-6009.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act, USEPA promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within each State. For Indiana, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR 81.315. Part D of the Clean Air Act requires nonattainment TSP SIPs to provide for attainment of the primary NAAQS by the end of 1982 and provide for attainment of the secondary NAAQS as expeditiously as practicable. The requirements for an approvable SIP are described in the "General Preamble" for Part D rulemaking published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979) and 44 FR 67182 (November 23, 1979). Marion County has been designated as a nonattainment area for TSP under Section 107(a) of the Act. (40 CFR 81.315)

As discussed further below, however, the current NAAQS for particulate matter pertains solely to particulate matter with an aerodynamic diameter of a nominal 10 microns or less (PM_{10}). Navistar is located in an area designated as unclassifiable for PM_{10}. See § 107(d)(4)(B).

Summary of the Proposed Revision

Navistar operates a gray-iron foundry and engine plant on Brookville Road in Marion County, where it makes engine beads and blocks. TSP emission limits for this and other sources of particulate matter in Marion County were established by Rule 325 IAC 6-1-12, which was approved by USEPA as a part of the Marion County nonattainment SIP on July 16, 1982 (47 FR 30972). However, Navistar claims that these existing limits are not technically and economically feasible. The 1982 SIP applies limitations on baghouses in the range of 0.002 grains/dry standard cubic foot (dscf) to 0.005 grains/dscf. Navistar claims that these emission limits cannot be reasonably maintained on a consistent basis. Therefore, a revision to change these approved emission limits was sought by Navistar and approved by Indiana. These revised limits are the subjects of this proposed rulemaking.

The State established the TSP emission limits in 325 IAC 6-1-12 (approved in July 16, 1982), in general, from production rates, emission factors, and control equipment efficiency data. (The State later recodified this rule as 326 IAC 6-1-12.) The data for Navistar were verified by International Harvester (Navistar's predecessor), and submitted to the Indiana Office of Air Management in 1978-79. However, Navistar claims it is unable to determine the basis for those TSP limits. It suggests that the TSP limit may have been established from stack testing done at reduced operation levels.

Process emissions from the foundry are controlled by 7 baghouses: The Phase 1 and Phase 2 Electric Melt Baghouses each control emissions from 3 of 6 Brown-Boveri gray iron induction furnaces (Point ID 1). The M-3 Baghouse controls emissions from M-3 Mold Line, where castings are made, and from its associated tower and basement (Point ID 07). The Phase 1 Baghouse controls emissions from a sand tower and casting cleaning operations (Point ID 05). The Phase 3 Baghouse controls emissions from sand conveyor belts and a sand tower (Point ID 06). The Phase 4 Baghouse controls emissions from casting and casting delivery operations (Point ID 98), and the Phase 5 Baghouse controls emissions from casting cleaning operations and the sand elevator (Point ID 99).

Navistar has requested higher emission limitations on the seven existing baghouses, which are the subjects of this proposed rulemaking action. The higher emission limits would be offset by the permanent retirement of the processes known as identifications (ID's) 8,9,10, and three molding lines and associated coremaking and core-knockout operations. ID's 8 and 10 are core-knockout operations and ID 9 is the Pangborn Shotblast. The shutdowns have already occurred; most occurred in 1987, and one (ID 9) was shutdown in 1980. The proposed "emission increases" are actually proposed increases in regulatory limits and may or may not result in any increase in actual emissions. See Table 1 below for revised emission limits.

TABLE 1

ID	Process			
	Emission limits	Tons/yr	Pounds/million BTU	Grains/dscf
1A	E.M. 1 Baghouse.	45.7		.019
1B	E.M. 2 Baghouse.	53.5		.020
02	Boiler 1	14.0	.30	
03	Boiler 2	13.0	.30	
04	Boiler 3	34.9	.30	
05	Phase 1 Baghouse.	35.4		.020

TABLE 1—Continued

ID	Process			
	Emission limits	Tons/yr	Pounds/million BTU	Grains/dscf
06	Phase 3 Bahhouse.	55.1		.020
07	M-3 Baghouse	72.4		.015
98	Phase 4 Baghouse.	99.6		.02
99	Phase 5 Baghouse.	62.0		.02
08	Cst. Cl. Cr.	.0		.0
09	Pngbrn. Shtb.	.0		.0
10	Cst. Clg. Cr. 2	.0		.0

Indiana incorporated these changes into a revised 326 IAC 6–1–12, which it submitted to USEPA as a proposed revision to the SIP on July 21, 1989. Additional material was submitted on February 15, 1990. According to the SIP revision request, the emission reductions from the shutdown of existing facilities total 370.2 tons per year (tpy) while the emission increases from the existing allowable limits on the seven baghouses would total 369.08 tpy. The Indiana Department of Environmental Management (IDEM) believes the rule changes to be consistent with the USEPA's Emission Trading Policy Statement (ETPS) as published in the December 4, 1986, Federal Register (51 FR 43814).

Evaluation of Requested Revision

USEPA's principal criteria for evaluating this requested revision are given in the ETPS. Due to the fact that the current NAAQS for particulate matter is PM_{10},[1] the emission trade must ensure that the resulting potential increases in emissions do not jeopardize the PM_{10} ambient standards. See 51 FR 43842. Navistar lies in an area designated unclassifiable for PM_{10}. See Section 107(d)(4)(B) and 56 FR 56694. As a result, for emission trading purposes, this emission trade is treated as being in an attainment area.

The ETPS requires an emission trade to be consistent with the ambient attainment and maintenance of the NAAQS. This involves the use of dispersion modeling to determine the ambient impacts due to the emission increases and emission decreases. See 51 FR 43833. USEPA is proposing to approve this revision. However, prior to final approval, the State must submit to USEPA a modeling analysis of the emission increases, following correct USEPA guidelines, which shows no PM_{10} ambient impact levels at any receptors are above the significant levels as specified in the ETPS. (This emission trade requires a Level II modeling. See 51 FR 43844). For the ETPS (51 FR 43845), USEPA will interpret the PM_{10} significant levels to be the same as the TSP significant levels (10$\mu g/m^3$ for the 24-hr standard and 5 $\mu g/m^3$ for the annual standard).

[1] PM_{10} refers to particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. PM_{10} is the replacement criteria pollutant for TSP.

Proposed Rulemaking Action and Solicitation of Public Comments

Indiana's application for an emission trade at Navistar meets the criteria of the Emission Trading Policy Statement, except for a PM_{10} modeling analysis. USEPA is proposing to approve the revised rule, 326 IAC 6–1–12. Prior to final approval, the State must submit the modeling analysis discussed above.

Public comments are solicited on the requested SIP revision and on USEPA's proposal to approve. Public comments received by (30 days from publication) will be considered in development of USEPA's final rulemaking action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Two action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table Two and Three SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 until April of 1991. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under 5 U.S.C. 605(b), the Administrator certifies that SIP approvals under sections 107, 110, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. SIP approvals (or redesignations), therefore, do not create any new requirements but simply approve requirements that are already State Law. SIP approvals (or redesignations), therefore, do not add additional requirements for small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis for a SIP approval would constitute Federal inquiry into the economic reasonableness of the State's actions. The Clean Air Act forbids the USEPA to base its action concerning SIPs on such grounds.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: October 16, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92–26537 Filed 10–30–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[SD1-1-5450; FRL-45295]

Approval and Promulgation of State Implementation Plans; South Dakota; PM-10 New Source Review and Emergency Episode Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On September 25, 1992, the Secretary of the South Dakota Department of Environment and Natural Resources, who has been delegated as the designee of the Governor of South Dakota, submitted revisions to the State Implementation Plan (SIP). Revisions were made to Article 74:26, Air Pollution Control Program, and consisted of the following: Amendments to New Source Review (NSR) definitions and regulations to be consistent with the July 1, 1989 version of 40 CFR part 51, subpart I, revisions to the emergency episodes plan for PM–10 ambient standards and methods of measurement, revisions to the variance provision prohibiting the granting of variances in nonattainment areas, and revisions to the State's operating permit program.

The revisions to Article 74:26 were made to meet the requirements of the State's PM–10 Group II Committal SIP, which was submitted by the State on July 12, 1988 and approved by EPA on October 5, 1990 (55 FR 40831), and to correct other NSR deficiencies that had been previously identified by EPA. EPA reviewed the submittal and found the revisions to be consistent with federal policy and regulations, with the exception of the variance provision found in Chapter 74:26:01:30. The State's variance provision has been found to be inconsistent with Section 110(i) of the Clean Air Act (CAA), as amended.

Therefore, in this notice, EPA is proposing to approve the revisions to Article 74:26 and to disapprove the revisions to the variance provision in Chapter 74:26:01:30.

DATES: Comments must be received on or before December 2, 1992.

ADDRESSES: Comments may be mailed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

Copies of the revision are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

South Dakota Department of Water and Natural Resources, Division of Environmental Regulation, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501–3181.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, (303) 293–1765.

SUPPLEMENTARY INFORMATION:

I. Background of Revisions

On July 1, 1987, EPA published a notice to promulgate a revised National Ambient Air Quality Standard (NAAQS) for particulate matter under 10 microns in size (PM–10) (see 52 FR 24634). As a result, states were required to revise their SIPs to attain and maintain the new PM–10 NAAQS. To implement the new SIP requirements, all areas of the country were divided into three groups, based on the area's probability for violating the PM–10 NAAQS. In South Dakota, the Rapid City area was classified as a Group II area (moderate probability of violating the PM–1-NAAQS), while the rest of the State was classified as a Group III area (low probability of violating the PM–10 NAAQS).

For Group III areas, no new requirements needed to be implemented. However, the Group II areas, states had to commit to monitor the ambient air for PM–10, revise their NSR regulations to trigger preconstruction review for PM–10, revise their emergency episode plans for PM–10, and adopt the PM–10 NAAQS. On July 12, 1988, the State submitted a Committal SIP for the Rapid City Group II PM–10 area. In that submittal, the State committed to ambient air monitoring for PM–10 and to revising its regulations to meet the Group II area requirements. On October 5, 1990, However, because EPA had previously identified numerous deficiencies in the State's NSR regulations, EPA required the State to revise its NSR regulations to be consistent with federal requirements as part of its approval of the Group II Committal SIP.

II. Evaluation of Submittal

The State subsequently adopted revisions to Article 74:26 addressing the NSR deficiencies and the other PM–10 Group II area requirements, along with other "housekeeping" revisions, and submitted the revised regulations to EPA for SIP approval on September 25, 1991. The submittal also included revisions to the State's New Source Performance Standards (NSPS) and Emission Standards for Asbestos Air Pollutants in Article 74:26, Standards of Performance of Municipal Waste Combustors in Chapter 74:26:26, and provisions for Disposal of Medical Waste in Article 74:35. EPA will take action on the NSPS and asbestos revisions in a separate notice. On February 10, 1992, the State withdrew Chapter 74:26:26, because a revised Chapter 74:26:26 would be submitted for SIP approval at a later date.

EPA initially reviewed the submittal for administrative and technical completeness. After receiving additional information from the State, EPA notified the State on December 2, 1991 that the submittal of Article 74:26 was administratively and technically complete. However, in that letter, EPA returned Article 74:35 as incomplete, because the State did not provide any response to the numerous public comments received pursuant to the proposed adoption of the medical waste disposal regulations.

On January 16, 1992, EPA notified the State of its technical adequacy review of the State submittal. EPA had the following concerns with the State submittal:

(1) The definition of "potential to emit" in Chapter 74:26:01:03 seems to have potentially different interpretations. The definition implies that physical and operational limitations on the capacity of the source to emit do not have to be federally enforceable to be considered part of the potential to emit of the source. To verify that the definition was being interpreted consistently with the federal definition, EPA requested an interpretation from the State Attorney General.

(2) The State's variance procedure is not consistent with the requirements of the CAA. Section 110(i) of the CAA prohibits any action which modifies any requirement of an applicable SIP from being taken with respect to a stationary source by a state or the Administrator of EPA. EPA had previously required the State to revise its variance provision to prohibit the granting of variances in nonattainment areas. However, EPA's position on an approvable variance provision has since changed. Since many states, including South Dakota, have included numerous other requirements in their SIPs that apply regardless of the nonattainment status of an area, EPA determined that the only approvable variance provision is one that prohibits the granting of any variance which is inconsistent with the CAA. EPA recommended that the State withdraw its variance provision from this SIP submittal.

(3) In this submittal, the State also submitted revisions to its operating permit program, which was previously approved in the SIP. However, because of the new title V requirements of the Clean Air Act Amendments (CAAA), EPA believed that the submittal should be reviewed in accordance with the requirements of title V. Since the State's operating permit regulations did not meet the requirements of title V, EPA recommended that the State withdraw its operating permit provisions from this submittal.

EPA also included an attachment of deficiencies that were currently considered to be minor and requested a commitment from the State to address these other deficiencies during the next round of revisions to the State's NSR regulations.

The State responded to EPA's concerns in a February 10, 1992 letter by stating that it would address EPA's comments during the next round of revisions to Article 74:26. However, the State did not provide the requested Attorney General's opinion on the definition of "potential to emit," nor did the State withdraw its variance provision or its operating permit provisions from the SIP submittal.

EPA responded to the State in a March 26, 1992 letter. In that letter, EPA clarified its concerns regarding the definition of "potential to emit" and again requested a letter of interpretation from the State Attorney General, the State Air Director, or an attorney from the State air pollution agency. EPA also reiterated its concerns regarding the State's variance provision and recommended that the State withdraw the provision, or EPA would disapprove it. Last, EPA rescinded its condition that the State's operating permit program meet the requirements for a Title V operating permit program at this time.

Instead, EPA would apply the requirements of the June 28, 1989 **Federal Register** notice, in which a revised definition of "federally enforceable" was promulgated to include operating permits issued under an EPA-approved program (54 FR 27285). There were several requirements listed in the June 28, 1989 **Federal Register** notice which state operating permit programs had to satisfy, if the permits issued pursuant to the State program were to be considered federally enforceable. Although South Dakota's operating permit regulations did not specifically contain all of the requirements, EPA determined that the State-issued operating permits could be considered federally enforceable, if the State abided by the requirements in the June 28, 1989 notice when issuing the operating permits. Therefore, no additional revisions to the State's operating permit provisions are required for EPA approval at this time. However, the State will still be required to revise its operating permit program to meet the requirements of Title V of the CAAA and submit the revision to EPA within the time-frame established in the CAAA.

On April 14, 1992, a staff attorney from the South Dakota Department of Environment and Natural Resources responded with the State's interpretation of the definition of "potential to emit." EPA review found the State's interpretation to be consistent with the federal definition. However, the State did not withdraw the variance provision from this SIP submittal. Therefore, EPA will proceed to propose approval of the revisions to Article 74:26 and to propose disapproval of the State's variance provision in Chapter 74:26:01:30.

EPA would also like to clarify in this notice that in the definition of "federally enforceable" in Chapter 74:26:01:01(21) of the State's regulations, the term "administrator" is interpreted by EPA and the State to be the administrator of EPA.

This clarification is necessary because the State has defined the term "administrator" in Chapter 74:26:01:01(2) to mean the Secretary of the Department of Water and Natural Resources. The State will correct this discrepancy during the next round of revisions to its regulations.

Proposed Action

EPA is proposing to approve the revisions to Article 74:26 which were submitted by the designee of the Governor of South Dakota on September 25, 1991. The revisions were made to correct deficiencies in the State's NSR regulations, to adopt the Group II requirements for protection of the PM-10 NAAQS, and to address other "housekeeping" revisions in the State's operating permit provisions. EPA is proposing approval of these revisions because they provide for consistency with federal requirements.

EPA is also proposing to disapprove the revisions to the State's variance provision in Chapter 74:26:01:30. Section 110(i) of the CAA prohibits any state or EPA from granting a variance from any requirement of a SIP with respect to a stationary source. Although the revision to the State's variance provision would strengthen the SIP by prohibiting the granting of variances in nonattainment areas, the revision will have no effect in South Dakota because there are currently no nonattainment areas in the State. Therefore, EPA is proposing to disapprove the revisions to the variance provision as inconsistent with section 110(i) of the CAA, as amended.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

This action has been classified as a table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 29, 1992.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 92–26538 Filed 10–30–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 400

Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance

AGENCY: Administration for Children and Families (ACF), HHS, Office of Refugee Resettlement.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule sets forth the timetable and process to be used to terminate the refugee cash assistance (RCA) and refugee medical assistance (RMA) programs in anticipation of the start of a new private resettlement program (PRP) and a new private medical program in FY 1993. These private programs would replace the State-administered RCA and RMA programs in providing transitional cash support and medical coverage to newly arriving refugees who do not meet the eligibility requirements for the programs of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) for the aged, blind, and disabled, and Medicaid. The Office of Refugee Resettlement (ORR) expects to begin the new programs on January 1, 1993. This proposed rule would terminate the RCA and RMA programs upon the close of January 31, 1993. This proposed rule also makes technical and conforming amendments to the current regulations by deleting those sections that relate to the RCA and RMA programs. It would also remove the already obsolete categories of Federal funding for the State share of assistance payments and medical coverage for refugees eligible under AFDC, Medicaid, SSI, adult assistance programs in the territories, and general assistance (GA).

DATES: Comments must be received by November 30, 1992.

ADDRESSES: Comments should be addressed to Toyo Biddle, Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC 20447.

Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately one month after publication, at the above address on Monday through Friday of each week from 9:30 a.m. to 4 p.m.,

except Federal holidays. Although we will not be able to acknowledge or respond to comments individually, in preparing the final rule, we will respond to comments in the preamble to the final rule.

FOR FURTHER INFORMATION CONTACT: Toyo A. Biddle, (202) 401–9253.

SUPPLEMENTARY INFORMATION:

Background

Current regulations at 45 CFR 400.203(b) and 400.204(b) provide for Federal refugee funding, subject to the availability of funds (45 CFR 400.202), for the State-administered special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) as set forth in 45 CFR subparts E and G. RCA, which provides monthly cash assistance payments to refugees, and RMA, which provides payment of hospital and medical bills, were established to assist needy refugees who do not meet the categorical eligibility requirements for the programs of Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) for the aged, blind, and disabled, and Medicaid.

Prior to 1982, RCA and RMA were available during an eligible refugee's first 36 months in the U.S. An interim final rule, published March 12, 1982 (47 FR 10841), reduced the period to 18 months, and a final regulation, published August 24, 1988 (53 FR 32222), further reduced the eligibility period to 12 months. Due to limited funds appropriated for these programs in FY 1992, a final rule was again published on January 10, 1992 (57 FR 1114), further reducing the RCA/RMA eligibility period to 8 months in FY 1992. On September 17, 1992 (57 FR 42896), a final rule was published maintaining the eligibility period at 8 months for FY 1993.

Description of the Proposed Regulation

In anticipation of the need to make further reductions in the RCA/RMA eligibility period as a result of limited appropriated funds for these programs and to promote early employment, the Department believes it is necessary to shift to a private resettlement alternative in FY 1993 in order to ensure the availability of transitional assistance and services to newly arriving refugees who are not eligible for the categorical assistance programs.

Under its plans for FY 1993, the Department would terminate the State-administered RCA program upon the close of January 31, 1993, while phasing in a private resettlement program (PRP), which will be carried out principally by nongovernment agencies beginning January 1, 1993. The State-administered RMA program will also be terminated upon the close of January 31, 1993, while phasing in a private medical program which will be administered by a private, non-profit organization beginning January 1, 1993. The PRP will be the subject of a separate grant announcement, while the new medical program will be described in a request for procurement.

This proposed rule would establish the following timetable and procedure for discontinuing the RCA and RMA programs:

Refugees arriving in the U.S. after December 31, 1992, would not be eligible to receive assistance through the RCA program. Refugees who arrive after December 31, 1992, and who are not eligible for AFDC or SSI, would be eligible to apply for transitional cash assistance and services under the new private resettlement program to begin on January 1, 1993.

Refugees who arrive in the U.S. on or before December 31, 1992, would continue to be eligible to apply for RCA through December 31, 1992. No one may apply for RCA after December 31, 1992. Beginning on January 1, 1993, refugees who are not eligible for AFDC or SSI and who are not receiving RCA would be eligible to apply for transitional cash assistance under the new PRP if their time in the U.S. does not exceed the period of eligibility for PRP assistance. Refugees may not receive assistance from both RCA and PRP.

States must completely terminate the RCA program upon the close of January 31, 1993. RCA recipients in need of continued assistance would be eligible to apply for transitional cash assistance under the new PRP if their time in the U.S. does not exceed the period of eligibility for PRP assistance. Refugees may apply for transitional support for the balance of months remaining between a refugee's time in the U.S. to date and the PRP eligibility period. Grantees under the PRP, upon application by refugees, will be required to provide transitional cash assistance to eligible refugees losing RCA as a result of the termination of the RCA program, if their earnings do not exceed the assistance provided for under the PRP announcement.

Refugees arriving in the U.S. after December 31, 1992, would not be eligible to receive assistance through the RMA program. Refugees who arrive after December 31, 1992, and who are not eligible for Medicaid, would be eligible to apply for medical coverage under the new private medical program which begins on January 1, 1993.

Refugees who arrive in the U.S. on or before December 31, 1992, would continue to be eligible to apply for RMA through December 31, 1992. No one may apply for RMA after December 31, 1992. Beginning on January 1, 1993, refugees who are not eligible for Medicaid and who are not receiving RMA, would be eligible to apply for medical coverage under the private medical program if their time in the U.S. does not exceed the period of eligibility for assistance under the new medical program. Refugees may not receive assistance from both RMA and the private medical program.

States must completely terminate the RMA program upon the close of January 31, 1993. RMA recipients in need of continued medical assistance would be eligible to apply for medical coverage under the private medical program if their time in the U.S. does not exceed the period of eligibility for the new medical program. Refugees may apply for medical coverage under the new program for the balance of months remaining between a refugee's time in the U.S. to date and the eligibility period of the new medical program. The agency administering the new medical program will be required, upon application by refugees, to provide medical coverage to refugees losing RMA as a result of the termination of the RMA program, if they meet the eligibility requirements of the new medical program.

Under proposed rules 45 CFR 400.65(d) and 400.108(d), States would be responsible for ensuring that all RCA and RMA recipients who are terminated because of discontinuance of the RCA/RMA programs are notified that they may be eligible for assistance under the private resettlement program and the private medical program.

The Office of Refugee Resettlement will disseminate information about PRP and the private medical program to States for distribution to local welfare offices and other agencies.

This proposed rule would also require States under subpart F to provide employment services to recipients of transitional cash assistance under the private resettlement program, who either were recipients of RCA or who, although not receiving RCA, arrived in the U.S. on or before November 30, 1992. Many of these refugees may already be participating in a State-administered employment services program at the time they transfer from the RCA program to the private resettlement program. This rule would enable these clients to continue in the same employment service program. PRP agencies will be expected to provide

only transitional cash assistance to former RCA recipients and to refugees who, although not receiving RCA, arrived in the U.S. on or before November 30, 1992. PRP agencies will be expected to refer these clients to the State-administered refugee program for employment services.

The proposed rule would also establish a deadline of June 30, 1993, the submission of State claims for cash assistance, medical assistance, and related administrative costs awarded in FY 1992 and FY 1993.

Consistent with the preceding actions, 45 CFR 400.2, 400.5(b), 400.11, 400.13, subpart E, 400.70, 400.71, 400.72, 400.75, 400.76, 400.77, 400.78, 400.79, 400.80, 400.81, 400.82, 400.83, subpart G, 400.146, 400.147, 400.154, 400.203, 400.204, 400.207, 400.209, and 400.210 are being amended or removed.

During recent years, Federal refugee funding has not been available to cover the non-Federal share of cash assistance for refugees eligible for AFDC, adult assistance in the territories, foster care maintenance payments, SSI State supplementary payments (SSPs), or general assistance (GA). Similarly, Federal refugee funding has not been available to cover the non-Federal share of medical assistance for refugees eligible for Medicaid, adult assistance programs, or GA. Accordingly, this proposed rule would remove obsolete references to these funding categories in §§ 400.11, 400.203, 400.204, and 400.209.

Proposed Effective Dates and Removal Dates

Anticipated effective dates for revision (and deletions) are as follows for the various sections affected:

Sections	Amendments	Deletions
§ 400.2	January 1, 1993.	
§ 400.5(b)	February 1, 1993.	
§ 400.11(a)	October 1, 1993.	
§ 400.11(b)	February 1, 1993.	
§ 400.11(c)	February 1, 1993.	
§ 400.13	February 1, 1993.	
Subpart E	January 1, 1993.	
§ 400.50–400.64.		(February 1, 1993).
§ 400.70	February 1, 1993.	(October 1, 1993).
§ 400.71		(October 1, 1993).
§ 400.72		(October 1, 1993).
§ 400.75	February 1, 1993.	(October 1, 1993).
§ 400.76	February 1, 1993.	(October 1, 1993).
§ 400.77	February 1, 1993.	(October 1, 1993).
§ 400.78	February 1, 1993.	(October 1, 1993).
§ 400.79	February 1, 1993.	(October 1, 1993).
§ 400.80		(February 1, 1993).
§ 400.81		(October 1, 1993).
§ 400.82	February 1, 1993.	(October 1, 1993).
§ 400.83		(February 1, 1993).
Subpart G	January 1, 1993.	
§ 400.90–400.107.		(February 1, 1993).
§ 400.146	February 1, 1993.	
§ 400.147	January 1, 1993.	
§ 400.154	February 1, 1993.	
§ 400.203		(February 1, 1993).
§ 400.204		(February 1, 1993).
§ 400.207	February 1, 1993.	
§ 400.209	February 1, 1993.	
§ 400.210	February 1, 1993.	

Regulatory Procedures

Regulatory Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department has determined that these rules are not major rules within the Executive Order because they will not have an annual effect on the economy of $100 million or more; nor will they result in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic region; and, they will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

This Notice of Proposed Rule-Making sets forth the timetable and procedures to be used to terminate the refugee cash assistance (RCA) and refugee medical assistance (RMA) programs in anticipation of the start of a new private resettlement program (PRP) and a new private medical program in FY 1993. Refugees who are terminated from the RCA and RMA programs because the programs are discontinued will be eligible to apply for assistance under the private programs if their time in the U.S. does not exceed the period of eligibility for assistance under the new programs. This regulation will enable the Office of Refugee Resettlement to contain refugee cash and medical assistance costs within the FY 1993 appropriation level.

The benefits derived from the implementation of the new PRP and the private medical program outweigh any administrative costs associated with termination of the RCA and RMA programs. Thus, the Department concluded that these regulations are not major rules within the meaning of the Executive Order because they do not meet the threshold criteria.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these rules is on State governments and individuals. Therefore, we certify that these rules will not have a significant impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This rule does not contain collection-of-information requirements.

Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9), authorizes the Secretary of HHS to issue regulations needed to carry out the program.

(Catalog of Federal Domestic Programs: 93.026, Refugee and Entrant Assistance—State-Administered Programs)

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and Record keeping requirements.

Dated: October 2, 1992.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Approved: October 23, 1992.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR part 400 is proposed to be amended as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.2 [Amended]

2. Section 400.2 is amended by amending the definition of "Cash assistance", by inserting the words "provided by the States through January 31, 1993" after the words "refugee cash assistance", removing the word "and" before the words "general assistance", and inserting after the word "herein," the following phrase: "and transitional cash assistance provided under the Private Resettlement Program (PRP)". Section 400.2 is also amended by amending the definition of "Medical assistance" by inserting the words "provided by the States through January 31, 1993" after the words "refugee medical assistance", removing the word "and" before the words "general assistance", and inserting after the word "herein," the following phrase: "and medical coverage provided under the private refugee medical program". Section 400.2 is further amended by amending the definition of "Refugee cash assistance" by inserting the words "by the States through January 31, 1993" after the word "provided", and by amending the definition of "Refugee medical assistance" by inserting the words "by the States through January 31, 1993" after the word "provided" in (a). The definition of "Time-eligibility" is removed.

§ 400.5 [Amended]

3. Section 400.5(b) is amended by removing the words "will coordinate cash and medical assistance with support services to ensure their successful use" and inserting in their place "intends".

4. Section 400.11 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 400.11 Award of grants to States.

(a) * * *

(1) *Grants for services and assistance to unaccompanied minors and related administrative costs* for assistance and services to unaccompanied minors under section 412(d)(2)(B) of the Immigration and Nationality Act; and

* * * * *

(b) * * *

(1) *Unaccompanied minors grants.* For quarterly grants for assistance and services to unaccompanied minors and related administrative costs, a State must submit to the Director, or designee, yearly estimates for reimbursable costs for the fiscal year, identified by type of expense, and a justification statement in support of the estimates no later than 45 days prior to the beginning of the fiscal year on a form prescribed by the Director.

5. Section 400.11(c) is amended by adding a new sentence at the end of the paragraph that reads as follows:

"For FY 1993, the final report for cash assistance, medical assistance, and related administrative costs shall be due no later than June 30, 1993."

6. Section 400.13 is amended by removing the word "CMA" from paragraph (b) and inserting in its place "unaccompanied minors" and by revising paragraph (c) to read as follows:

§ 400.13 Cost allocation.

* * * * *

(c) Certain administrative costs incurred for the overall management of the State's refugee program (e.g., development of the State plan, overall program coordination, salary and travel costs of the State Refugee Coordinator), as identified by the Director, may be allocated among the social services grant and any other RRP grants, except that, for grants made for services to unaccompanied minors, the State may claim only the administrative costs related to the unaccompanied minors program.

7. Section 400.13(d) is removed.

§§ 400.50–400.64 [Removed]

8. Sections 400.50 through 400.64 of subpart E are removed and a new § 400.65 is added that reads as follows:

§ 400.65 Termination of program.

(a) States may not provide refugee cash assistance to refugees arriving in the U.S. after December 31, 1992. Refugees who arrive after December 31, 1992, and who are not eligible for AFDC or SSI, are eligible to apply for transitional cash assistance through the new private resettlement program (PRP) which begins on January 1, 1993.

(b) Refugees who arrive in the U.S. on or before December 31, 1992, are eligible to apply for refugee cash assistance through December 31, 1992, if they meet the time-eligibility requirement specified in the definition of "Refugee cash assistance" in § 400.2. No one may apply for RCA after December 31, 1992. Beginning on January 1, 1993, refugees in need of cash assistance, who are not eligible for AFDC or SSI and who are not receiving RCA, are eligible to apply for transitional cash assistance under the PRP, if their time in the U.S. does not exceed the period of eligibility under the new program.

(c) The refugee cash assistance program will not be continued after January 31, 1993. States must terminate refugee cash assistance to all recipients upon the close of January 31, 1993. RCA recipients in need of continued cash assistance are eligible to apply for transitional cash assistance through the new private resettlement program, as of the date of termination, if their time in the U.S. does not exceed the period of eligibility for assistance under the new program.

(d) The State agency must promptly refer refugee cash assistance recipients, who are terminated because of discontinuance of the program, to the private resettlement program.

9. Section 400.70 is revised to read as follows:

§ 400.70 Basis and scope.

This subpart sets forth requirements for clients in the private resettlement program (PRP), who either are former recipients of refugee cash assistance (RCA) or who, although not receiving RCA, arrived in the U.S. on or before November 30, 1992, concerning registration for employment services, participation in social services or targeted assistance, and acceptance of appropriate employment under section 412(e)(2)(A) of the Act. A refugee who is a recipient of PRP transitional cash assistance and who either was a recipient of refugee cash assistance or who, although not receiving RCA, arrived in the U.S. on or before November 30, 1992, must comply with the requirements in this subpart.

§ 400.71 [Removed]

10. Section 400.71 is removed.

§ 400.72 [Removed]

11. Section 400.72 is removed.

§ 400.75 [Amended]

12. Section 400.75(a) introductory text is amended by removing the words "As a condition for receipt of refugee cash assistance, a refugee" and inserting in their place the words "Any recipient of transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

13. Section 400.75(a)(2) is removed and reserved.

§ 400.76 [Amended]

14. Section 400.76(a) introductory text is amended by removing the words "The State agency must consider an applicant

for or recipient of refugee cash assistance to be employable and require him or her" and inserting in their place the words "Recipients of transitional cash assistance under the private resettlement program, who either were former recipients of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992, must be considered employable and are required".

§ 400.77 [Amended]

15. Section 400.77(a) is amended by removing the words "As a condition of eligibility for refugee cash assistance, an employable applicant" and inserting in their place the words "Any employable recipient of transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

16. Section 400.77(b) is amended by removing the words "As a condition of continued receipt of refugee cash assistance, an employable recipient" and inserting in their place the words "Any employable recipient of transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

§ 400.78 [Amended]

17. Section 400.78(a) is amended by removing the words "As a condition of continued receipt of refugee cash assistance, a recipient" and inserting in their place the words "Any recipient of transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

18. Section 400.78(b) is amended by removing the words "refugee cash assistance" and inserting in their place the words "transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

§ 400.79 [Amended]

19. Section 400.79(a) is amended by removing the words "refugee cash assistance" and inserting in their place the words "transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992,".

20. Section 400.79(c) is amended by removing the semicolon and the word "and" in paragraph (c)(2) and inserting in their place a period, and by removing paragraph (c)(3).

§ 400.80 [Removed]

21. Section 400.80 and the undesignated centerhead immediately preceding it are removed.

§ 400.81 [Removed]

22. Section 400.81 and the undesignated centerhead immediately preceding it are removed.

23. Section 400.82 is revised to read as follows:

§ 400.82 Failure or refusal to accept employability services or employment.

When, without good cause, an employable recipient of transitional cash assistance under the private resettlement program, who either was a recipient of refugee cash assistance or, although not receiving RCA, arrived in the U.S. on or before November 30, 1992, who is not exempt for registration under § 400.76 of this part, has failed or refused to meet the requirements of § 400.75(a) or has voluntarily quit a job, the State must so notify the private resettlement agency providing transitional cash assistance to the refugee. The private resettlement agency is responsible for sanctioning the refugee.

§ 400.83 [Removed]

24. Section 400.83 is removed.

§§ 400.90–400.107 [Removed]

25. Sections 400.90 through 400.107 of subpart G are removed and a new § 400.108 is added that reads as follows:

§ 400.108 Termination of program.

(a) States may not provide refugee medical assistance to refugees arriving in the U.S. after December 31, 1992. Refugees who arrive after December 31, 1992, and who are not eligible for Medicaid, are eligible to apply for medical coverage under the new private medical program which begins on January 1, 1993.

(b) Refugees who arrive in the U.S. on or before December 31, 1992, are eligible to apply for refugee medical assistance through December 31, 1992, if they meet the time-eligibility requirement specified in the definition of "Refugee medical assistance" in § 400.2. No one may apply for RMA after December 31, 1992. Beginning on January 1, 1993, refugees in need of medical assistance, who are not eligible for Medicaid and who are not receiving RMA, are eligible to apply for medical coverage under the private medical program, if their time in the U.S. does not exceed the period of eligibility under the new program.

(c) The refugee medical assistance program will not be continued after January 31, 1993. States must terminate refugee medical assistance to all recipients upon the close of January 31, 1993. RMA recipients in need of continued medical assistance are eligible to apply for medical coverage through the new private medical program, as of the date of termination, if their time in the U.S. does not exceed the period of eligibility for assistance under the new program.

(d) The State agency must promptly refer refugee medical assistance recipients who are terminated because of discontinuance of the program, to the private medical program.

26. Section 400.146 is revised to read as follows:

§ 400.146 Use of funds.

(a) The State must use its social services grants for the purpose of providing services designed to achieve economic self-sufficiency among refugees as soon as possible. To this end, a State must give priority to providing employability services as set forth in § 400.154 of this subpart.

§ 400.147 [Amended]

29. Section 400.147(a) is amended by inserting the words ", including refugees served under the private resettlement program," after the words "newly arriving refugees" and before the word "and".

28. Section 400.147(b) is amended by removing the words "which is funded in whole or in part, under this part" and inserting in their place "as defined in § 400.2".

29. Section 400.154 is amended by revising paragraph (f) to read as follows:

§ 400.154 Employability services.

(f) *Skills recertification*, if an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States. The training may consist of full-time attendance in a college or professional training program, provided that such training: Is approved as part of the individual's employability plan by the State agency, or its designee; does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance); is specifically intended to assist the professional in becoming relicensed in his or her profession; and, if completed.

can realistically be expected to result in such relicensing.

* * * * *

30. Section 400.154(j) is amended by removing the words "under § 400.76 and for recipients of AFDC and GA who are considered employable".

31. Section 400.154 is amended by removing the note after paragraph (j).

§ 400.203 [Removed]

32. Section 400.203 is removed.

§ 400.204 [Removed]

33. Section 400.204 is removed.

34. Section 400.207 is revised to read as follows:

§ 400.207 Federal funding for administrative costs.

Federal funding is available for reasonable and necessary identifiable administrative costs of providing assistance and services under this part and must be charged to the social services grant and other RRP grants for this purpose, except that, for grants made for services to unaccompanied minors under § 400.205 of this part, the State may claim the administrative costs related to the unaccompanied minors program.

35. Section 400.209 is revised to read as follows:

§ 400.209 Claims involving filing units which include refugees who have been in the United States more than 36 months.

Federal funding is not available for State expenditures for child welfare services (except services for unaccompanied minors) provided to any refugee within a filing unit who has been in the United States more than 36 months.

36. Section 400.210(a) is revised to read as follows:

§ 400.210 Time limit for filing of State claims.

(a) June 30, 1993, in the case of a grant for cash assistance, medical assistance, and related administrative costs awarded in FY 1992 and FY 1993.

* * * * *

37. Section 400.210(b) is amended by inserting the words "after the end of the Federal fiscal year in which the grant was awarded" after the words "two years" removing the period, and adding ", and" after the word "services".

38. Section 400.210 is amended by adding a new paragraph, (c), that reads as follows:

§ 400.210 Time limit for filing of State claims.

* * * * *

(c) One year after the end of the Federal fiscal year in which the grant was awarded in the case of a grant for unaccompanied minors.

[FR Doc. 92-26520 Filed 10-30-92; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88-21; Notice No. 4]

RIN 2127-AE25

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The agency believes that upgraded school bus emergency exit requirements, published elsewhere in today's edition of the **Federal Register**, provide a level of safety comparable to that of the current non-school bus emergency exit requirements. This notice proposes to amend Federal Motor Vehicle Safety Standard No. 217, *Bus Emergency Exits and Window Retention and Release*, to permit non-school buses to meet either the current non-school bus requirements or the new upgraded school bus requirements. This action would also affect obligations of school bus operators under the Federal Motor Carrier Safety Regulations (FMCSRs) issued by the Office of Motor Carrier Standards in the Federal Highway Administration. The FMCSRs require all buses, including school buses, to meet the Standard No. 217 requirements for non-school buses. By amending Standard No. 217 to allow non-school buses to meet the upgraded school bus requirements, this proposal would eliminate the need under the FMCSRs to retrofit school buses which are operated in interstate commerce and therefore are required by the FMCSRs to meet the current non-school bus requirements in Standard No. 217.

DATES: Comments must be received by January 4, 1993. If adopted, the proposed amendment would become effective May 2, 1994.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday)

FOR FURTHER INFORMATION CONTACT: Patricia Breslin, NRM-10, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-0842.

SUPPLEMENTARY INFORMATION:

Background

When Standard No. 217, *Bus Window Retention and Release*, originally became effective on September 1, 1973, it required that buses other than school buses have exits whose combined area, in square inches, equaled or exceeded 67 times the number of designated seating positions. The type of exit used to comply with this requirement was left to the choice of the bus manufacturer, although the agency assumed that most manufacturers would meet the requirement primarily by installing push-out side windows.

Based upon this version of Standard No. 217, the Office of Motor Carrier Standards (OMCS) in the Federal Highway Administration (FHWA) issued Federal Motor Carrier Safety Regulation (FMCSR) 393.61 to require all buses operating in interstate commerce manufactured on or after September 1, 1973 to meet the requirements of Standard No. 217.

In response to the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492), NHTSA amended Standard No. 217, effective April 1, 1977, to include emergency exit requirements for school buses. School buses were excluded from the original Standard No. 217 requirements for the reasons explained in the 1970 notice of proposed rulemaking [NPRM]:

> In view of discipline problems associated with mandatory quick-release and exit devices throughout a school bus which may interfere with the school bus driver's task, and the added risk of children falling from moving school buses, push-out windows for school buses would remain optional. 35 FR 13025; August 15, 1970.

Because the agency continued to be concerned with push-out windows for school buses, the Standard No. 217 amendments regarding school buses did not simply specify that the total combined area, in square inches, of all the exits had to equal or exceed 67 times the number of designated seating positions, and leave the choice of exit type to the manufacturer. Instead, the agency required that all new school buses have either (1) one rear emergency door, or (2) "one emergency door on the vehicle's left side that is in the rear half of the bus passenger compartment and is hinged on its forward side, and one push-out rear

window." Like all of the agency's safety standards for motor vehicles, Standard No. 217 is a minimum safety standard, in this instance specifying the fewest permissible number of emergency exits for a school bus.

Even after the amendments to Standard No. 217 adding emergency exit requirements for school buses, OMCS interpreted FMCSR 393.61 as requiring all buses, including school buses, operated in interstate commerce to comply with the non-school bus requirements of Standard No. 217. This difference in requirements for non-school buses and school buses has presented problems for owners of vehicles that are originally built as school buses, and certified as complying with the school bus requirements of Standard No. 217, which are also required to comply with the FMCSR. This would include school buses which are resold for use in non-school bus purposes and school buses which are owned by private operators and leased to a school or school district. These buses generally have had to be retrofitted with push-out windows to meet the requirements of FMCSR 393.61.

Upgrading School Bus Emergency Exit Requirements

Elsewhere in today's edition of the **Federal Register**, NHTSA has published a final rule amending the school bus requirements of Standard No. 217. Instead of specifying the same minimum number of exits for all school buses, as the standard currently does, this rule sets requirements for minimum emergency exit space that are based upon the seating capacity of each bus. As a result, larger school buses will be required to have an increased number of exits. School buses are required to have, regardless of their seating capacity, either one rear emergency door, or one emergency door on the left side of the bus and one rear push-out window. In addition, manufacturers of school buses with sufficient seating capacity to need additional emergency exit space will have to provide the first amount of additional space by installing a side door. If still more space is needed, a roof exit will have to be installed. If still more space is needed, it will be provided by installing either side door exits, roof exits, or window exits, at the manufacturer's option.

The final rule issued today will make the requirements for school buses and other buses similar. Both types of buses will be subject to the same criteria for determining the amount of emergency exit space that must be provided—the number of designated seating positions. Because of the unique cargo carried by school buses, the type and distribution of the emergency exits in those buses will differ from non-school buses. In general, school buses will be equipped with doors and roof exits while non-school buses will be equipped with push-out windows. However, in terms of the safety benefit provided to passengers, the agency believes that the non-school bus requirements and the upgraded school bus requirements are equivalent.

Since the agency believes that the upgraded school bus requirements are equivalent to the current non-school bus requirements, the agency is proposing to allow non-school buses the option of complying with either the current non-school bus requirements or the upgraded school bus requirements. This would allow school buses which comply with the upgraded Standard No. 217 school bus requirements to also comply with FMCSR 393.61 without the need for retrofitting. No changes are being proposed to the existing emergency exit requirements for non-school buses.

The agency is also proposing to delete existing S5.2.1.1 from the requirements of Standard No. 217. That section allows a non-school bus with a gross vehicle weight rating of more than 10,000 pounds to satisfy the emergency exit requirements of the standard by installing one side emergency exit door for each three designated seating positions. Such a configuration would be prohibited for school buses under S5.2.3.2(a)(4) of the new final rule for emergency exits on school buses, which specifically prohibits placing more than one side emergency exit door within the same post and roof bow panel space. This configuration is prohibited for school buses because of the agency's concerns with the structural integrity of the bus if too many side doors are installed. Additionally, the agency is unaware of any bus that has ever been manufactured that utilized the option in S5.2.1.1.

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is neither "major" within the meaning of E.O. 12291, nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. Since the proposed requirements are optional, there are no cost or leadtime considerations for manufacturers of new buses. There are potential cost savings under the FMCSRs for persons who use school buses in interstate commerce. Based on cost estimates made by NHTSA in 1992, the cost of retrofitting a single push-out window into a school bus was estimated to be $150. If a typical 66-passenger school bus requires the retrofitting of eight push-out windows in order to comply with FMCSR 393.61, the agency estimates that the cost savings per vehicle will be about $1,200.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this proposal under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. As stated above, the agency does not anticipate any significant economic impacts from this rule.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires each agency to evaluate the potential effects of its rules on small businesses, small organizations, and small governmental jurisdictions. The small businesses and organizations most likely to be affected by this final rule are: (1) School bus manufacturers, (2) push-out window equipment manufacturers, (3) school bus dealers and distributors, and (4) state/local school districts that purchase new school bus equipment. Because the proposed requirements would be optional, no major economic impacts would be anticipated for any of these small business entities from a final rule.

In addition, there will be a potential cost savings under Federal Motor Carrier Safety Regulations (FMCSRs) for small businesses, organizations, or individuals who purchase or use vehicles that are also operated in

interstate commerce. A final rule would eliminate the need under the FMCSRs to retrofit school buses operated in interstate commerce to meet current non-school bus requirements in Standard No. 217.

National Environmental Policy Act

NHTSA has also analyzed this proposal under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not 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 business 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 comment closing date indicated above for the proposal 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. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The agency will continue to file relevant information 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 a self-addressed, stamped postcard in the envelope with their comments. 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.

In consideration of the foregoing, NHTSA proposes to amend part 571 of title 49 of the Code of Federal Regulations 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.

§ 571.217 [Amended]

2. S5.2 would be revised to read as follows:

S5.2 *Provision of emergency exits.*

S5.2.1 Buses other than school buses shall meet the requirements of either S5.2.2 or S5.2.3. School buses shall meet the requirements of S5.2.3.

S5.2.2. *Buses other than school buses.*

S5.2.2.1 Buses other than school buses shall provide unobstructed openings for emergency exit which collectively amount, in total square centimeters to at least 170 times the number of designated seating positions on the bus. At least 40 percent of the total required area of unobstructed openings, computed in the above manner, shall be provided on each side of a bus. However, in determining the total unobstructed openings provided by a bus, no emergency exit, regardless of its area, shall be credited with more than 3,458 square centimeters of the total area requirement.

S5.2.2.2 *Buses with GVWR of more than 4,536 kilograms.* Except as provided in S5.2.2.2.1, buses with a GVWR of more than 4,536 kilograms shall meet the unobstructed openings requirements by providing side exits and at least one rear exit that conforms to S5.3 through S5.5. The rear exit shall meet the requirements when the bus is upright and when the bus is overturned on either side, with the occupant standing facing the exit. When the bus configuration precludes installation of an accessible rear exit, a roof exit that meets the requirements of S5.3 through S5.5 when the bus is overturned on either side, with the occupant standing facing the exit, shall be provided in the rear half of the bus.

S5.2.2.3 *Buses with GVWR of 4,536 kilograms or less.* Buses with GVWR of 4,536 kilograms or less may meet the unobstructed openings requirement by providing:

(a) Devices that meet the requirements of S5.3 through S5.5 without using remote controls or central power systems;

(b) Windows that can be opened manually to a position that provides an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 51 centimeters and a minor axis of 33 centimeters; or

(c) Doors.

* * * * *

3. S5.5 would be revised to read as follows:

S5.5 *Emergency exit identification*

S5.5.1 In buses other than school buses, except for windows serving as emergency exits in accordance with S5.2.2.3(b) and doors in buses with a GVWR of 4,536 kilograms or less, each emergency door shall have the designation "Emergency Door" or "Emergency Exit" and each push-out window or other emergency exit shall have the designation "Emergency Exit" followed by concise operating instructions describing each motion necessary to unlatch and open the exit, located within 15 centimeters of the release mechanism.

* * * * *

Issued on: October 27, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-26409 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

49 CFR Part 10

[Docket No. 48438; Notice 92-21]

Privacy Act; Maintenance of and Access to Records Pertaining to Individuals

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes to amend its rules implementing the Privacy Act of 1974 to: (1) Add to the list of systems of records exempt from certain provisions

of the Act the Coast Guard's Law Enforcement Information System and the Federal Aviation Administration's General Air Transportation Records on Individuals; (2) remove all references to the Alaska Railroad, which is no longer part of DOT; (3) remove all references to system DOT/FAA 805, which was subsumed into another system; and (4) revise the authority citation for these rules.

DATES: Comments should be received by January 4, 1993.

ADDRESSES: Comments should be addressed to Documentary Services Division, Attention: Docket Section, room 4107, Docket No. 48438, Department of Transportation, C-55, Washington, DC 20590. Any person wishing acknowledgment that his/her comments have been received should include a self-addressed stamped postcard. Comments received will be available for public inspection and copying in the Documentary Services Division, Room 4107, Department of Transportation Building, 400 Seventh Street, SW, Washington, DC, from 9 am to 5 pm, et Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9154, FAX (202) 366-7153.

SUPPLEMENTARY INFORMATION:

1. General Exemption

Under Subsection (j)(2) of the Privacy Act (5 USC 552a(j)(2)), a system of records may be exempted from almost all provisions of the Act, so long as the system: (1) Is maintained by an agency, or a component of an agency, that performs as its principal function any activity pertaining to the enforcement of criminal laws; and (2) contains: (A) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of information and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. Those provisions of the Act from which such a system may *not* be exempted are subsections (b) (Conditions of Disclosure); (c) (1) and (2) (Accounting of Certain Disclosures); (e)(4) (A) through (F) (Publication of Existence and Character of System); (e)(6) (Ensure Records are Accurate, Relevant, Timely, and Complete), (7) (Restrict Recordkeeping on First Amendment Rights), (9) (Rules of Conduct), (10) (Safeguards), and (11) (Routine Use Publication); and (i) (Criminal Penalties).

DOT proposes to exempt under Subsection (j)(2) a new system of records maintained by the Coast Guard, the Law Enforcement Information System (LEIS). Under 14 USC 89 and other statutes, the Coast Guard enforces United States criminal laws on the high seas and navigable waters of the United States. This is accomplished by approximately 2,000-4,000 vessel boardings each month during which Coast Guard searches for drugs, weapons, and other contraband, and enforces Federal law regarding fishing, immigration, and other matters. LEIS will gather into one automated system all relevant information from these boardings and other activities.

2. Specific Exemptions

Under Subsection (k)(2) of the Privacy Act (5 USC 552a(k)(2)), investigatory material compiled for law enforcement purposes, other than material encompassed within Subsection (j)(2), may be exempted from various provisions of the Act. Among these provisions are the requirement in subsection (c)(3) to maintain an accounting of disclosures of information from a system of records and make that accounting available on request to the record subject, and subsection (d) to grant to a record subject access to information maintained on him/her under the Act. The purpose for doing so is to prevent the compromise or impairment of law enforcement investigations by alerting individuals that they are the subject of investigations, and to prevent the disclosure of the identity of sources of information promised confidentiality, in accordance with subsection (k)(2).

DOT proposes to exempt Coast Guard's LEIS and the Federal Aviation Administration (FAA) General Air Transportation Records on Individuals (DOT/FAA 847). Another DOT system of records has already been exempted in this same manner: the Office of Inspector General's Investigative Records System (DOT/OST 100). These additional systems require similar treatment. This document also removes any reference to the Administrative Action and Legal Enforcement System maintained by FAA's Office of the Chief Counsel (DOT/FAA 805) which has been subsumed within DOT/FAA 847.

The General Air Transportation Records system is the official repository of records, documents, and papers required in connection with the issuance of airmen certificates by FAA. This includes the type of certificate and ratings held, the date and class of latest medical certificate, and the pilot's certificate number and status (*i.e.*, current, suspended, revoked). The system also serves as the repository for legal documents that relate to accident investigations; preliminary notices of accident injury reports; engineering analyses; witness statements; investigator's analyses; pictures of accident scenes; safety compliance notices; letters of warning, correction, investigation, and proposed and final legal enforcement action; and correspondence of the Offices of the Chief Counsel and of Assistant Chief Counsels for Regions and Centers, and others involved in enforcement cases.

3. Alaska Railroad

The Alaska Railroad previously was operated by DOT's Federal Railroad Administration. It was transferred to the State of Alaska in 1985 (Public Law 97-468, title VI, January 14, 1983; 96 Stat. 2556). Any references in our Privacy Act regulations to the Railroad, therefore, are obsolete and should be deleted.

4. Authority Citation

The DOT Act was codified in 1983 (Public Law 97-449, January 12, 1983; 96 Stat. 2413); the proper citation to the provision authorizing the Secretary to establish rules for the conduct of DOT's business is 49 USC 322. That change is made herein.

Analysis of Regulatory Impacts

This amendment has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

This amendment is not significant within the definition in DOT's Regulatory Policies and Procedures, 49

FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements. Accordingly, review by the Office of Information and Regulatory Affairs of the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 is not required.

List of Subjects in 49 CFR Part 10

Penalties; Privacy.

In accordance with the above, DOT proposes to amend 49 CFR part 10 as follows:

PART 10—[AMENDED]

1. The authority citation to part 10 is revised to read as follows:

Authority: 5 USC 552a; 49 USC 322.

2. Section 10.61(a) is amended by removing therefrom"; and the Federal Railroad Administration, with regard to the Alaska Railroad Special Agents", and by adding "and the" before "Commandant of U.S. Coast Guard".

3. Part I of Appendix A is revised, Part II.A. is amended by revising the introductory text and by adding a new paragraph 13, and Part II.B is revised to read as follows:

Appendix A to Part 10—Exemptions

Part I. General Exemptions

Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 USC 552a except subsections (b) (Conditions of disclosure); (c) (1) and (2) (Accounting of certain disclosures); (e)(4) (A) through (F) (Publication of existence and character of system); (e)(6) (Ensure records are accurate, relevant, timely, and complete before disclosure to person other than an agency and other than pursuant to Freedom of Information Act request), (7) (Restrict recordkeeping on First Amendment rights), (9) (Rules of conduct), (10) (Safeguards), and (11) (Routine use publication); and (i) (Criminal penalties):

A. The Investigative Records System maintained by the Assistant Inspector General for Investigations, Office of the Inspector General, Office of the Secretary (DOT/OST 100).

B. Police Warrant Files and Central Files maintained by the Federal Aviation Administration (DOT/FAA 807).

C. Law Enforcement Information System, maintained by the Office of Law Enforcement and Defense Operations, U.S. Coast Guard (DOT/CG 613).

D. Investigations and Security Investigative Case Systems, maintained by the Investigations and Security Division, U.S. Coast Guard (DOT/CG-611).

E. The Investigative Records System maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

The purpose of these exemptions is to prevent the compromise or impairment of criminal investigations.

Part II. Specific Exemptions

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (i) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a, to the extent that they contain investigatory material compiled for law enforcement purposes in accordance with 5 USC 552a(k)(2):

* * * * *

13. Law Enforcement Information System, maintained by the Office of Law Enforcement and Defense Operations, U.S. Coast Guard (DOT/CG 613).

* * * * *

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 USC 552a:

1. General Air Transportation Records on Individuals, maintained by various offices in the Federal Aviation Administration (DOT/FAA 847).

2. Investigative Records System, maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

The purpose of these exemptions is to prevent the compromise or impairment of law enforcement investigations by alerting individuals that they are the subjects of investigation, and to prevent the disclosure of the identity or sources of information promised confidentiality, in accordance with 5 USC 552a.

* * * * *

Issued in Washington, DC, on October 26, 1992.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 92-26481 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 57, No. 212
Monday, November 2, 1992

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

Forest Service

Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Happy Camp Ranger District, Klamath National Forest, Pacific Southwest Region.

SUMMARY: The Forest Service is exempting from appeal the Ben Heli Fire Salvage and the Town Trail Heli Insect Salvage decisions on the Happy Camp Ranger District. The Ben Heli Fire Salvage sale proposes to remove trees killed by the Ben Fire of June 1992. The Ben Heli Fire Salvage analysis area is located ¾ mile west of Happy Camp, California. The environmental analysis for the Town Trail Heli Insect Salvage is being prepared in response to the severe timber mortality caused by drought and related insect infestation. The Town Trail Heli Salvage analysis area is located from ¼ to 1 mile south of the town of Happy Camp.

The Happy Camp Ranger District is proposing a helicopter harvest of one million board feet (MMBF) on approximately 100 acres in the Ben Heli Fire Salvage and 200 thousand board feet (MBF) on 15 acres in the Town Trail Heli Salvage. These proposed projects involve no new road construction or road reconstruction.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark and engraver beetles. Trees killed by insect attack deteriorate rapidly. This is particularly true of fir and pine trees in the lower elevations of the analysis areas. There are currently much higher than normal levels of tree mortality occurring throughout the Klamath National Forest as a result of six consecutive years of below normal precipitation. Insects are also attacking trees killed in the Ben Fire and causing them to deteriorate more rapidly than usual.

Prompt removal of the dead and dying timber minimizes value and volume loss and provides for long-term protection of all resources from wildfire. Appeals of the proposed salvage sales could delay harvesting for up to 120 days which could decrease the timber value and essentially result in the loss of the total estimated combined timber value of $180,000. This is because it is likely that the loss in value could result in the projects not being implemented at all due to the relatively high costs associated with helicopter logging and the relatively low value of the dead trees. In addition, excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult.

The decisions for the proposed projects are scheduled to be issued in December 1992. The significant deterioration of dead and dying timber would result in a loss of timber value which would cause a substantial monetary loss. Any delay in removing dead and dying trees will increase the chances of not being able to suppress a wildfire due to excessive fuel buildups.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decisions relating to the harvest and restoration of lands within the Ben Heli Fire Salvage and the Town Trail Heli Insect Salvage analysis areas on the Happy Camp Ranger District, Klamath National Forest.

EFFECTIVE DATE: This decision is effective November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2684, or to Barbara Holder, Forest Supervisor, Klamath National Forest, 1312 Fairlane Road, Yreka, CA 96097, (916) 842–6131.

ADDITIONAL INFORMATION: The Klamath National Forest has an ongoing public involvement program for all proposed timber sales. The public is encouraged to participate in identifying the issues and concerns for each project. Scoping letters have been sent to individuals and groups to get comments and share information on all salvage sale proposals. Field trips will also be conducted on the Happy Camp Salvage projects. The project files and related maps are available for public review at the Happy Camp Ranger District, P.O. Box 377, Happy Camp, CA 96039–0377.

The damage resulting from the Ben Fire involves approximately 265 acres. Within this area, approximately 100 acres would be directly affected by harvest operations, with an associated volume of 1.0 MMBF. The value to the government of the salvage volume is estimated at $150,000. Rehabilitation and restoration measures necessary for watershed protection, erosion prevention, and fuels reduction will be performed.

The Town Trail Heli Insect Salvage project involves approximately 85 acres. Fifteen acres would be directly affected by harvest operations with an associated volume of 200 MBF. The value to the government of the salvage volume is estimated at $30,000. Rehabilitation measures for necessary watershed protection, erosion prevention, and fuels reduction will be performed. These measures are expected to be minimal due to the small acreages involved.

The stated values to the government do not include the many jobs and benefits that are realized in related service, supply, and construction industries. Siskiyou County will share 25 percent of the selling value for any timber that is salvaged in a commercial timber sale.

These proposals are not expected to adversely effect any furbearer habitat or any of the known pairs of northern spotted owls. Biological evaluations along with assessments will be prepared for vertebrate and plant species and the suggested mitigation measures will be followed in the implementation of the proposed project. No Wild and Scenic Rivers, wetlands, wilderness areas, roadless areas, or threatened or endangered species are within the proposed project areas.

Dated: October 27, 1992.

Beverly C. Holmes,

Deputy Regional Forester.

[FR Doc. 92–26489 Filed 10–30–92; 8:45 am]

BILLING CODE 3410–11–M

Notice of Intent

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: The United States Department of Agriculture, Forest Service, Lake Tahoe Basin Management Unit, is preparing a draft environmental impact statement (DEIS) to disclose the environmental consequences of updating the management directions documented in the *1989 Tallac Historic Site Master Plan*. The *1989 Tallac Historic Site Master Plan (estates portion)* for the site, hereafter referred to as the *1989 Master Plan*, was developed to conform to current policies and management directions. The 1989 Master Plan documents an extensive discussion of the Site and the foundation for historic significance. The *1980 Environmental Analysis and Record of Decision for Alternative Plans for Public Use of McGonagle, Pope and Heller Estates, U.S. Forest Service, Lake Tahoe Basin Management Unit (LTBMU)*, hereafter referred to as the *1980 Environmental Analysis*, was the framework for the management direction contained in the 1989 Tallac Master Plan. The scope of the DEIS is limited to identifying and analyzing the proposed changes to the management directions documented in the 1989 Tallac Historic Site Master Plan. The agency invites interested and affected people to participate in the environmental analysis process and thus contribute to the final decision.

DATE: Agencies and the public are invited to participate at any stage of the process, however the Forest Supervisor requests that individuals concerned with the scope of the analysis comment by December 2, 1992.

ADDRESSES: Written comments and suggestions concerning the proposed DEIS should be sent to the responsible official, Robert E. Harris, Forest Supervisor, Lake Tahoe Basin Management Unit, 870 Emerald Bay Road, Suite 1, South Lake Tahoe, California, 96150.

FOR FURTHER INFORMATION CONTACT: Direct questions concerning the proposed action and the proposed DEIS should be directed to Kenneth M. Karkula, Recreation Staff Officer, or Jackie L. Faike, Interpretive Services Program Manager, (916) 573–2600.

SUPPLEMENTARY INFORMATION: The management direction for the National Forest System (NFS) lands within the Tallac Historic Site are documented in the *1988 Lake Tahoe Basin Management Unit's Land and Resource Management Plan*, hereafter referred to as the *FP* (Forest Plan) and the goals, objectives and guidelines outlined in the *1989 Tallac Historic Site Master Plan*. These NFS lands are collectively referred to as the "Tallac Historic Site".

The 74 acre Tallac Historic Site is located on the southwest shores of Lake Tahoe is northeastern California in the county of El Dorado. The Tallac Historic Site is west of Camp Richardson, east of the Kiva Picnic Area, and north of State Highway 89. Specifically, the site is located in Sections 25 and 36, Township 13 North, Range 17 East, Mount Diablo Base and Meridian.

The Tallac Historic Site is comprised of three adjoining estates which are: the Heller, generally referred to as "Valhalla", Pope, and Baldwin, sometimes referred to as "McGonagle". These estates were placed on the national Register of Historic Places in 1987. The Tallac Historic Site was determined to have historic significance; therefore any rehabilitation of the site shall be performed in compliance with the *Secretary of the Interior's Standards for Rehabilitation*.

The FP established the Tallac Historic Site as a Special Interest Area. The Tallac Historic Site is located within the Fallen Leaf Management Area of the FP. The Record of Decision (ROD) for the Lake Tahoe Basin Management Unit's Land and Resource Management Plan was signed by the Pacific Southwest Regional Forester on December 2, 1988. This ROD established the Tallac Historic Site as a Special Interest Area. This designation is sanctioned by title 36 CFR, § 294.1(a) and by the authority vested in the Regional Forester.

Continued implementation of the management directions documented in the 1989 Master Plan is in conformance with the FP. After twelve years of experience on the site however, the Forest Supervisor determined it is appropriate to review the current uses and intensity of operations on the Tallac Historic Site and the directions in the 1989 Master Plan within the context of the goals and management direction set forth in the FP.

Public involvement and scoping processes have occurred since 1972 when the Forest Service conducted *Lake of the Sky Walk* guided tours through the Tallac Historic Site. Public involvement and scoping continued, and in 1979 open houses were held at the Tallac Historic Site to obtain public comments for the 1980 Environmental Analysis. About 2,500 individuals visited the site and approximately 400 responses were received which are summarized in the appendix to the 1980 Environmental Analysis.

The results of the scoping and the comments received since 1972 indicate there are significant issues to be analyzed in depth and documented in the DEIS. These are: Changes that have occurred on the site over the past twelve years from those documented in the 1980 Environmental Analysis and 1989 Master Plan, retention of nine buildings proposed for removal in the 1980 Environmental Analysis, effects of adapting the Valhalla boathouse to a community playhouse theatre and the addition of an annex, recreation capacity and use (including parking), cumulative effects of the proposed changes, economic viability of managing a community playhouse theatre on the site, public benefits from the community playhouse theatre, and proposals for managing large events on the site.

About 1981, a non-profit association, the Tahoe Tallac Association (formerly ARTS) was formed to provide cultural and restoration activities at the site. For the past twelve years this association has sponsored public events and programming, and maintains a record of public comments about the site and activities. The DEIS will summarize this information, and address the issues raised by both the public and agencies.

The range of possible alternatives will include: Retaining the nine buildings proposed for removal in the 1980 Environmental Analysis, proposing the community playhouse theatre be constructed somewhere offsite, or proposing conversions of the historic Valhalla boathouse into a community playhouse theatre in combination with various parking scenarios. Some of these proposed conversions to the boathouse will also include various size and configurations of an annex. A no action alternative, proposing to continue managing the site in its current condition will also be considered. The decision to be made will include directions for updating the 1989 Master Plan.

Certification of the FEIS by the Tahoe Regional Planning Agency's (TRPA) Governing Board is necessary before the selected alternative can be implemented. The document must meet TRPA EIS requirements, as documented in the TRPA Code of Ordinances. Both TRPA and Forest Service requirements mandate that the Environmental Threshold Carrying Capacities for the Lake Tahoe Basin must not be violated. The thresholds are standards against which all projects and activities are measured for the achievement of goals of the Bi-State Compact which created TRPA. In addition to the TRPA's Governing Board approval, consultation

with the California State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) is required.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* versus *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the final environmental impact statement, may be waived or dismissed by the courts. *City of Angoon* versus *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* versus *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so 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 environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the statement or the merits of the alternatives discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards. In addition, Federal agencies having jurisdiction by law or special expertise with respect to any environmental effects for which comments have not been specifically requested are also invited to respond. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** The public will also be informed of the availability of the DEIS by news releases issued to the media. The Forest Service expects that the DEIS will be filed with the Council on Environmental Quality and made available to the public and other commenting entities in February 1993. Following public comment, a final environmental impact statement (FEIS) will be prepared. The Forest Service expects the FEIS will be issued in August 1993. The Forest Service is required to document all substantive comments and their responses in the FEIS (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations and policies in making the decision and rationale in the Record of Decision. That decision will be subject to appeal pursuant to 36 CFR part 217.

Dated: October 22, 1992.

Robert E. Harris,

Forest Supervisor.

[FR Doc. 92-26438 Filed 10-30-92; 8:45 am]

BILLING CODE 3410-11-M

Minimum Fee for Special Use Authorizations, Southwestern Region

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: The Regional Forester for the Southwestern Region which encompasses those National Forests and National Grasslands in the State of Arizona, New Mexico, Northern Texas and Western Oklahoma, gives notice of revised minimum annual fees for special use authorizations. As required by the Federal Land Policy and Management Act of 1976 (FLPMA), this fee is determined using sound business management principles. The general minimum fee is the least amount that will be billed and collected for applicable special use authorizations on National Forest System lands within the Southwestern Region. A schedule for reviewing waived fees is also established. A Regional supplement to Forest Service Manual section 2715 incorporates these changes.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Doug Salyer at 505-842-3445 or write to USDA Forest Service, Lands and Minerals, Attn: Doug Salyer, 517 Gold Avenue SW., Albuquerque, NM 87102.

SUPPLEMENTARY INFORMATION: The Forest Service administers over 6,750 special use authorizations in the Southwestern Region. Approximately 3,819 are subject to annual payment of a minimum rental fee. The current minimum annual fee of $25 was established in about 1981. At the present time 56 percent of the total authorizations pay $25 or less.

The Office of Management and Budget (OMB) circular No. A-25, as amended and supplemented, requires Agencies to establish user charges based on sound business management principles and to the extent feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery costs; they may produce net revenues to the Government.

In 1964, the Bureau of the Budget (predecessor to OMB) issued further guidelines in the "National Resources User Charges Study," which provided for the use of Federal land as follows:

* * * the Government should recover the fair market value for the use of Federal land resources. Competitive bidding will be used to establish the fair market value in all instances where an identifiable competitive interest exists. Where a competitive interest does not exist, fees should be comparable to those charged for the use of similar private lands. Fees and charges for long-term use should be established in such a manner as will allow for periodic timely adjustment.

The 1976 passage of the Federal Land Policy and Management Act (Pub. L. 94-579, 90 Stat. 2743 at 2745) reinforced long-standing Congressional support of fair market value as a basis for fees. Section 102(a) of the Act states that it is the policy of the United States that the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by the statute. Title V provides specific direction that fees for right-of-way uses and grants should reflect fair market values.

In accordance with this Act and OMB directives, the Forest Service's special use regulations at 36 CFR 251.57 provide that special-use authorizations shall require "* * * the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles."

Special Use authorizations for which a minimum fee is appropriate typically involve comparatively small areas of National Forest System lands. Generally, these uses provide benefits which are private and personal to the permit holder, rather than benefits to the general public. Examples include, but

are not limited to, access roads, utility lines, domestic or irrigation water systems, signs, etc., which serve non-Federal lands. Other minimum fee uses serve certain segments of the general public, usually with an activity or event of short duration and without significant permit improvements or facilities. Examples include, but are not limited to: Community outings, service club sponsored events, and class reunions.

Fair market value may be determined by appraisal or other sound business management principles. Given the limited acreage and wide variation in the kinds of uses typical of minimum fee situations, use of individual appraisals would be inefficient and costly to the Government. Other appropriate methods for determining fees are competitive bids, investment basis, income basis, adjustments based on widely accepted economic indexes, and market analyses and studies.

In the past, minimum fee policies have provided no mechanism for periodic adjustment to reflect changes in economic conditions. The Forest Service believes that, in fairness to the public and permit holders and in response to Executive and Legislative direction, minimum fees need to be indexed for adjustment at not more than 5 year intervals.

There may be situations where a special minimum fee is appropriate due to the unique nature of a proposed use or availability of credible market information supporting a different fee basis. Though such cases are expected to be few in number, Forest Supervisors are authorized to base minimum fees for unique kinds of uses on alternative methods, after consultation with and concurrence of the Regional Review Appraiser.

Minimum Fee Increase

The Southwestern Region announces a new minimum fee of $45. This amount is selected by reviewing the minimum fees in surrounding Forest Service Regions. The Northern Region of the Forest Service recently increased the minimum fee from $25 to $45, by application of the cumulative change in the Consumer Price Index-Urban (CPI-U) index. This accepted index is published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis. The Forest Service and other agencies use this index in developing and adjusting a variety of other fees, such as communications site.

The minimum fee for both the Rocky Mountain Region and the Intermountain Region have also been established at $45 within the past 2 years. Adopting $45 as a minimum annual fee for special use permits in the Southwestern Region will achieve consistency with the other Regions that adjoin this Region's encompassed states to the north and west. This consistent $45 minimum annual fee will now apply on National Forest lands throughout the Western United States, except for the Pacific Coast where a $40 minimum fee has been in place for more than 5 years. In the future, the Forest Service will review the Southwestern Region's general minimum fee at 5 year intervals beginning in 1998 (for implementation with calendar year 1999 fees). The fee will be updated annually by application of the cumulative percentage of change in the CPI-U index as of July 30 of each year.

Implementation

The new minimum fee will be implemented for new and reissued (transferred) special use authorizations effective immediately upon date of this publication. Holders of outstanding special use authorizations will be notified that the new minimum fee will be effective with billings for calendar year 1993 fees. This procedure will provide approximately 2 months of advance notice of current permit holders.

Fee Exemption/Waivers

This change in minimum special use fees has no effect on special use authorizations exempt from fees under law or regulation.

Secretary of Agriculture's Regulation 36 CFR 251.57(b) provides that fees may be waived under certain conditions. This change in minimum fees has no effect on these procedures for fee waiver. Authority for decisions on fee waiver applications remains with the authorized officer. However, no partially waived (reduced) fee shall be less than the established minimum fee.

Some outstanding special use authorizations were issued many years ago under certain authorities which provided for free use. These authorities are no longer available to the Forest Service as they are inconsistent with the Secretary of Agriculture's current Regulations and the intent of Congress that the United States receive fair market value for the use of its land and facilities. Many of these special use authorizations fall within the kinds of uses and situations for which a minimum fee should be charged under current direction. As a part of implementing the new minimum fee, all existing free special use authorizations will be reviewed within 5 years of the date of this publication to determine if the fee for the use appropriately qualified for a waiver under current regulations. All permit holders in this category will be provided notice of this review.

Copies of this notice are being mailed to holders of existing special use authorizations that are currently categorized as free permits under earlier authorities, and to holders that are currently charged a minimum fee. A copy will also be sent to anyone requesting one.

This decision is subject to appeal by affected holders of authorizations pursuant to 36 CFR part 251. Any appeal of this decision must be fully consistent with 36 CFR 251.90, Content of Notice of Appeal, and must be filed with the Chief, U.S. Forest Service-USDA, P.O. Box 96090, Washington, DC 20090-6090, within 45 days from the date of this notice. A copy of the notice of appeal must be filed simultaneously with the Regional Forester, Southwestern Region, 517 Gold Avenue, SW., Albuquerque, NM 87102.

Dated: October 15, 1992.

Jerry D. Bowser,

Acting Deputy Regional Forester, Southwestern Region.

[FR Doc. 92-26372 Filed 10-30-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration.

Title Marketing and Capacity Information Report; and Primary Beneficiary Marketing and Capacity Information Report.

Agency Form Numbers: ED-220 and ED-220B.

OMB Approval Number: 0610-0082.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 80 hours.

Number of Respondents: 40.

Avg Hours Per Response: 2 hours.

Needs and Uses: Information is used to determine the competitive impact of EDA's financial assistance to increase production capacity/service delivery by a particular firm/industry, as required by 13 CFR 309.2 (Unfair Competition).

Affected Public: Enterprises benefitting solely or primarily from proposed EDA grant or loan assistance.

Frequency: One time during application process.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Agency: United States Travel and Tourism Administration.

Title: Survey of International Air Travelers.

Agency Approval Number: None.

OMB Approval Number: 0605–0007.

Burden: 24,840.

Number of Respondents: 165,600.

Avg Hours Per Response: 9 minutes.

Needs and Uses: The National Tourism Policy Act directs the Department to assist in the collection, analysis, and dissemination of tourism data. This survey provides consumer marketing data on international travelers and is used to identify and analyze specific foreign travel markets. It is used by private and public sector entities in developing marketing programs.

Affected Public: Individuals.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Gary Waxman, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 27, 1992

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–26500 Filed 10–30–92; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

[A-351-809, A-580-809, A-201-805, A-307-805]

Notice of Antidumping Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Judith Wey (Brazil and Venezuela), David J. Goldberger (Mexico), Mark Wells or Andrew McGilvray (Korea), Office of Antidumping Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; Telephone: (202) 482–6320, (202) 482–4136, (202) 482–3003, or (202) 482–0108, respectively.

Amended Final Determination

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on September 10, 1992, the Department of Commerce (the Department) made its final determinations that circular welded non-alloy steel pipe from Brazil, Korea, Mexico, and Venezuela are being sold at less than fair value (57 FR 42940–42957, 42962–42964, September 17, 1992).

After publication of our final determinations, petitioners in the case involving circular welded non-ally pipe from Korea alleged that the Department committed certain ministerial errors in calculating the margins in that investigation. We have determined that ministerial errors were committed with respect to the use of an incorrect constructed value interest rate and the failure to use as identical matches all appropriate home market "overrun products" for Hyundai Steel Pipe Co., Ltd (Hyundai) (See, October 15, 1992, memorandum from Richard W. Moreland and Susan H. Kuhbach to Francis J. Sailer).

We are amending the final determination of the antidumping investigation of certain circular welded non-alloy pipe from Korea to correct these ministerial errors in the calculations for Hyundai. The correct cash deposit rate for Hyundai is 6.86 percent. The correct cash deposit rate for "All Others" is 6.37 percent.

Scope of Orders

The products covered by these orders are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in these orders.

Imports of the products covered by these orders are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Antidumping Duty Orders

On October 26, 1992, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that imports of circular welded non-alloy steel pipe, except mechanical tubing and finished conduit, from Brazil, Korea, Mexico, and Venezuela materially injure a U.S. industry. In its final determination, the ITC determined that three like products exist for the merchandise covered by the Commerce investigations: (a) Mechanical tubing; (b) finished conduit, and (c) standard and structural pipe. The ITC's affirmative injury determination covered only standard

and structural pipe. Accordingly, the scope of the antidumping duty orders, as described above, has been modified to reflect the ITC's findings.

Therefore, in accordance with section 736 of the Act, the Department will direct the Customs Service to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of circular welded non-alloy steel pipe from Brazil, Korea, Mexico, and Venezuela. These antidumping duties will be assessed on all liquidated entries of circular welded non-alloy steel pipe from Brazil, Korea, Mexico, and Venezuela entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date on which the Department published its preliminary determinations in the **Federal Register**. Customs officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as follows:

Producer/Manufacturer/Exporter	Margin (percent)
I. Brazil:	
Persico Pizzamiglio S.A.	103.38
All others	103.38
II. Republic of Korea;	
Hyundai Steel Pipe Co., Ltd	6.86
Korea Steel Pipe Co., Ltd	6.21
Masan Steel Tube Works Co., Ltd	11.63
Pusan Steel Pipe Co., Ltd	4.91
All Others	6.37
III. Mexico:	
HYLSA, S.A. de C.V.	32.62
All Others	32.62
IV. Venezuela;	
C.A. Conduven	52.51
All Others	52.51

This notice constitutes the antidumping duty orders with respect to circular welded non-alloy steel pipe from Brazil, Korea, Mexico, and Venezuela pursuant to section 736(a) of the Act. Interested parties may contact the Central Record Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Alan M. Dunn,

Assistant Secretary for Import Administration.

Dated: Oct 29, 1992.

[FR Doc. 92-26693 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-814]

Notice of Antidumping Duty Order: Circular Welded Non-Alloy Steel Pipe From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; Telephone: (202) 482-0922.

Scope of Order

The products covered by this order are: (1) Circular welded non-alloy steel pipes and tubes, of circular cross-section over 114.3 millimeters (4.5 inches), but not over 406.4 millimeters (16 inches) in outside diameter, with a wall thickness of 1.65 millimeters (0.065 inches) or more, regardless of surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled); and (2) circular welded non-alloy steel pipes and tubes, of circular cross-section less than 406.4 millimeters (16 inches), with a wall thickness of less than 1.65 millimeters (0.065 inches), regardless of surface finish (black, galvanized, or painted) or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for construction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders.

All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines is also not included in this investigation.

Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30,50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on September 10, 1992, the Department of Commerce (the Department) made its final determination that circular welded non-alloy steel pipe from Taiwan is being sold at less than fair value (57 FR 42961, September 17, 1992).

On October 26, 1992, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that imports of circular welded non-alloy steel pipe, except mechanical tubing and finished conduit, from Taiwan, is materially injuring U.S. industry. In its final determination, the ITC determined that three like products exist for the merchandise covered by the Commerce investigation: (a) Mechanical tubing, not cold drawn or cold rolled; (b) finished conduit, and (c) standard and structural pipe. The ITC's affirmative injury determination covered only standard and structural pipe. Accordingly, the scope of the antidumping duty order, as described above, has been modified to reflect the ITC's findings.

Therefore, in accordance with section 736 of the Act, the Department will direct the Customs Service to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of circular welded non-alloy steel pipe from Taiwan. These antidumping duties will be assessed on all unliquidated entries of circular welded non-alloy steel pipe from Taiwan entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date on which the Department published its preliminary determinations in the **Federal Register**. Customs officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as follows:

Producer/manufacturer/exporter	Margin (percent)
Kao Hsing Chang Iron & Steel Corp	19.46
Yieh Hsing Enterprise Co., Ltd	27.65
All Others	23.56

This notice constitutes the antidumping duty order with respect to circular welded non-alloy steel pipe from Taiwan pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: October 29, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-26694 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-201-806]

Certain Steel Wire Rope From Mexico; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Gerry Zapiain or Robin Gray, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482-3793.

POSTPONEMENT: On October 2, 1992, Grupo Industrial Camesa S.A. de C.V. ("Camesa"), the respondent in this investigation, requested that the Department postpone the final determination in this investigation 60 days from November 30, 1992, until January 29, 1993. The Department finds no compelling reasons to deny the request. Accordingly, we are postponing the date of the final determination until January 29, 1993.

This notice is published pursuant to section 735(d) of the Tariff Act of 1930, as amended, and 19 CFR 353.20(b)(2).

Dated: October 23, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-26434 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 92-00010.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the Pacific Roller Die Co., Inc., d.b.a. PRD Company, Inc. ("PRD"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1991) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

Spiral lock-seam pipe mills and ancillary equipment and related spare and replacement parts.

2. Services

Sales and field services for Products, including: demonstration of Products; training customers in use of Products; set-up and repair relating to Products; and furnishing of manuals, specifications, drawings and layouts.

3. Technology Rights

Patents, know-how, trademarks, trade names, trade secrets, service marks, copyrights, utility models (including petty patents), and industrial designs that relate to Products and Services.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Marina Islands, and the Trust Territory of the Pacific Islands) and Canada.

Export Trade Activities and Methods of Operation

PRD may:

1. Investigate and assess export opportunities;

2. Act as Manufacturer's exclusive distributor of Products, Services, and Technology Rights in Export Markets;

3. Acquire exclusively from the Manufacturer Products (including renovated and/or rebuilt used Products), Services, and Technology Rights for resale or licensing, as appropriate, in the Export Markets; except that, for those Products which PRD is able to sell in the Export Markets but which Manufacturer is unable to manufacture, PRD may acquire from other sources the Products (including renovated and/or rebuilt used Products), Services, and Technology Rights for resale or licensing, as appropriate, in the Export Markets;

4. Provide Services, including warranty and out-of-warranty repair services for the Products, to customers in the Export Markets;

5. At its option request Manufacturer to provide field services to customers in the Export Markets;

6. In respect of transactions between PRD and Manufacturer, negotiate price, delivery, and payment terms for the Products, Services, and Technology Rights;

7. In respect of transactions between PRD and Manufacturer, negotiate the prices to be paid Manufacturer for the Products, and discuss adjustments in such prices due to exchange rate fluctuations between United States and Canadian currency;

8. Consult with the Manufacturer regarding the requirements of export customers with respect to the customization, purchase, and delivery of the Products, Services, and Technology Rights, and in that connection:

(a) Disclose to Manufacturer PRD's plans and specifications for Products to be manufactured by Manufacturer for PRD; and

(b) Consult with Manufacturer with respect to Manufacturer's production capacity relative to desired Products and delivery dates;

9. Negotiate sales and/or licensing prices, delivery, and payment terms of the Products, Services, and Technology Rights with customers in the Export Markets;

10. Furnish manuals, drawings, layouts and engineering assistance to customers in the Export Markets for Products manufactured by PRD and Products manufactured by Manufacturer;

11. Grant Manufacturer a right of first refusal to renovate or rebuild used Products acquired by PRD for resale in Export Markets at a price (including round-trip freight charges) no higher than PRD's price for performing the same work;

12. Discuss with Manufacturer, on a transaction-by-transaction basis as necessary, the expenses incurred for parts and labor by Manufacturer in regard to any field services provided thereby at PRD's request (see Export Trade Activities and Methods of Operations, Paragraph 5); and

13. Discuss with Manufacturer, on a transaction-by-transaction basis as necessary, the expenses incurred for parts and labor in regard to warranty service provided by PRD in the Export Markets.

Definition

"Export Trade" means trade or commerce in the Products, Services, and Technology Rights exported, or in the course of being exported, from the United States or any territory thereof to the Export Markets.

"Manufacturer" means IMW Industries, Ltd., a company incorporated under the laws of British Columbia, Canada.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: October 27, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-26558 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DR-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651); 80 Stat. 897; 15 CFR part 301, we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-039R. *Applicant:* University of Pittsburgh, Department of Environmental and Occupational Health, 260 Kappa Drive, Pittsburgh, PA 15238. *Instrument:* Mass Spectrometer, Model API I. *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* Original notice of this resubmitted application was published in the Federal Register of May 20, 1992.

Docket Number: 92-139. *Applicant:* National Institutes of Health, 9000 Rockville Pike; Building 10, room 2A-10, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model CM10. *Manufacturer:* N.V. Philips, the Netherlands. *Intended Use:* The instrument will be used to assist in the diagnosis of surgical pathology cases, to evaluate tumors and tumor cell lines after treatment with differentiating agents and to train surgical pathology residents and research fellows in the ultrastructural morphology of tumors and other pathologic processes. *Application Received by Commissioner of Customs:* September 11, 1992.

Docket Number: 92-142. *Applicant:* University of Hawaii at Manoa, School of Ocean and Earth Science and Technology, 1000 Pope Road, Honolulu, HI 96822. *Instrument:* Gas Source Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan, Germany. *Intended Use:* The instrument will be used to measure the stable isotopic ratios of carbon and oxygen in the following categories of research:

(a) Online carbon and nitrogen isotopic compositions of individual organic compounds,

(b) Carbon and oxygen isotopic compositions of bulk carbonate and organic matter, and

(c) Isotopic compositions of dissolved organic carbon in seawater.

In addition, the instrument will be used as an integral part of a graduate program in geology and oceanography which will allow graduate and undergraduate students to work in a one-on-one situation learning the techniques of isotopic analysis. *Application Received by Commissioner of Customs:* September 28, 1992.

Docket Number: 92-143. *Applicant:* Pennsylvania State University, Department of Chemistry, 152 Davey Laboratory, University Park, PA 16802. *Instrument:* Cold Sample Stage for Time-of-Flight SIMS. *Manufacturer:* Kore Technology Ltd., United Kingdom. *Intended Use:* The instrument will be used in conjunction with an existing TOF-SIMS for studies of organic, inorganic and biological solids with special interest in determining whether a certain biological molecule is bound inside or outside the nucleus of a frozen biological cell. *Application Received by Commissioner of Customs:* September 28, 1992.

Docket Number: 92-144. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* Surface Layer Scintillator, Model SLS 20. *Manufacturer:* Scintec Atmospharenmesstechnik, Germany. *Intended Use:* The instrument will be used to measure meteorological parameters to determine their effect on cloud formation and to characterize the wind field of an area of interest. *Application Received by Commissioner of Customs:* September 28, 1992.

Docket Number: 92-145. *Applicant:* Loyola University Medical Center, Department of Physiology, 2160 South First Avenue, Maywood, IL 60153. *Instrument:* Two #3D Micromanipulators with Adaptor for Microscope, Models WR-89 and P-1. *Manufacturer:* Narishige Scientific Instruments, Japan. *Intended Use:* The instrument will be used for the study of the electrical activity displayed by different tissues like heart, brain, etc. In addition, the instruments will be used for training graduate students in a cardiovascular program in the Department of Physiology. *Application Received by Commissioner of Customs:* September 28, 1992.

Docket Number: 92-147. *Applicant:* Pomona College, Chemistry Department, 645 North College Avenue, Claremont, CA 91711-6338. *Instrument:* Stopped Flow Spectrofluorimeter with Accessories, Model SF-51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used for the study of the function of drugs to determine the kinetics of enzyme inhibition. In addition, the instrument will be used for educational purposes in the course Chemistry 160. *Application Received by Commissioner of Customs:* September 30, 1992.

Docket Number: 92-148. *Applicant:* University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, NY

14642. *Instrument:* Digital Microspectrofluorimeter. *Manufacturer:* Newcastle Photometric Systems, United Kingdom. *Intended Use:* The instrument will be used for the study of changes in intracellular calcium ion concentration and their regulation in individual cells. Experiments will be conducted to determine the sources of calcium involved in cell activation, the nature and mechanisms of various agents involved in the regulation of changes in calcium levels, and the sites of action of calcium in the activation process. *Application Received by Commissioner of Customs:* September 30, 1992.

Frank W. Crell,

Directar, Statutory Impart Programs Staff.

[FR Doc. 92-26435 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DS-M

Western Maryland College, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 91-201. *Applicant:* Western Maryland College, Two College Hill, Westminster, MD 21157. *Instrument:* Rapid Kinetics Apparatus, Model SFA-12M. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* April 22, 1992.

Docket Number: 92-008. *Applicant:* Washington University, Department of Anesthesiology Research, 494 Parkview Place, St. Louis, MO 63110. *Instrument:* Rapid Mixing Device, Model SFA-12M. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* May 19, 1992.

Docket Number: 92-021. *Applicant:* Western Washington University, Division of Purchases, Old Main, room 320, Bellingham, WA 98225-9012. *Instrument:* Stopped-Flow Rapid Kinetics Accessory. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* May 19, 1992.

Docket Number: 92-028. *Applicant:* New York University, FAS Center for Neural Science, 6 Washington Place, New York, NY 10003. *Instrument:* Micromanipulator (Right Hand Use). *Manufacturer:* Narishige Scientific Instruments, Japan. *Date of Denial Without Prejudice to Resubmission:* July 2, 1992.

Docket Number: 92-042. *Applicant:* University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94550. *Instrument:* 3-Dimensional Stereoscopic Television System. *Manufacturer:* AEA Technology, Harwell Laboratory, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* June 16, 1992.

Docket Number: 92-047. *Applicant:* Washington University, School of Medicine, Department of Biochemistry and Molecular Biophysics, 660 S. Euclid Avenue, Box 8231, St. Louis, MO 63110. *Instrument:* Stopped-Flow Spectrofluorimeter, Model DX.17M. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* July 2, 1992.

Frank W. Creel,

Directar, Statutory Impart Programs Staff.

[FR Doc. 92-26562 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will meet on November 15-20, 1992, at the Radisson Hotel (near the Seattle-Tacoma Airport), 17001 Pacific Highway South, Seattle, WA. Except as noted below, the meetings are open to the public.

The Council will begin its meeting on November 17 at 3:30 p.m. in a closed session (not open to the public) to discuss personnel matters and litigation. The open session will begin at 5 p.m. to consider administrative matters, including the Council's fiscal year 1993 budget, appointments to the Scientific and Statistical Committee and Advisory Subpanels, and Council research needs.

On November 18 at 8 a.m., the Council will reconvene in open session to address the following issues:

Salmon management issues: (1) Sequence of events and status of 1992 fisheries; (2) status of methodology reviews; (3) final action a salmon plan amendment which establishes a new recreational subarea off the north coast of Washington; and (4) implementation of recommendations to restore Oregon coastal natural coho stocks and several Puget Sound chinook and coho stocks.

Other management issues: The Council is then scheduled to address habitat issues; take final action on Pacific halibut allocation and sport fishery measures for 1993; and take tentative action on individual quotas for the Pacific halibut and fixed gear sablefish fisheries.

At 4 p.m., the public may address the Council on fisheries issues unrelated to the agenda. Public comments that pertain to action items on the agenda will be heard prior to Council action on each issue.

On November 19 and 20, the Council will address numerous groundfish issues including the following:

Groundfish management issues: (1) Status of Federal regulations; (2) status of fisheries and inseason adjustments; (3) final harvest levels for 1993; (4) trip limits for rockfish, sablefish, Dover sole, and thornyheads, and other routine measures for 1993; (5) establishing whiting trip limits as routine measures; (6) comprehensive data gathering plan; (7) final action on a plan amendment authorizing by-catch restrictions; (8) final action on a regulatory amendment for 1993 by-catch measures in the whiting fishery; (9) experimental fishing permit requests for the shore-based whiting fishery; and (10) final action on a long-term framework for allocating whiting.

After addressing groundfish issues and prior to adjournment, the Council will establish work load priorities and consider the preliminary agenda for its March 1993 meeting.

The Council's entities will conduct meetings as follows:

The Salmon Subcommittee of the Scientific and Statistical Committee will meet on November 15 at 11 a.m. to review salmon methodologies.

The full Scientific and Statistical Committee will meet on November 16 at 8 a.m. to address scientific issues on the Council agenda and reconvene on November 17 at 8 a.m. to complete that action.

The Groundfish Advisory Subpanel will meet on November 16 at 1 p.m. to consider groundfish issues and

reconvene on November 17 and 18 at 8 a.m. to complete its agenda.

The Salmon Technical Team will meet on November 17 at 8 a.m. to address salmon management issues and reconvene on November 18 at 8:00 a.m. to complete its agenda.

The Habitat Committee will meet on November 17 at 11 a.m. to consider habitat issues impacting species managed by the Council.

The Budget Committee will meet on November 17 at 1 p.m. to consider changes to the Council budget.

The Enforcement Consultants will meet on November 17 at 3 p.m. to address enforcement issues related to the Council's agenda items.

Detailed agendas for the above meetings will be available to the public after November 5, 1992.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: October 27, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-26518 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 920932-2232]

National Status and Trends Program; Request for Proposals and Availability of Financial Assistance

AGENCY: Office of Ocean Resources Conservation and Assessment (ORCA), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of financial assistance.

SUMMARY: For FY 93 NOAA/ORCA intends to carry out research projects addressing aspects of the National Status and Trend (NS&T) Program. In particular, we are interested in the study of the historical contamination of the coastal United States using sediment cores. ORCA is issuing this notice describing the conditions under which applications will be accepted and how ORCA will determine which applications will be funded.

DATES: Pre-proposal should be received by January 8, 1993, and full proposals by February 26, 1993.

ADDRESSES: Information, pre-proposals, and applications should be directed to: Dr. Nathalie J. Valette-Silver, NOAA, N/ORCA 21, 6001 Executive Boulevard, room 312 Rockville, MD 20852, Tel: (301) 443-8655; FAX No: (301) 231-5764.

SUPPLEMENTARY INFORMATION:

I. Introduction

The United States Congress has authorized the National Oceanic and Atmospheric Administration (NOAA) to conduct and facilitate a broad range of marine environmental research, development, and monitoring activities. Two statutes specifically authorize marine environmental quality monitoring. Title II of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1441-1445, states that NOAA shall "initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of Ocean ecosystems," 33 U.S.C 1442, The National Ocean Pollution Planning Act of 1978, 33 U.S.C. 1701-1709, states that NOAA shall "establish within the Administration a comprehensive, coordinated, and effective pollution research and monitoring program," 33 U.S.C. 1704. The NS&T Program was initiated to fulfill, in part, these mandates.

The aim of the NS&T Program is to quantify the concentrations of key contaminants in the Nation's coastal and estuarine environments and to measure their biological effects. The data, acquired using a nationally uniform set of sampling and measurement techniques, are used to determine temporal changes and spatial patterns in marine environmental quality. Obtaining such information about pollution will aid coastal States, fishermen, and the Nation in general in their effort to improve marine environmental quality.

II Funding

The work will be funded through Cooperative Agreements. The NS&T Program anticipates having up to $300,000 per year for this research. However, there is no guarantee that sufficient funds will be available to make awards to all approved projects. For FY 93, the level of funding has not been determined.

III. Program Goals and Priorities

This request for proposals (RFP) represents a coordinated, interdisciplinary, and interinstitutional research program aimed at reconstructing historical contamination of the U.S. coastal and estuarine systems using sediment cores.

In the past, several historical studies have used cored sediments because sediments are recognized to be good long-term integrators of many toxic contaminants. However, most of these studies were performed in the late 1970's to the early 1980's. Since the late 1970's, many changes have occurred in the Federal and State laws governing the disposal of pollutants in the environment. New data from cored sediments are needed to trace the effect of these recently imposed restrictions. The NS&T Program is designed to acquire data that will help in assessing temporal trends in the coastal and estuarine sediment contamination.

To support this research program, NOAA/ORCA anticipates having up to $300,000, pending the FY 93 budget process. Financial assistance obtained through this RFP will be 18 months maximum. Future or continued funding will be at the discretion of NOAA, based on such factors as satisfactory performance and the availability of funds.

To simplify administrative management, one PI has to be responsible for the total project. Consequently, it is recommended that scientists wishing to submit proposals in response to this RFP collaborate in order to get dating, trace elements, and organic compounds analyses coordinated in a single proposal.

States, universities, non-profit, or for-profit organizations, individuals, and Federal agencies are eligible to receive funding. No matching funds are required.

IV. Approach

To accomplish the objectives of this RFP, cores should be collected in estuarine and coastal areas, carefully dated, and analyzed for trace metals and organic compounds.

For this year, priority will be given to one coastal area: The Gulf of Mexico. We are interested in identifying contamination trends in sediments since the early 1900's and even since the early 1800's for the trace metals; therefore, the cores have to be undisturbed and collected in areas where sedimentation rates are sufficiently high to give a reliable dating for the last 100 years. The parameters to be measured are the trace elements and the organic chemicals routinely measured in the NS&T Program (Appendix A: Tables 1 and 2). In addition, N, P, and Organic C should be included. The level needed for time-resolution is five years or less since 1930.

Under the terms of these cooperative agreements, NS&T will have a substantial and continuous involvement in the project. In addition to the advice provided to the PI's regarding the orientation of the project, there will be

collaboration during sampling (ship time can be made available) and analysis of the cores. In particular, if the utilization and/or the development of new techniques are necessary to perform or to improve the quality of the data, there will be a close collaboration between the applicant and NOAA. In addition, NS&T will provide its knowledge and include this work in its Quality Assurance/Quality Control (QA/QC) program and will help in the interpretation of the results using its experience of other areas and previous historical studies. Finally, NS&T will act as coordinator to ensure the comparability of the results obtained in various geographical areas studied over the years.

Dating of the core material should be performed using reliable methods such as radioisotopes, pollen, etc., in order to get a detailed chronology. Because of the difficulty of finding adequate sites giving cores for which a good chronology can be established. PI's having well-preserved cores already dated and sampled in the past few years that could be confidently used for the analysis of nonvolatile elements or compounds are encouraged to submit a proposal.

V. Laboratory Methods

All data acquired for the NS&T Program must meet basic standards for precision, accuracy, and comparability. The applicants may use any appropriate analytical methodology for the measurement of contaminants. The only requirement is that the data obtained through this RFP have to be of equal or better sensitivity and quality than those obtained from the ongoing NS&T Program projects (see list of NS&T publications available from the office at the address mentioned in Section VI). In addition, it is required that the applicants participate in the NS&T Quality Assurance Program analytical intercomparison exercises, in order to ensure the good quality of their data (accuracy as well as precision). It is also required to analyze, at the same time as the samples, a Standard Reference Material (SRM) for trace elements and organic compounds. The results provided by the applicant must be within 25% of the accepted value and within 30% in relative standard deviation (RSD) for the precision of the organic compounds analysis and within 15–20% RSD for the precision of the trace metals analysis.

VI. Proposal Submission

1. Pre-proposols

Preparation and submission of a pre-proposal is the initial step in the review and selection process. The pre-proposal will be used by NS&T to evaluate the research plan and its relative priority with regard to the aim of this RFP. Therefore it is important that you prepare the pre-proposal thoughtfully to provide a concise description of your project. Pre-proposals are limited to two pages of single-spaced text plus a cover page. Submit one original and two copies of the pre-proposal to: Dr. Nathalie J. Valette-Silver, NOAA, N/ORCA 21, NS&T Program, 6001 Executive Boulevard, room 312, Rockville, MD 20852, Tel. (301) 443–8655; FAX (301) 231–5764.

All pre-proposals are due no later than 5 p.m. est., January 8, 1993, in accordance with the proposal schedule below.

The pre-proposals will be reviewed by a Technical Evaluation Committee, and the investigators whose projects are judged applicable to the subject matter will be invited to prepare and submit full proposals.

2. Full proposals

Full proposals are limited to 15 pages of single-spaced text. Submit one original and two copies of the full proposal with appropriate institutional approvals to the same address as the pre-proposals. The deadline for full-proposal submission is 5 p.m. est., February 26, 1993. Applications must include a Standard Form 424 (Rev. 4–88), a Standard form 424A (4–88), a Standard Form 424B (4–88) and a program narrative. Copies of the forms are available from NOAA; see the **ADDRESSES** section. The contents of the narrative must respond to the evaluation criteria described in this notice.

*3. Approximote Proposol Schedule ond obsolute due dotes.**

RFP distribution	December 1, 1992
Pre-proposals due from investigators*	January 8, 1993
Pre-proposals review process	January 8 to January 22, 1993
Investigators notification	Jan. 26, 1993
Full proposals due to NS&T*	Feb. 26, 1993
Selection by ORCA	May 31, 1993

Notification to successful applicants will be provided by the Grants Management Division approximately 60 days following recommendation for selection by the Office of Oceanography and Marine Assessment.

*Pre-proposal and proposal submission are absolute due dates.

4. Successful Proposals

The proposals judged best will be funded for a period to begin approximately September 1, 1993, and to end no later than March 1, 1995 (i.e. 18 months maximum).

5. Reports

The recipients of the awards obtained through this RFP have to provide:

(a) Periodic financial and program reports as specified in the award document;
(b) A final financial report;
(c) A final detailed scientific report with results worthy of peer-reviewed literature.

The reports (b) and (c) are due within 90 days following the end of the award.

VII. Proposals Review Process

All proposals received will be peer-reviewed, using external reviewers and NOAA reviewers.

Proposals will be evaluated using specific criteria: Understanding of the requirements of the RFP (20%), technical approach to perform the work (30%), past experience (15%), quality of the publications derived from previous work (15%), key personnel (20%).

Detail of Proposal Evaluation Criteria

1. Understanding of the Requirements of the RFP (20%)

The proposal must demonstrate an understanding of:

—The objectives of the RFP and the intended uses of the resulting data,
—The problems associated with the sampling of undisturbed cores and the procedures used to date them,
—the analytical procedures employed for the trace metals and organic compounds analysis of cored sediments.

2. Technicol Approach to Perform the Work (30%)

The proposal must describe in detail the methods to be used, justify their choice, and demonstrate the ability to carry out the described analyses. In particular, the applicants must demonstrate their capability to analyze for the chemicals of interest (15%). If none of the applicants are able to perform the analysis of the complete list of chemicals routinely performed in the NS&T Program, preference will be given to the proposal performing the maximum number and the best analysis possible.

In addition, applicants must describe acceptable procedures for quality assurance of all phases of the work to be undertaken, must describe methods for data handling and storage, and must

outline the basic format of the anticipated final report (15%).

3. Past Experience and quality of the publications Derived From Previous Work (30%)

Preference will be given to scientists with previous experience in historical reconstruction of pollution using sediment cores. In particular, preference will be given to PI's who can demonstrate the possession of, or accessibility to, already well preserved dated sediment cores in the locations of interest. The cores must cover the period of time 1900's to present at sufficient temporal resolution to be suitable for the analysis of interest of the RFP. PI's who have already analyzed samples for some of the elements or compounds given in the list of interest (Appendix A, Tables 1–2) are encouraged to submit a proposal. The proposal must explain and give details on this previous work. Reprints or reprints from publications associated with this previous experience should accompany the proposal as supporting documents.

4. Key Personnel (20%)

The proposal must include the resumes, time commitments, and effort of all key personnel, including subcontractors and/or expert consultants, who will implement the research. Experienced scientists are required to conduct the proposed research. Their respective experience pertinent to the objectives of the RFP must be clearly described.

VIII. Policies and Regulations

Applicants should note that recipients of NS&T Program support, depending on their type of organization, are subject to the provisions of diverse OMB Circulars and Federal regulations: e.g., A–87, "Cost Principles for States and Local Governments," A–21, "Cost Principles for Educational Institutions," A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations," A–122, "Costs Principles for Non-Profit Organizations," A–128, "Audits of State Higher Education and Other Non-Profit Organizations," 15 CFR 24, "Uniform Administrative Requirements for Grants and Cooperative Agreement to State and Local Governments." Recipients are advised that Executive Order 12372 "Intergovernmental Review of Federal Programs" does not apply. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,
2. A negotiated repayment schedule is established and at least one payment is received, or
3. Other arrangements satisfactory to the Department of Commerce are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If applicants incur any costs prior to an award being made they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

This Program is included in the Catalog of Federal Domestic Assistance under the Number 11.426. Potential recipients may be required to submit an "Identification-Applications for funding Assistance Form (Form CD–346)" which is used to ascertain background information on key individuals associated with the potential recipient. The CD–346 form requests information to reveal if any key individuals in the organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters pertinent to management honesty or financial integrity. This form is subject to the Paperwork Reduction Act and has been cleared by the Office of Management and Budget under OMB Control No. 0605–0001. Potential recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

In addition any false statement of the application may be grounds for denial or termination of funds.

Potential recipients are also subject to the provisions of the 15 CFR part 26, "Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)"; the provisions of the Drug-Free Workplace Act of 1988, 15 CFR part 26(f); and to the provisions of 31 U.S.C. 1352 entitled "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions". Recipients shall require applicants/bidders for subgrants, contract, or subcontracts to submit, if applicable, a completed Form DC–512, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying and disclosure form, SF-LLL, "Disclosure of Lobbying Activities."

Awards granted under this program shall be subject to all applicable Federal laws and Departmental regulations, policies, and procedures applicable to Federal Assistance awards.

Appendix A

TABLE 1.—TRACE ELEMENTS ANALYZED IN THE NS&T PROGRAM

Symbol	Element
Al	Aluminum.
Si	Silicon.
Cr	Chromium.
Mn	Manganese.
Fe	Iron.
Ni	Nickel.
Cu	Copper.
Zn	Zinc.
As	Arsenic.
Se	Selenium.
Ag	Silver.
Cd	Cadmium.
Sn	Tin.
Sb	Antimony.
Hg	Mercury.
Pb	Lead.

TABLE 2.—ORGANIC COMPOUNDS ANALYZED IN THE NS&T PROGRAM

	CAS No.
Aromatic hydrocarbons:	
Naphthalene	91–20–3
2-Methylnaphthalene	91–57–6
1-Methylnaphthalene	90–12–0
Biphenyl	92–52–4
2,6-Dimethylnaphthalene	581–42–0
Acenaphthene	83–32–9
Acenaphthylene	208–96–8
2,3,5-Trimethylnaphthalene	829–26–5
Fluorene	86–73–7
Dibenz[a,h]anthracene	53–70–3
Indeno[1,2,3-cd]pyrene	193–39–5
Phenanthrene	85–01–8
Anthracene	120–12–7
1-Methylphenanthrene	832–69–9
Fluoranthene	206–44–0
Pyrene	129–00–0
Chrysene	218–01–9
Benz[a]anthrancene	56–55–3
Benzo[b]fluoranthene	56832–73–6
Benzo[k]fluoranthene	207–08–9
Benzo[ghi]perylene	191–24–2
Benzo[e]pyrene	192–97–2
Benzo[a]pyrene	50–32–8
Perylene	198–55–0
Chlorinated pesticides:	
Aldrin	309–00–2
cis-Chlordane	5103–71–9
2,4'-DDD	53–19–0
4,4'-DDD	72–54–8

TABLE 2.—ORGANIC COMPOUNDS ANALYZED IN THE NS&T PROGRAM—Continued

	CAS No.
2,4'-DDE	3424-82-6
4,4'-DDE	72-55-9
,4'-DDT	789-02-6
4,4'-DDT	50-29-3
Dieldrin	60-57-1
Heptachlor	76-44-8
Heptachlor epoxide	1024-57-4
Hexachlorobenzene	118-74-1
Lindane (gamma-BHC)	58-89-9
Mirex	2385-85-5
trans-Nonachlor	39765-80-5
Endrin	72-20-8
Polychlorinated biphenyls:	Congener No.
Dichlorobiphenyl 2,4'	8
Trichlorobiphenyls	
2,2,5	18
2,4,4'	28
Tetrachlorobiphenyls	
2,2',3,5'	44
2,2',5,5'	52
2,3',4,4'	66
3,3',4,4'	77
Pentachlorobiphenyls	
2,2',4,5,5'	101
2,3,3',4,4'	105
2,3',4,4',5	118
3,3',4,4',5	126
Hexachlorobiphenyls	
2,2',3,3',4,4'	128
2,2',3,4,4',5'	138
2,2',4,4',5,5'	153
Heptachlorobiphenyls	
2,2',3,3',4,4',5	170
2,2',3,4,4',5,5'	180
2,2',3,4',5,5',6	187
Octachlorobiphenyls	
2,2',3,3',4,4',5,6	195
Nonachlorobiphenyls	
2,2',3,3',4,4',5,5',6	206
Decachlorobiphenyl	
2,2'3,3',4,4',5,5',6,6'	209
Organotins:	
monobutyltin* (MBT)	
dibutyltin* (DBT)	
tributyltin* (TBT)	
*Tin measured as cation	

Stanley Wilson,

Assistant Administrator.

[FR Doc. 92-26526 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

October 27, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 3, 1992.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. 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) 927-6718. For information on embargoes and quota re-openings, call (202) 482-3715.

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 limit for Category 361 is being increase for swing and carryover. The limit for the Fabric Group is being reduced to account for the swing being applied.

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 56 FR 60101, published on November 27, 1991). Also see 56 FR 58371, published on November 19, 1991.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 27, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on November 3, 1992, you are directed to amend the directive dated November 13, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Turkey:

Category	Adjusted twelve-month limit [1]
Fabric Group	
219, 313, 314, 315, 317, 326, 617, 625, 626, 627 and 628, as a group.	117,225,930 square meters of which not more than 26,887,709 square meters shall be in 219; 32,862,755 square meters shall be in 313; 19,120,149 square meters shall be in 314; 25,692,700 square meters shall be in 315; 26,887,709 square meters shall be in 317; 2,987,523 square meters shall be in 326; 17,925,140 square meters shall be in 617; 2,987,523 square meters shall be in 625; 2,987,523 square meters shall be in 626; 2,987,523 square meters shall be in 627; 2,987,523 square meters shall be in 628.
Limit not in a group	
361	1,398,864 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

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,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-26497 Filed 10-30-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995-2020 (Mobility Panel) will meet on 7-11 December 1992, at HQ MAC, Scott AFB, IL, 8 a.m. to 5 p.m.

The purpose of this meeting is to brief the Summer Study 92 report to Air Combat Command.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-25602 Filed 10-30-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command; Rules, Security and Accessorial Services Governing the Movement of Department of Defense Freight Traffic by Air Carrier, Air Forwarder, Air Taxi

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of procedural changes in DOD freight rate acquisition programs; final action.

SUMMARY: On July 30, 1992 (57 FR 33721) the Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), published a notice of intent to modify the procedures used to acquire rates and changes from the commercial air carrier industry to transport military shipments. These modifications include the issuance of a series of freight traffic rules designed to standardize and simplify the procurement of carrier rates and services under 49 U.S.C. 10721. MTMC Freight Traffic Rules Publication No. 20, providing these rules, is now final. Copies of this publication may be obtained by writing to: HQ Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, VA 22041-5050, or telephone (703) 756-1585.

EFFECTIVE DATE: This Final Action becomes effective on December 18, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Blaise J. Guzzardo or Mr. Julian Jolkovsky, Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, VA 22041-5050 or telephone (703) 756-1585.

SUPPLEMENTARY INFORMATION: MTMC Freight Traffic Rules Publication No. 20 (MFTRP No. 20) contains rules and accessorial services which will govern the rates and services of air carriers, including air forwarders and air taxi operators, doing business with DOD within the Continental United States. These rates and services will be filed on a DOD Standard Tender of Freight Services (MT Form 364-R). To file voluntary rates or services for air cargo shipped outside the 48 states, air carriers should write to the Air Mobility Command, ATTN: XOKA, 402 Scott Drive, room 132, Scott Air Force Base, IL 62225-5363 or telephone (618) 256-8318.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-26510 Filed 10-30-92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Determination to Establish Federal Advisory Committee to Develop On-Site Innovative Technologies for Environmental Restoration and Waste Management

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify the Federal Advisory Committee to Develop On-site Innovative Technologies for Environmental Restoration and Waste Management (DOIT Committee) is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration pursuant to 41 CFR subpart 101-6.10.

The purpose of the Committee would be to provide advice to the Departments of Energy, Defense, Interior, the Environmental Protection Agency and the Western Governors' Association on how to carry out the tasks outlined in a Memorandum of Understanding Regarding Environmental Restoration and Waste Management (MOU) signed by the above on July 22, 1991.

DOIT Committee Members will be the federal signatories to the MOU, four governors nominated by the Western Governors' Association and an Ex Officio member from the U.S. Office of Management and Budget and the Western Governors' Association. In accordance with 41 CFR 101-6, 1015(a), it was not determined feasible to put industry and user representatives on the Committee because, according to the Organization of Economic Cooperation and Development (OECD), in its 1990 report, *Environmental Situation and Government Policies,* the environmental business in the United States has become a $90 billion market. As such identifying a balanced, representative cross-section of that market is impossible. With reference to representation from state governments, this is a regional initiative and all states within the region are represented through the Western Governors' Association.

Further information regarding this Advisory Committee may be obtained from Dr. Clyde Frank, Deputy Assistant Secretary, Technology Development, Office of Environmental Restoration and Waste Management, EM-50, 1000 Independence Avenue, SW., Washington, DC 20585 (telephone: 202-586-6382).

Issued in Washington, DC on October 28, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92-26552 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EA-76-A]

Amendment of Export Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The New England Power Pool has requested an amendment to the electricity export authorization contained in Docket No. PP-76EA.

DATES: Comments, protests or requests to intervene must be submitted on or before December 2, 1992.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE-52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Docket Number EA-76-A should appear clearly on the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202-586-4708 or Lise Howe (Program Attorney) 202-586-2900.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act.

On October 19, 1992, the New England Power Pool (NEPOOL) applied to the Department of Energy (DOE) for authorization to increase the allowable level of electricity exports to Canada over an existing international electric transmission line connecting the NEPOOL electric system with Hydro-Quebec, the provincial electric utility in Quebec. Presently, NEPOOL is authorized to export unlimited volumes of electric energy to Hydro-Quebec at a maximum rate of transmission of 725-megawatts (MW). The existing authorization was granted to NEPOOL by the DOE on September 28, 1988, in Docket No. PP-76EA. NEPOOL's present application requests authorization to increase the maximum allowable rate of transmission to 2000-MW.

The electric transmission facilities which NEPOOL proposes to use consist of an existing ± 450-kilovolt, direct current transmission line which extends

from the Sandy Pond converter terminal and crosses the U.S.-Canadian border in the vicinity of Norton, Vermont. The construction, connection, operation, and maintenance of these international transmission facilities were previously authorized by DOE in Presidential Permit PP-76 and by a subsequent amendment thereto.

In its application NEPOOL states that it has conducted a thorough study of the electric reliability implications of exporting at power levels up to 2000-MW. NEPOOL further states that it has tested the international transmission facilities at the 200-MW level pursuant to a temporary authorization issued by the DOE on March 25, 1992. The results of this testing are contained in the NEPOOL application. Finally, NEPOOL claims that exports of up to 2000-MW will not interfere with system reliability because the commitment to export is always conditional on maintaining the exporting system's own security.

Public Comment Procedures

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 305.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with:

Robert O. Bigelow, Chairman, NEPOOL Executive Committee, New England Electric, 25 Research Drive, Westborough, Mass. 01582, (508) 366-9011.
Mark Slade, Esquire, New England Power Service Co., 25 Research Drive, Westborough, Mass. 01582, (508) 366-9011.

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or a security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed action will not impair the sufficiency of electric supply within the United States or impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the DOE.

NEPA Compliance

Before an amendment to an electricity export authorization may be issued, the environmental impacts of the proposed DOE action (i.e., granting the amendment, with any conditions and limitations, or denying it) must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA). The NEPA compliance process is a cooperative, non-adversarial process involving members of the public, state governments, and the Federal government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action. Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Should a public proceeding be necessary in order to comply with NEPA, notice of such activities and information on how the public can participate in those activities will be published in the Federal Register, local newspapers and public libraries and/or reading rooms in the vicinity of the electric transmission facilities.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-26551 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award a Cooperative Agreement; National Congress of American Indians

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5), it is making a noncompetitive financial assistance award based on an application satisfying the criteria of 10 CFR 600.7(b)(2)(i)(D) under Cooperative Agreement Number DE-FC01-93RW00279 to the National Congress of American Indians (NCAI) to facilitate the exchange of information, discussion of issues and to enhance Tribal participation in the implementation of the Nuclear Waste Policy Act of 1982, as amended (NWPA). The cooperative agreement will also facilitate Tribal understanding of the status of the activities of the DOE Office of Civilian Radioactive Waste Management and the Office of Environmental Restoration and Waste Management. The anticipated term of the cooperative agreement will be five years, subject to the availability of funds. The agreement will have an estimated cost of $358,627 for the first year to be provided by DOE.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Ms. Gracie Narcho, PR-322.1, 1000 Independence Avenue; SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Scope

The cooperative agreement will provide funding for organizing and conducting meetings to involve Tribal Governments and Tribal members in the implementation of the NWPA and inform them of the activities of the Office of Civilian Radioactive Waste Management. Specifically, the objectives are to highlight and explain environmental, social and economic impacts of DOE's nuclear waste management program, i.e. the development of a repository, monitored retrievable storage (MRS) activities, and transportation activities of the Office of Civilian Radioactive Waste Management as well as provide background and status information of the Office of Environmental Restoration and Waste Management program.

Eligibility

Pursuant to 10 CFR 600.7(b)(2)(i)(D), DOE has determined that the NCAI has exclusive capability to perform the activities successfully based upon the unique, non-partisan relationship that NCAI has with Tribal governments, its familiarity with the historical and ongoing implementation of the NWPA.

and its expertise in Tribal involvement in radioactive waste and environmental restoration issues.

The term of the cooperative agreement shall be five years from the effective date of the award.

Issued in Washington, DC on October 22, 1992.

Thomas S. Keefe,

Director, Division "B", Office of Placement and Administration.

[FR Doc. 92-26559 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

Workshop on Expert Judgment To Be Held November 18-20, 1992, in Albuquerque, NM

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM) will hold a workshop on November 18-20, 1992, to consider the uses of expert judgment in programmatic decision making and performance assessment.

At the morning session on November 18, 1992, the role of expert judgment in creating quality decisions will be addressed and a panel will discuss the process of quantifying expert judgment. That afternoon a second panel will discuss the use of expert judgment as a data supplement and in model validation for performance assessment. On the morning of November 19, 1992, a third panel will provide examples of how expert judgment was used in reaching programmatic decisions, with experience drawn from the U.S. Nuclear Regulatory Commission (NRC), State of Nevada, U.S. Nuclear Regulatory Commission Advisory Committee on Nuclear Waste, and DOE. Later that day, a fourth panel will illustrate experiences in industry and international programs, especially licensed projects, that have used expert judgment. The workshop will conclude on November 20, 1992, with summary presentations drawn from knowledge gained during the workshop and how that knowledge can be applied to refining OCRWM's use of expert judgment for making programmatic decisions. Following an open discussion period, workshop participants will develop recommendations.

DATES AND ADDRESSES: The workshop will be held at the Albuquerque Hilton Hotel, 1901 University Blvd., NE, Albuquerque, New Mexico 87102; (505) 884-2500. The sessions, which are open to the public, will run from 8 a.m. to 6 p.m. on November 18 and 19, 1992, and from 8 a.m. to 12 noon on November 20, 1992.

FOR FURTHER INFORMATION CONTACT: Ardyth M. Simmons, DOE/Yucca Mountain Site Characterization Project Office, (702) 794-7998.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act of 1982, as amended (NWPA), directs DOE to focus all site characterization efforts on Yucca Mountain, Nevada, to determine whether it is suitable for development of a geologic repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste. DOE's activities also include the packaging and transport of the radioactive waste that could ultimately be stored there if the site is found suitable. Because programmatic decision making and performance assessment often must rely on expert opinion, OCRWM will explore at this workshop the various applications of expert judgment and will draw from the experience of industry and other sources to enhance the quality of its decisions through the appropriate use of expert judgment.

Issued in Washington, DC, on October 22, 1992.

John W. Bartlett,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 92-26554 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Continuation of Solicitation for Financial Assistance Program, No. 93-01

AGENCY: Department of Energy (DOE).

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Energy Research/Science and Technology Advisor (ER/STA) of the Department of Energy hereby announces its continuing interest in receiving applications for cooperative agreements and grants supporting work in the following ER/STA program offices; Basic Energy Sciences, Biological and Environmental Research, Fusion Energy, Scientific Computing, Field Operations Management, Superconducting Super Collider, University and Science Education Programs, High Energy and Nuclear Physics, and Program Analysis activities. Information about submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are specified in 10 CFR part 605 which was published in the **Federal Register** on September 3, 1992 (57 FR 40582). The Catalog of Federal Domestic Assistance number is 81.049.

DATES: Applications may be submitted at any time in response to this notice of availability, but, in all cases, must be received by DOE on or before October 31, 1993.

ADDRESSES: Applicants may obtain forms and additional information from Director, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, U.S. Department of Energy, Washington, DC 20585 (301) 903-7099. Completed applications must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitation for the Office of Energy Research Financial Assistance Program was published in the **Federal Register.** This solicitation specifies the policies and procedures which govern the application, evaluation, and selection processes for grants and cooperative agreements. It is anticipated that approximately $500 million will be available for award in FY 1993. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this notice.

Issued in Washington, DC, on October 23, 1992.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 92-26555 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

New Docket Prefix

October 26, 1992.

Notice is hereby given that a new docket prefix has been established for applications requesting an exempt electric wholesale generator determination.

On October 24, 1992, the President signed the Energy Policy Act of 1992 into law. Title VII, subtitle A, section 711 amends the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) by adding a new section 32. New Section 32(a)(1) defines an "exempt wholesale generator" as:

> Any person determined by the Federal Energy Regulatory Commission to be engaged directly, or indirectly through one or more affiliates as defined in section 2(a)(11)(B) [of the Public Utility Holding Company Act], and exclusively in the business of owning or

operating, or both owning and operating, all or part of one or more eligible facilities [as defined in section 32(a)(2)] and selling electric energy at wholesale. No person shall be deemed to be an exempt wholesale generator under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph.

In order to properly docket and manage this type of case and assess Commission resources applicable to this type of work, it is necessary to establish a new docket prefix for exempt wholesale generator determinations. The new docket prefix will be EGfy-nn-nnn, where the FY stands for the fiscal year in which the filing was made and the nn and nnn are sequential numbers. For example, the first exempt wholesale generator determination application made this fiscal year will be assigned EG93-1-000, the second will be EG93-2-000, etc.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26466 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES93-3-000, et al.]

Baltimore Gas and Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Baltimore Gas and Electric Co.

[Docket No. ES93-3-000]

October 21, 1992.

Take notice that on October 9, 1992, Baltimore Gas and Electric Company filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue from time to time but no later than December 31, 1994 (a) not more than $500 million of short-term unsecured promissory notes and commercial paper with final maturities no later than December 31, 1995, and (b) not more than $100 million of unsecured medium-term promissory notes with final maturities no later than December 31, 1995.

Comment date: November 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Louisville Gas and Electric Co.

[Docket No. ES93-5-000]

October 21, 1992.

Take notice that on October 14, 1992, Louisville Gas and Electric Company filed an application with the Federal Energy Regulatory Commission under section 240 of the Federal Power Act requesting authorization to issue not more than $200 million of short-term debt on or before December 31, 1994, with a final maturity date no later than December 31, 1995.

Comment date: November 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Central Illinois Light Co.

[Docket No. ES93-2-000]

October 21, 1992.

Take notice that on October 7, 1992, Central Illinois Light Company filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue from time to time short-term debt obligations in the aggregate principal amount not exceeding $66 million outstanding at any time with final maturities of not later than December 31, 1995.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Central Illinois Public Service

[Docket No. ER92-304-001]

October 22, 1992.

Take notice that on September 14, 1992 Central Illinois Public Service Company (CIPS) tendered for filing its compliance filing in this docket.

Comment date: November 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Gulf States Utilities Co.

[Docket No. ES93-6-000]

October 22, 1992.

Take notice that on October 16, 1992, Gulf State Utilities Company (Gulf States) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to enter into a Guaranty Agreement and related agreements with respect to the issuance of up to $17,450,000 of Pollution Control Revenue Refunding Bonds (Refunding Bonds) to be issued by the Parish of Pointe Coupee, Louisiana, to refund $17,450,000 of Pollution Control Revenue Bonds issued in 1983 to finance certain pollution control facilities for Gulf States. The Refunding Bonds are proposed to be issued on or about January 20, 1993, or as soon thereafter as market conditions permit. Also, Gulf States requests exemption from the competitive bidding and negotiation regulations.

Comment date: November 16, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER93-27-000]

October 23, 1992.

Take notice that on October 19, 1992, Consolidated Edison Company of New York, Inc. (Con Edicon) tendered for filing Supplements to its Rate Schedules FERC Nos. 60, 66 and 78, agreements to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplements provide for a decrease in the monthly transmission charge from $1.07 to $1.02 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, Grumman Corporation and the municipal distribution agencies of Nassau and Suffolk Counties, thus decreasing annual revenues under the Rate Schedules by a total of $28,094.05. Con Edison has requested waiver of notice requirements so that the decreases can be made effective as of July 1, 1992.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corp., et al.

[Docket No. ER93-24-000]

October 23 1992.

Take notice that on October 16, 1992, Allegheny Power Service Corporation, on behalf of West Penn Power Service Corporation, on behalf of West Penn Power Company (West Penn), Monongahela Power Company (Monongahela), Ohio Edison Company (Ohio Edison) and Pennsylvania Power Company (Penn Power), filed an Amendment No. 12 to the Interchange Agreement dated October 17, 1968. The parties to the Agreement request the relocation of a metering point to facilitate service to retail customers on the parties' respective sides of the interconnection point of a line, ownership of which is exclusive within each party's service territory.

Copies of the filing were served upon the public utility's relevant state public regulatory commissions.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp

[Docket No. ER93-25-000]

October 23, 1992.

Take notice that on October 16, 1992, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the

Commission's Rules and Regulations, Revision No. 3 to Exhibit B of the Two-Way O&M Agreement, Contract No. DE-MS79-83BP90909, between PacifiCorp and Bonneville Power Administration (Bonneville), PacifiCorp's Rate Schedule FERC No. 239.

Exhibit B specifies facilities owned by Bonneville that are operated and maintained by PacifiCorp at Bonneville's expense and sets forth the annual amount Bonneville will be charged for PacifiCorp's operation and maintenance services.

PacifiCorp requests that an effective date of January 1, 1993 be assigned, this date being consistent with the date shown on Revision No. 3 to Exhibit B.

Copies of this filing were supplied to Bonneville and the Public Utility Commission of Oregon.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Louis Dreyfus Electric Power, Inc.

[Docket No. ER92-850-000]

October 23, 1992.

Take notice that Louis Dreyfus Electric Power, Inc. (LDEP) on October 20, 1992, tendered for filing supplemental information in connection with its petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective on December 1, 1992. LDEP advises that its parent, Louis Dreyfus Energy Corp. (LDEC), has participated in several bid proposals that, if successful, would lead to LDEC's partial ownership of new qualifying cogeneration facilities.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Co.

[Docket No. ER92-319-000]

October 23, 1992.

Take notice that on October 20, 1992, Tampa Electric Company (Tampa Electric) tendered for filing an amendment to its prior submittal of an Agreement to Provide Qualifying Facility Transmission Service between Tampa Electric and Seminole Fertilizer Corporation (Seminole Fertilizer), and a related Interconnection Agreement.

The amendment concerns modified rates and charges under the tendered Agreements.

Tampa Electric proposes an effective date of September 8, 1992, for the two Agreements, as amended. Tampa Electric therefore requests waiver of the Commission's notice requirements, to the extent necessary.

Copies of the filing have been served on Seminole Fertilizer and the Florida Public Service Commission.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Co. of Colorado

[Docket No. ER91-219-000]

October 23, 1992.

Take notice that on October 19, 1992, Public Service Company of Colorado tendered for filing, in accordance with 18 CFR 35.13(a)(2)(ii) of the Commission's Rules of Practice and Regulations, modifications to its transmission service to Western Area Power Authority (WAPA). The firm and nonfirm transmission service provided by Applicant to WAPA and the corresponding rates were described in Docket No. ER91-219-000 which contains FERC Electric Tariff No. 48. The revision of points and amounts of delivery result in an ultimate increase in revenue from jurisdictional service by approximately $15,000 based on the twelve month period ended December 31, 1992.

Copies of the filing were served upon all Public Service Company of Colorado jurisdictional customers and to state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado's Office of Consumer Counsel.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. American REF-Fuel Co. of Essex County

[Docket No. ER93-26-000]

October 23, 1992.

Take notice that on October 16, 1992, American REF-Fuel Company of Essex County, owner of an electric generating facility located in Newark, New Jersey, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales to Jersey Central Power & Light Company.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER92-110-003]

October 23, 1992.

Take notice that on October 16, 1992, PacifiCorp, tendered for filing, in compliance with the Commission's March 12, 1992 Order under this Docket, a Refund Report for the refund to the Bonneville Power Administration (Bonneville) for monies collected for transmission services for the Lost Creek Project.

Copies of this filing were supplied to Bonneville and the Public Utility Commission of Oregon.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Co. of Colorado

[Docket No. ER93-30-000]

October 23, 1992.

Take notice that on October 19, 1992, Public Service Company of Colorado tendered for filing, in accordance with 18 CFR 385.13(a)(2)(ii) of the Commission's Rules of Practice and Regulations, modifications to its transmission service to Western Area Power Authority (WAPA). The firm and nonfirm transmission service provided by Applicant to WAPA and the corresponding rates were described in Docket No. ER91-219-000 which contains FERC Electric Tariff No. 48. The revision of points and amounts of delivery result in an ultimate increase in revenue from jurisdictional service by approximately $15,000 based on the twelve month period ended December 31, 1992.

Copies of the filing were served upon all Public Service Company of Colorado jurisdictional customers and to state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado's Office of Consumer Counsel.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Pennsylvania Power & Light Co.

[Docket No. ER92-737-000]

October 23, 1992.

Take notice that Pennsylvania Power & Light company (PP&L) tendered for filing on October 20, 1992 an Amendment to the Fourth Supplement filed July 21, 1992, to the PP&L Baltimore Gas and Electric company Power Supply Agreement (Agreement). The Amendment provides additional supporting material concerning billings and unit operations under the Agreement. The Amendment does not affect the terms or content of the Fourth Supplement or the Agreement.

Copies of the Amendment were served on all parties of record.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Northern Indiana Public Service Co.

[Docket No. ER92–649–000]

October 23, 1992.

Take notice that on September 28, 1992, Northern Indiana Public Service Company (NIPSCO) tendered for filing Amendment No. 2 to its filing which was made on June 17, 1992, in Docket No. ER92–649–000.

This filing was made in order to extend facilities to Indiana Municipal Power Agency's (IMPA) customer, Rensselaer, and to make available to them several new Service Schedules for their operations.

During staff's review of this filing, they have asked several questions about the Unscheduled Power Rate and the cost justification of the proposed rates and the load flow by circuits.

This filing is being made to respond to staff's questions.

Copies of this filing have been served upon all of the parties and the Indiana Utility Regulatory Commission.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Co. (Minnesota)

[Docket No. ER93–28–000]

October 23, 1992.

Take notice that on October 19, 1992, Northern States Power Company (NSP) tendered for filing Supplement No. 5 to the Transmission Service agreement Between NSP and the City of Sauk Centre, Minnesota, (Agreement) dated October 1, 1985, as amended.

The original Agreement between NSP and the City of Sauk Centre (City) provided, *inter alia,* that NSP would provide firm transmission-only service for City's third party power and energy purchases for a five year term commencing October 20, 1992, but instead enters a rolling period where either party may terminate service upon 24 months written notice.

NSP requests that Supplement No. 5 to the Agreement be accepted for filing effective October 20, 1992, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

18. Sumas Cogeneration Co., L.P.

[Docket No. QF90–217–003]

October 23, 1992.

On October 19, 1992, Sumas Cogeneration Company, L.P., tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining to the ownership structure of the facility.

Comment date: November 13, 1992, in accordance with Standard paragraph E at the end of this notice.

19. Idaho Power Co.

[Docket No. ER92–408–001]

October 23, 1992.

Take notice that Idaho Power Company on September 1, 1992, tendered for filing its compliance filing in this docket.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania Power & Light Co.

[Docket No. ER92–687–001]

October 23, 1992.

Take notice that on October 9, 1992, Pennsylvania Power & Light Company (PP&L) tendered for filing a revised refund report in the above-referenced docket.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

21. Otter Tail Power Co.

[Docket No. ER93–29–000]

October 23, 1992.

Take notice that on October 19, 1992, Otter Tail Power Company (Otter Tail) tendered for filing a Notice of Cancellation of Rate Schedule No. 0177 between Otter Tail and the City of Stephen, Minnesota.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

22. Long Island Lighting Co.

[Docket Nos. ER92–25–002, ER92–26–002, and ER92–31–002]

October 23, 1992.

Take notice that on September 25, 1992, Long Island Lighting Company (Long Island) tendered for filing its compliance refund report in the above referenced dockets.

Comment date: November 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

23. Commonwealth Atlantic Limited Partnership

[Docket No. EG93–1–000]

October 26, 1992.

On October 26, 1992, Commonwealth Atlantic Limited Partnership (Applicant) submitted a request under section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 711 of the Energy Policy Act of 1992, seeking a determination by the Commission that Applicant is an "exempt wholesale generator." Commonwealth is a Virginia limited partnership that owns and operates a 310 MW peaking facility in Chesapeake, Virginia and sells electric power exclusively at wholesale.

Comment date: November 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. Northern States Power Co. (Minnesota)

[Docket No. ER92–858–000]

October 26, 1992.

Take notice that on September 25, 1992, Northern States Power Company (Northern States) tendered for filing Notices of Cancellation of Agreement Nos. 372, 375, 340, 367, and 411.

Comment date: November 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–26456 Filed 10–30–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10836–000 New York]

Friends of Keeseville, Inc.; Availability of Environmental Assessment

October 26, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Ausable River Hydroelectric Project located on the Ausable River in

Clinton and Essex Counties, in Keeseville, New York, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–26459 Filed 10–30–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00347T Colorado-48]

Colorado; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

October 26, 1992.

Take notice that on October 21, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the "J" Sand Formation underlying certain lands in Weld County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described as follows:

Township 5 North, Range 61 West

Sections 4–9: All
Sections 16–18: All

Township 5 North, Range 62 West

Sections 1–36: All

Township 6 North, Range 61 West

Sections 19–21: All
Sections 28–33: All

Township 6 North, Range 62 West

Sections 1–36: All

Township 7 North, Range 63 West

Sections 1–36: All

The notice of determination also contains Colorado's findings that the referenced portion of the "J" Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–26461 Filed 10–30–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00349T Colorado-50]

Colorado; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

October 26, 1992.

Take notice that on October 21, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Dakota Formation underlying certain lands in Weld County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application includes Federal and State land and is described on the attached appendix.

The notice of determination also contains Colorado's findings that the referenced portion of the Dakota Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

The recommended area is the Dakota Formation underlying certain Federal and State lands in Weld County, Colorado more fully described as:

Township 1 North, Range 64 West

Sections 1–36: All

Township 1 North, Range 65 West

Sections 1–3: All
Sections 10–15: All
Sections 22–27: All
Sections 34–36: All

Township 2 North, Range 64 West

Sections 1–36: All

Township 2 North, Range 65 West

Sections 1–3: All
Sections 10–15: All
Sections 22–27: All
Sections 34–36: All

Township 3 North, Range 64 West

Sections 1–36: All

Township 3 North, Range 65 West

Sections 1–3: All
Sections 10–15: All
Sections 22–27: All
Sections 34–36: All

Township 4 North, Range 64 West

Sections 1–36: All

Township 4 North, Range 65 West

Sections 1–36: All

Township 4 North, Range 66 West

Sections 1–36: All

Township 4 North, Range 67 West

Sections 1–36: All

[FR Doc. 92–26458 Filed 10–30–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00346T Colorado-47]

Colorado; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

October 26, 1992.

Take notice that on October 20, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Upper Lewis Sand (Blue Gravel Member) underlying certain lands in Moffat County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers approximately 2,720 acres (76.5% Federal and 23.5% State Lands) and is described as follows:

Township 9 North, Range 90 West

Section 31: W/2

Township 9 North, Range 91 West

Section 23: E/2
Section 24: W/2
Section 25: All
Section 26: NE/4
Section 35: E/2
Section 36: All

The notice of determination also contains Colorado's findings that the referenced portion of the Upper Lewis Sand (Blue Gravel Member) meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for

material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26457 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-18-000, et al.]

Williams Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP93-18-000]

October 21, 1992.

Take notice that on October 16, 1992, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-18-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon the transportation of natural gas for direct sale to Jesse's Truck Stop (Jesse's) and Elma Huff Chamber Cafe (Huff) and to reclaim measuring, regulating and appurtenant facilities located in Newton County, Missouri, under William's blanket certified issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that Jesse's, by letter dated April 25, 1990, and Huff, by letter dated April 23, 1991, have requested the abandonment of the sales and facilities.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP93-14-000]

October 21, 1992.

Take notice that on October 14, 1992, Northern Natural Gas Company (Northern Natural), 1400 Smith Street, Houston, Texas 77002 filed in Docket No. CP93-14-000 a request pursuant to section 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to upgrade an existing delivery point to accommodate increased natural gas deliveries to Iowa Electric Light and Power Company (Iowa Electric) pursuant to its blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Northern Natural states that Iowa Electric has requested increased service to serve multiple end-users located in Iowa for residential use. Northern Natural also states that the increased volumes to be delivered to Iowa Electric are 2 Mcf per day and 224 Mcf on an annual basis. Northern Natural indicates that the estimated cost to upgrade the delivery point is $14,000.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP93-19-000]

October 21, 1992.

Take notice that on October 16, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-19-000 a prior notice request with the Commission pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) to abandon the transportation of natural gas for direct sale to Allen Eiserer (Eiserer) in Carroll County, Missouri, and the facilities necessary to make the sale, under the blanket certificates issued in Docket Nos. CP82-479-000 and CP86-631-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Specifically, WNG proposes to abandon the transportation of natural gas for direct sale to Eiserer and to reclaim measuring, regulating, and appurtenant facilities used to service a restaurant in Carroll County. WNG states the Eiserer requested the termination of the service because the restaurant is going to be torn down and no longer needs the gas. WNG estimates that it will cost $457 to reclaim the appurtenant facilities.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Arkla Energy Resources, a division of Arkla, Inc

[Docket No. CP93-17-000]

October 22, 1992.

Take notice that on October 16, 1992, Arkla Energy Resources, a division of Arkla, Inc. (AER), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93-17-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and related facilities for the delivery of natural gas to Arkansas Louisiana Gas Company (ALG), a local distribution company, under AER's blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001, all as more fully described in the request which is on file with the Commission and open to public inspection.

AER requests authorization to install the facilities in Logan County, Arkansas, to serve ALG, which would resell the gas to a domestic customer. It is stated that the tap would be used for the delivery of approximately 1 Mcf on a peak day and 85 Mcf on an annual basis. It is estimated that the construction cost would be $1,389. It is asserted that the gas would come from AER's system supply and that AER has sufficient supply to furnish the gas proposed for delivery to ALG.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP93-20-000]

October 22, 1992.

Take notice that on October 16, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-20-000 a request pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to reclaim measuring and appurtenant facilities used to receive transportation gas from Riata Energy (Riata) in Payne County, Oklahoma, under Williams' blanket authorization issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that Riata notified WNG that production is no longer available at the Riata PLD and requested that WNG reclaim its facilities.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP93-23-000]

October 23, 1992.

Take notice that on October 20, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-23-000, a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to relocate the point of delivery of natural gas to the Kansas

Power & Light Company Gardner town border located in Johnson County, Kansas under its blanket certificate issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that it proposes to relocate the Gardner town border tap from the 16-inch KC#3 to the adjacent Ottawa-Glavin 26-inch pipeline. WNG further states that the project volume of delivery is not expected to exceed the total volumes currently being delivered of 1,676 Dth on a peak day and 199,423 Dth annually. WNG indicates that the estimated cost of construction is approximately $5,902, which would be paid from funds on hand.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. Williams Natural Gas Company

[Docket No. CP93–22–000]

October 23, 1992.

Take notice that on October 19, 1992, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–22–000, a request pursuant to sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act, to abandon the transportation of natural gas for direct sale to Honorbuilt Industries, Inc. (Honorbuilt), in Ottawa County, Kansas, under its blanket certificate authorization issued in Docket No. CP82–479–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams states that Honorbuilt has requested the abandonment; however, the related facilities will not be abandoned.

Comment date: December 7, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. El Paso Natural Gas Company

[Docket No. CP93–25–000]

October 26, 1992.

Take notice that on October 21, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP93–25–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated gas transportation or exchange services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that the specific gas transportation or exchange services proposed to be abandoned are special Rate Schedules X–60 (Amoco Production Company (Amoco)), X–61 (Amoco), T–27 (Amoco), T–28 (Chevron U.S.A. Inc., formerly Gulf Oil Corporation), T–4 (Southwest Gas Corporation), and T–35 (Westar Transmission Company) to El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

El Paso assets that its transition from a gas merchant to an open-access transporter of natural gas has prompted El Paso and its customers to examine the need to continue traditional NGA section 7 certificated transportation and exchange services that can be more properly rendered under El Paso's blanket transportation certificate. As a result, El Paso and the parties to the services proposed to be abandoned have agreed that these case-specific, certificated transportation or exchange services should be terminated and have entered into specific letter agreements which terminate the agreements, it is stated. El Paso further states that it will continue to provide transportation service, pursuant to part 284, subpart G of the Commission's Regulations for these parties, as requested.

El Paso avers that the related facilities will not be abandoned but will be utilized to provide Part 284, Subpart G transportation service for any party requesting service.

Comment date: November 16, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. Trunkline LNG Company

[Docket No. CP93–21–000]

October 26, 1992.

Take notice that on October 19, 1992 Trunkline LNG Company (TLC), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP93–21–000 an application pursuant to section 7(b) of the Natural Gas Act and the regulations promulgated thereunder, for an order permitting and approving abandonment of sales service provided to Trunkline Gas Company (TGC) in Docket No. CP74–138, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that this application, TLC specifically requests authority to abandon sales service provided to TGC pursuant to the Sales and Purchase of Natural Gas Agreement dated December 15, 1980, as amended. This agreement is embodied in TLC's Rate Schedule PLNG–1, FERC Gas Tariff, Original Volume No. 1.

It is further stated the TLC and TGC have mutually agreed to terminate the sales service under Rate Schedule PLNG–1 effective November 16, 1992. It is asserted that TLC and TGC and its customers have previously entered into a settlement, which was approved by the Commission on August 28, 1992, that provides for the resolution of all contractual issues between TLC and TLG under Rate Schedule PLNG–1. Therefore, TLC requests Commission authorization to abandon Rate Schedule PLNG–1 effective November 16, 1992. No facilities are proposed to be abandoned herein.

Comment date: November 16, 1992, in accordance with Standard Paragraph F at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be take but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designed on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, filed pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26467 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10914-000 New York]

Mohawk Dam 12 Associates; Surrender of Preliminary Permit

October 27, 1992.

Take notice that the Mohawk Dam 12 Associates, permittee for the Mohawk Dam 12 Project No. 10914, located on the Mohawk River, in German Flats, in Herkimer County, New York, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 29, 1990, and would have expired on May 31, 1993. The permittee states that the project would be economically infeasible.

The permittee filed the request on September 24, 1992, and the preliminary permit for Project No. 10914 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 permit 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.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26471 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10913-000 New York]

Mohawk Dam 14 Associates; Surrender of Preliminary Permit

October 27, 1992.

Take notice that the Mohawk Dam 14 Associates, permittee for the Mohawk Dam 14 Project No. 10913, located on the Mohawk River, in German Flats, in Herkimer County, New York, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 29, 1990, and would have expired on May 31, 1993. The permittee states that the project would be economically infeasible.

The permittee filed the request on September 24, 1992, and the preliminary permit for Project No. 10913 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 permit 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.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26972 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ93-1-32-000]

Colorado Interstate Gas Co.; Tariff Filing

October 27, 1992.

Take notice that on October 22, 1992 Colorado Interstate Gas Company ("CIG") filed the following tariff sheets to reflect an out-of-cycle purchase gas adjustment (PGA):

Seventh Revised Sheet No. 7.1
Seventh Revised Sheet No. 7.2
Seventh Revised Sheet No. 8.1
Seventh Revised Sheet No. 8.2

CIG requests waiver of the Federal Energy Regulatory Commission's (Commission's) 30-day notice requirements, and such other waivers as the Commission may deem necessary to place the proposed tariff sheets into effect on November 1, 1992.

Seventh Revised Sheet Nos. 7.1 through 8.2 reflect a 24.41 cent/Mcf increase in the commodity rate for the G-1, P-1, SG-1, H-1, F-1 and PS-1 Rate Schedules. CIG notes that the instant out-of-cycle PGA filing is required to reflect an unanticipated increase in CIG's purchase gas expense since its last PGA filing in Docket No. TA93-1-32-000, which results from the nearly $1.00/MMBTU increase in the price of spot gas to which various CIG gas purchase contracts are indexed.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

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 Capital Street, NE., Washington DC 20426, in accordance with sections 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 3, 1992. 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. 92-26468 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR93-1-000]

FRM, Inc.; Petition for Rate Approval

October 27, 1992.

Take notice that on October 2, 1992, FRM, Inc. filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.1448 per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

FRM states that it is an "intrastate pipeline" within the meaning of section 2(16) of the NGPA. It operates approximately 45 miles of pipeline facilities within the State of Mississippi. FRM states that its system has been in operation since 1975, serving primarily industrial end-use markets in central Mississippi. FRM intends to offer interruptible transportation under NGPA section 311(a)(2) for the first time.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time

for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before November 12, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26474 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF82-208-006 and QF82-208-007]

Jackson Valley Energy Partners, L.P.; Amendment to Filing

October 26, 1992.

On October 23, 1992, Jackson Valley Energy Partners, L.P. (Applicant) tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure and clarifies certain technical information. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status 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 must be filed by November 13, 1992, and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26460 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-1-003]

Midwestern Gas Transmission Co.; Filing

October 27, 1992.

Take notice on October 21, 1992, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following revised tariff sheets to its First Revised Volume No. 1 of its FERC Gas Tariff to be effective on October 21, 1992:

Fourth Revised Sheet No. 85
Original Sheet No. 85A

Midwestern states that this filing is being made to revise its tariff to reflect organizational changes that are necessary to implement the restructuring of Midwestern's sales and transportation services in accordance with Order Nos. 636 and 636-A.

Midwestern states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 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 November 3, 1992. 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. 92-26476 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-34-004]

Tennessee Gas Pipeline Co., Filing

October 27, 1992

Take notice on October 21, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets to its Fourth Revised Volume No. 1 of its FERC Gas Tariff to be effective on October 21, 1992:

First Revised Sheet No. 343
Original Sheet No. 343A

Tennessee states that this filing is being made to revise its tariff to reflect organizational changes that are necessary to implement the restructuring of Tennessee's sales and transportation services in accordance with Order Nos. 636 and 636-A.

Tennessee states that copies of its filng are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 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 November 3, 1992. Protests will be considered by the Commission in determining the appropriate action to the 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. 92-26470 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR93-2-000]

Transok, Inc.; Petition for Rate Approval

October 27, 1992.

Take notice that on October 13, 1992, Transok, Inc. filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission allow it to charge market-based rates for storage services under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Transok states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates two intrastate pipeline systems in the State of Oklahoma. Transok's Greasy Creek storage field is the subject of this petition and is located on the larger of the two systems which is referred to as the "Traditional System". Transok states that the rate it charges for related section 311(a)(2) transportation will be separate from its market-based storage rates. Transok's current firm and interruptible transportation rates are those approved in Docket No. ST90-359-000. Transok

further states that it will file on or before November 3, 1992 for approval of new transportation rates which will not include costs associated with the proposed storage service.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before November 12, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26473 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT93-1-000]

Viking Gas Transmission Co.; Filing

October 27, 1992.

Take notice that on October 21, 1992, Viking Gas Transmission Company (Viking) tendered for filing the following revised tariff sheets to its Original Volume No. 1 of its FERC Gas Tariff to be effective on October 21, 1992:

Second Revised Sheet No. 107
Original Sheet No. 107A

Viking states that this filing is being made to revise its tariff to reflect organizational changes that are necessary to implement the restructuring of Viking's sales and transportation services in accordance with Order Nos. 636 and 636-A.

Viking states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 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 November 3, 1992. 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. 92-26469 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-197-008 and RP88-236-003]

Williston Basin Interstate Pipeline Co.; Compliance Filing

October 27, 1992.

Take notice that on October 21, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume Nos. 1-A, 1-B and 2.

Williston Basin states that the revised tariff sheets were filed in compliance with the Commission's "Order Affirming in Part and Modifying in Part Initial Decision" issued July 23, 1991 in Docket Nos. RP88-197-000 and RP88-236-000 and "Order Denying Rehearing" issued September 21, 1992 in the above-referenced proceeding, all as more fully described in the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 3 1992. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26475 Filed 10-30-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-99-NG]

Neste Trading (USA), Inc.; Order Granting Blanket Authorization to Export Natural Gas to Mexico and Canada

AGENCY: Department of Energy. Office of Fossil Energy.

ACTION: Notice of Order Granting Blanket Authorization to Export Natural Gas to Mexico and Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing Neste Trading (USA), Inc. to export up to 21.9 Bcf of natural gas to Mexico and Canada over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-26553 Filed 10-30-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-24-NG]

Salmon Resources Ltd.; Order Granting Long-Term Authorization To Import Natural Gas Form Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Salmon Resources Ltd. authorization to import up to 20,500 MMBtu of Canadian natural gas per day over a 15-year term and up to 9,800 MMBtu per day over a concurrent ten-year term, under two gas purchase contracts with Shell Canada Limited.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., October 26, 1992.

Charles F. Vacek,
Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 92-26557 Filed 10-30-92; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Office of Hearings And Appeals

Week of September 28 Through October 2, 1992

During the week of September 28 through October 2, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

International Association of Machinists and Aerospace Workers, Lodge 1018, 10/2/92, LFA-0222

The International Association of Machinists and Aerospace Workers, Lodge 1018, filed an Appeal from a determination issued by the Acting Assistant General Counsel for General Litigation of the Department of Energy (DOE) in response to its Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE determined that the requested document, a letter from an attorney representing a litigation adversary to the DOE discussing proposed settlement terms, was part of a deliberate process. Thus, in this particular case the letter could be withheld under the deliberative process privilege of FOIA Exemption 5. Accordingly, the Appeal was denied.

The Oregonian, 9/28/92, *KFA-0042*

Spencer Heinz of The Oregonian, a Portland, Washington newspaper, filed an Appeal from a May 8, 1986 partial denial by the Assistant Manager for Administration, Richland Operations Office, of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). Mr. Heinz had requested a report concerning security issues at the DOE's "N Plant" located at its Hanford facility near Richland, Washington. In considering the Appeal, the DOE found that the withheld material consisted of classified material and Unclassified Controlled Nuclear Information (UCNI), and that the Director of the Office of Security Affairs (OSA) must make the final determination concerning the release of such material. In this instance, the Director of the OSA reviewed the Assistant Manager's determination and concluded that as a result of the DOE's subsequent decision to decommission the Hanford N Plant, additional material in the report could now be released to Mr. Heinz. The OSA concurred in this determination and also found that, with respect to the remaining withheld material, the FOIA did not sanction a public interest analysis for classified and UCNI material. The DOE therefore released additional portions of the report to Mr. Heinz, to the extent authorized by the Director of the OSA.

Refund Applications

Atlantic Richfield Company/Forest Drive Arco, 9/28/92, *RF304-9793*

The DOE issued a Decision and Order denying an Application for Refund in the Atlantic Richfield Company (ARCO) special refund proceeding. In the Application, Mr. Tom Herb indicated that the owned Forest Drive ARCO during the entire consent order period. A second claim was filed by Mr. Abdolhossien Ejtemai, citing as a basis for the claim the same volume of ARCO refined product purchases claimed in the Herb Application. Mr. Ejtemai's claim was based upon a purchase and sale agreement through which Mr. Ejtemai acquired the Forest Drive ARCO outlet from Mr. Herb. the purchase and sale agreement submitted by Mr. Ejtemai specifically cites the transfer of "all assets" and "refunds" from Mr. Herb to Mr. Ejtemai. Based on this explicit provision of the agreement, the DOE determined that Mr. Herb clearly intended to transfer all of the assets of Forest Drive ARCO, including the right to potential refunds, which were unknown or unenumerated at the time of the sale. Accordingly, the DOE decided that the right to seek a refund based upon the ARCO refined product purchases of Forest Drive ARCO was transferred from Mr. Herb to Mr. Ejtemai when the latter acquired the outlet, and the Herb Application, Case No. RF304-9793, was denied.

Texaco Inc./Alan Elliott Blonder, 9/28/92, RF321-1807

The DOE issued a Decision and Order denying an Application for Refund filed by Alan Elliott Blonder in the Texaco Inc. special refund proceeding. The application was based on purchases of Texaco products allegedly made by Alan Elliott Blonder, an individual motorist, during the consent order period. Mr. Blonder failed to provide sufficient documentation to support his claimed purchased volume. Accordingly, Alan Elliott Blonder's application was denied.

Texaco Inc./BancFirst Roy Carberry, 10/01/92, RF321-4153, RF321-4433

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning Applications for Refund filed by BancFirst and Roy Carberry with respect to purchases and consignments made by Carberry Distributors Inc. (CDI), a Texaco jobber and consignee. CDI filed for bankruptcy in 1987, and the bankruptcy case was closed in 1989. Roy Carberry, the owner of CDI, claimed a refund based upon the consigned volumes. He claimed that the consigneeship was operated by him individually and not by CDI. BancFirst sought a refund based upon CDI's purchases of Texaco products. The bank claimed that it was entitled to a refund because it was a creditor of CDI and held a security interest in certain assets, including CDI's accounts receivable.

The bankruptcy filings indicated that the consigneeship was owned by the corporation and not by Mr. Carberry individually. Consequently, the DOE found that Mr. Carberry had not demonstrated that he was entitled to a refund. The DOE, noting that DOE refunds are not accounts receivable, also found that BancFirst had not shown that it had a security interest in the Texaco refund. Accordingly, the DOE denied both applications. The DOE noted, however, that it would be willing to consider an Application for Refund if the bankruptcy proceeding were reopened or if assurances were given that distribution of the refund would consider the rights of all creditors.

Texaco Inc./Page Texaco, 9/28/92, RF321-19258

The Department of Energy (DOE) issued a Decision and Order modifying a refund that was granted to Page Texaco and Jessie Page. In the Decision, the DOE found that the refund was based in part on gallonage that was purchased by Page Texaco prior to the period of price controls. The DOE concluded that the applicant was not eligible for a refund for this gallonage, and that Page Texaco should remit to the DOE the sum of $801.

Texaco Inc./Van Tex Inc., Vandaveer Oil Company, 10/01/92, RF321-15276, RF321-15277, RF321-19202, RF 321-19203

The DOE issued a Decision and Order concerning four Applications for Refund filed in the Texaco Inc. special refund proceeding. Because Van Tex Inc. (RF321-15276) was merged into Vandaveer Oil Company (RF321-15277, RF321-19202, RF321-19203) in 1979, Van

Tex Inc.'s separate Application for Refund was dismissed and its purchase claim was combined with the purchase claim of Vandaveer Oil Company to form one allocable share. Furthermore, as Vandaveer Oil Company was a corporation duly dissolved in 1985, the refund granted to Vandaveer Oil Company was distributed to its share owners according to percentage of stock ownership at the time of dissolution.

Vickers Energy Corporation/Kansas, 10/2/92, RQ1–582

The DOE issued a Decision and Order granting a second-stage application filed by the State of Kansas in the Vickers special refund proceeding. Kansas requested permission to sue $60,000 of its allocated Vickers monies to fund two van replacement programs benefiting the Kansas Department of Social and Rehabilitation Services' Youth Centers at Atchison and Topeka. The DOE found that these programs, as part of Kansas' overall balanced restitutionary program, would provide restitution to injured consumers of refined petroleum products. Accordingly, the State's second-stage refund application was granted.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Aminoil U.S.A., Inc./ Pollock LP Gas, Inc.	RR139–48	09/28/92
W & S Propane Co	RR139–66	
Aminoil U.S.A., Inc./ Valley Gas, Inc.	RR139–67	10/1/92
Isaacson's Bottle Gas	RR139–68	
White Bros. Gas Co	RR193–69	
Aminoil U.S.A., Inc./ Wilhelm Enterprises, Inc.	RR139–71	10/1/92
Atlantic Richfield Company/Ed & Marty's Fuel Oil.	RR304–43	9/29/92
Ed & Marty's Fuel Oil.	RF304–13258	
Ed Edmiston	RF304–13259	
City of Elma	RF272–82703	9/29/92
City of Russellville	RF272–82618	10/2/92
City of Sandusky	RF272–82765	10/1/92
Gulf Oil Corp./ Gonzales Tire & Supply.	RF300–16551	9/28/92
Gulf Oil Corp./ Ineeda Linen Service.	RF300–14839	9/30/92
Gulf Oil Corp./ Roberts Gulf Service et al.	RF300–16003	10/1/92
Perry Local School District et al.	RF272–80802	9/28/92
Texaco Inc./Broad St. Texaco #2 et al.	RF321–12364	10/2/92
Texaco Inc./Don's Texaco et al.	RF321–4251	10/1/92
Texaco Inc./ Matthews Oil Company et al.	RF321–16200	9/29/92
Texaco Inc./ Schaumberg Texaco et al.	RF321–2302	10/2/92
Village of East Hills	RF272–83320	9/28/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Artim Transportation Systems, Inc.	RF321–16143
D. Neely & A. Slemsek	RF321–17620
Great Bridge Texaco	RF321–13646
North Chicago Texaco	RF321–18300
Romano Florist Truck Rental	RF321–19201
Saint John's Texaco	RF321–18786

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: October 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92–26556 Filed 10–30–92; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 92–1321]

November 19, 1992, Date Established for Commercial Nationwide 220–222 MHz Band Applicants To File Application Amendments to Satisfy Entry Criteria

October 1, 1992.

On March 14, 1992, the Commission adopted a Report and Order in PR Docket No. 89–552 (Report and Order, PR Docket No. 89–552, FCC 91–74, 56 FR 19598 (1991). This action amended Part 90 of the Commission's Rules to provide for the use of the 220–222 MHz band by the private land mobile radio services. In the Report and Order, the Commission designated certain channels for local use and other channels for nationwide licensing. The Commission also indicated in the Report and Order that applicants for nationwide licensing would be required to satisfy various, specified entry criteria and financial requirements.

On May 1, 1991, the Commission began accepting applications for licenses in the 220–222 MHz band. Applicants for nationwide channels were not required, at that time, to submit the supporting information needed to satisfy the entry requirements. On July 15, 1991, the Commission released a Public Notice (see Public Notice 13935) announcing that applicants for nationwide channels would be advised when this information should be submitted.

On July 16, 1992, the Commission released a Memorandum Opinion and Order (Memorandum Opinion and Order), PR Docket No. 89–552, FCC 92–261, 57 FR 32448 (1992), Second Erratum, PR Docket No. 89–552, DA 92–1234, 57 FR 44339 (1992)) disposing of petitions for reconsideration and resolving issues raised in a Further Notice of Proposed Rule Making in this proceeding (Further Notice of Proposed Rule Making, PR Docket No. 89–552, FCC 92–27, 57 FR 4180 (1992)). In the Memorandum Opinion and Order, the Commission modified certain entry criteria and financial requirements for applicants for nationwide channels and established 30 days after the effective date of the Memorandum Opinion and Order as the deadline for amending nationwide applications to bring them into conformance with the entry criteria specified in Section 90.713, as amended. On August 21, 1992, United Parcel Service of America (UPS) filed a petition to reconsider certain aspects of the Memorandum Opinion and Order that dispose of issues raised by the Further Notice of Proposed Rule Making, and relate to entry criteria for non-commercial nationwide applicants. Non-commercial nationwide applicants, therefore, may not amend their applications at this time. We will request non-commercial nationwide applicants to amend their applications after the Commission adopts an Order addressing the UPS petition for reconsideration and after we have obtained approval from the Office of Management and Budget for imposing an additional paperwork burden on non-commercial nationwide applicants.

Applicants for nationwide commercial channels, however, are required to amend their applications by November 19, 1992, in order to provide all certifications, schedules, and financial documentation required by Section 90.713, as amended. Failure by an applicant to timely amend its nationwide commercial application with

the required information will result in the automatic dismissal of the application.

Amendments to nationwide commercial applications must be received at the following address by 4:30 p.m. EDT on November 19, 1992: Federal Communications Commission, Private Radio Bureau Licensing Division, Land Mobile Branch, 1270 Fairfield Road, Gettysburg, PA 17325–7245, Attn: 220 MHz Commercial Nationwide Amendment.

The applicant's name should be clearly displayed in the lower left corner of the envelope containing the amendment. Amendments will only be accepted for filing at the above-referenced location and will not be forwarded from any other location. No filing fee is required.

For further information, contact the Private Radio Bureau's Consumer Assistance Branch at (717) 337–1212.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–26505 Filed 10–30–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 3475.
Name: Banks Air Freight Service, Inc.
Address: P.O. Box 8750, BWI Airport, MD 21240.
Date Revoked: August 21, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 1879.
Name: Consolidated Freight Forwarding International, Inc.
Address: 1015 Cotton Exchange Bldg., Houston, TX 77032.
Date Revoked: August 22, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 2404.
Name: Interamerican Freight Corp.
Address: 7270 N.W. 12th Street, Miami, FL 33126.
Date Revoked: September 2, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 1855.
Name: World Logistics Systems (New York) Inc.
Address: 7 Dey Street, Ste. 1200, New York, NY 10007.
Date Revoked: September 6, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 2793.
Name: EX-IM Business Services Corporation
Address: 832 Higley Bldg., P.O. Box 1029, Cedar Rapids, IA 52401.
Date Revoked: September 6, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 3125.
Name: Direct Import-Export Transportation Services Inc.
Address: 105 Harbor Drive, Jersey City, NJ 07305.
Date Revoked: September 23, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 2024.
Name: Roehlig Forwarding, Inc.
Address: One Evertrust Plaza, 11th Fl., Jersey City, NJ 07302.
Date Revoked: September 30, 1992
Reason: Failed to furnish a valid surety bond.

License Number: 2732–R.
Name: All Forwarding International, Inc.
Address: 366 Coral Circle, El Segundo, CA 90245.
Date Revoked: September 30, 1992.
Reason: Failed to furnish a valid surety bond.

License Number: 3051.
Name: Adept International Forwarders, Inc.
Address: 375 West Broadway, New York, NY 10012.
Date Revoked: September 30, 1992.
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92–26464 Filed 10–30–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. 7100–0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; Initial Board approval of changes to bank holding company reporting requirements and a request for public comments.

BACKGROUND: Notice is hereby given of initial Board approval by the Board of Governors of the Federal Reserve System (the Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public), of changes to the Consolidated Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More or With More Than One Subsidiary Bank (FR Y-9C; OMB No. 7100-0128). The proposed reporting changes, summarized below will be optional for bank holding companies filing the FR Y-9C for the December 31, 1992, reporting date and mandatory with the March 31, 1993, reporting date.

DATES: Comments must be submitted on or before November 16, 1992.

ADDRESSES: Comments, which should refer to OMB Docket No. 7100-0128, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

SUMMARY: The Board has given initial approval of the following reporting changes to the FR Y-9C:

Risk-Weighted Cells on Schedules HC-I and HC-J

The Board proposes to open cells on the risk-based capital schedules (Schedules HC-I and HC-J) of the FR Y-9C. These reporting changes will allow bank holding companies to report certain off-balance sheet transactions in the appropriate risk weighted categories, or cells, that were previously closed. Bank holding companies have requested that the Board open these cells to ease the reporting burden associated with these schedules. To further ease the burden, and to give further lead time for such changes, the Board will make these reporting changes optional to bank holding companies for the December 31, 1992, reporting date, and make the changes mandatory for the March 31, 1993, reporting date.

Changes in Anticipation of Board Approval of an Amendment to the Risk-Based Capital Guidelines:

Risk-Weighted Cells on Schedules HC-I and HC-J

In addition to the cell openings requested by bank holding companies discussed above, the Board has sought comment on the proposal to reduce the risk weight for certain assets collateralized by U.S government securities from 20 percent to zero percent. In anticipation of possible Board approval of the reduction of the risk weight for certain assets collateralized by U.S. government securities, the Board proposes to open additional cells on schedules HC-I and HC-J. The Board would make the reporting in these newly opened cells optional for bank holding companies effective with the December 31, 1992, reporting date and if approved, mandatory for the March 31, 1993, reporting date. (If the Board does approve the change, the notice of the change would be published in the *Federal Register*.)

Intangible Assets on Schedule HC-I

The Board has sought comment on amending the treatment of intangible assets under the risk-based capital guidelines and is currently evaluating them. In anticipation of the possible adoption of this amendment before year-end 1992 to the risk-based capital guidelines, these changes to Schedule HC-I will be optional for bank holding companies effective with the December 31, 1992, reporting date and, if approved, mandatory for the March 31, 1993, reporting date. Bank holding companies could report the fair market value of purchased mortgage servicing rights (PMSRs), purchased credit card relationships (PCCRs), and any related intangible assets information deemed necessary by the Board for purposes of calculating risk-based capital. (If the Board does approve the change, the notice of the change would be published in the *Federal Register*.)

Optional Reporting Box

On Schedules HC-I and HC-J, for the December 31, 1992, reporting date only, bank holding companies will be able to indicate if optional reporting was elected by checking a "yes" or "no" box.

FOR FURTHER INFORMATION CONTACT: Arleen Lustig, Supervisory Financial Analyst (202/452-2987), Robert T. Maahs, Senior Financial Analyst (202/872-4935), Mark S. Benton, Senior Financial Analyst (202/452-5205), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. The following individuals may be contacted with respect to issues related to the Paperwork Reduction Act of 1980: Stephen L. Siciliano, Special Assistant to the General Counsel for Administrative Law (202/452-3920), Legal Division; Mary M. McLaughlin, Chief, Financial Reports (202/452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System; and Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The Board has given initial approval to allow optional reporting, effective with the December 31, 1992, reporting date, of certain items described below, under "Proposed Report Form Revisions" on the Consolidated Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More or With More Than One Subsidiary Bank (FR Y-9C; OMB Docket No. 7100-0128).

Report Title: Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank.

This report is to be filed by all bank holding companies that have total consolidated assets of $150 million or more *and* by all multibank holding companies regardless of size. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company *and* have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 148,054
Estimated Average Hours per Response:
Range from 5 to 1,250 hours
Number of Respondents: 1,598
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the remaining information on the form. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9C consolidated financial statements are filed by the large bank holding companies and those with more than one subsidiary bank. The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

The FR Y-9 reports historically have been, and continue to be, the primary source of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from the Y series reports, are used to detect emerging financial problems, to review performance for pre-inspection analyses, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall analytical effort. The revisions to the bank holding company reporting requirements over the last several years have been directed towards: (a) strengthening the Federal Reserve's ability to monitor risk between on-site inspection, (b) identifying supervisory problems at an earlier stage, and (c) monitoring the bank holding companies' capital adequacy.

Proposed Report Form Revisions

FR Y-9C

The Board has initially approved the following items for optional reporting on the consolidated bank holding company financial statements (FR Y-9C) for the December 31, 1992, reporting period:

1. Open the 0% risk weight cell of Column A on Schedule HC-I, Part I for "Federal funds sold and securities purchased under agreements to resell" and the corresponding cell on Schedule HC-J, Part I, Column A.

2. Open the 50% risk weight cells of Column C on Schedule HC-I, Part II and the corresponding cells on Schedule HC-J, Part II, Column C for the following line items:

a. "Securities lent where the banking organization lends its own securities or indemnifies against loss of its customers' securities."

b. "Commercial and similar letters of credit collateralized by the underlying shipments and other short-term self-liquidating trade-related contingencies arising from the movement of goods."

3. Open the 50% risk weight cell of Column C on Schedule HC-I, Part II for the following line items:

a. "Other direct credit substitutes."

b. "Revolving underwriting facilities (RUFs), note issuance facilities (NIFs), and similar arrangements and other transaction-related contingencies."

4. Report the fair market value of purchased mortgage servicing rights (PMSRs) and purchased credit card relationships (PCCRs) and any other intangible assets information deemed necessary on Schedule HC-I for the risk-based capital calculation as approved by the Board.

5. Add a "yes" or "no" indicator on Schedules HC-I and HC-J to ascertain whether or not bank holding companies have elected to report any optional items for the December 31, 1992, reporting date.

Opening of risk-weighted cells (2 and 3 listed above) would become mandatory with the March 31, 1993, reporting date. If amendments to the risk-based capital guidelines are adopted, items 1 and 4 above would become mandatory for the March reporting date. Item 5 above would only be included for the December 31, 1992, reporting date.

Legal Status

The reports are required by law (12 U.S.C. 1844(b) and (c) and § 225.5(b) of Regulation Y, 12 CFR 225.5(b)). The Federal Reserve System has generally not considered the data in these reports to be confidential. However, Column A and Memoranda item 2 of Schedule HC-H, Past Due and Nonaccrual Loans, Lease Financing Receivables, Placements, and Other Assets are accorded confidentiality by the Federal Reserve System pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(8)). Section (b)(8) exempts matters that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

In addition, a bank holding company may request confidential treatment pursuant to sections (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)). Section (b)(4) provides exemption for trade secrets and commercial or financial information obtained from a person and privileged or confidential. Section (b)(6) provides exemption for personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, October 27, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-26506 Filed 10-30-92; 8:45 am]

BILLING CODE 6210-01-F

First Alabama Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 1992.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Alabama Bancshares, Inc., Montgomery, Alabama; to acquire Security Federal Savings and Loan Association of Nashville, Nashville, Tennessee, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y. This activity will be conducted throughout the State of Tennessee.

Board of Governors of the Federal Reserve System, October 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26513 Filed 10-30-92; 8:45 am]

BILLING CODE 6210-01-F

Society Corporation Employee Stock Purchase and Savings Plan, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 19, 1992.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Society Corporation Employee Stock Purchase and Savings Plan; to acquire an additional 5.26 percent of the voting shares of Society Corporation, Cleveland, Ohio, for a total of 10.32 percent.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Paul A. Sabatine, Cedarville, Michigan; to acquire an additional 0.94 percent of the voting shares of Superior Financial Corporation, Sault Ste. Marie, Michigan, for a total of 10.16 percent, and thereby indirectly acquire Sault Bank, Sault Ste. Marie, Michigan.

C. **Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Joseph J. Schuessler, Kansas, Illinois, to acquire 50.86 percent; John M. Schuessler, River Forest, Illinois, to acquire 11.41 percent; Charles Kirchner, Kansas, Illinois, to acquire 11.41 percent; Thomas Furey, Kansas, Illinois, to acquire 11.41 percent; Kansas State Banc Corporation, Kansas, Illinois, to acquire 4.71 percent; John P. Lynch, River Forest, Illinois, to acquire 3.04 percent; William C. Nichols, River Forest, Illinois, to acquire 4.24 percent of the voting shares of Paonia Financial Services, Paonia, Colorado, and thereby indirectly acquire Paonia State Bank, Paonia, Colorado.

Board of Governors of the Federal Reserve System, October 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26516 Filed 10-30-92; 8:45 am]

BILLING CODE 6210-01-F

Wishek Bancorporation, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 1992.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Wishek Bancorporation, Inc., Wishek, North Dakota; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in North Dakota, South Dakota, Minnesota, and Montana.

Board of Governors of the Federal Reserve System, October 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26515 Filed 10-30-92; 8:45 am]

BILLING CODE 6210-01-F

Worthen Banking Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 23, 1992.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Worthen Banking Corporation, Little Rock, Arkansas; to acquire 100 percent of the voting shares of The Union of Arkansas Corporation, Little Rock, Arkansas, and thereby indirectly acquire Union National Bank of Arkansas, Little Rock, Arkansas, and Union National Bank, Austin, Texas.

B. **Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. United Missouri Bancshares, Inc., Kansas City, Missouri; to acquire 100 percent of the voting shares of Farmers Bancshares of Abilene, Inc., Abilene, Kansas, and thereby indirectly acquire Farmers National Bank of Abilene, Abilene, Kansas. In connection with this application, United Subsidiary, Inc., Kansas City, Kansas, has applied to merge with Farmers Bancshares of Abilene, Inc., Abilene, Kansas, and thereby indirectly acquire Farmers National Bank of Abilene.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Lakewood, Inc., Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of First Lakewood National Bank, Dallas, Texas.

2. Texas Community Bancshares, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Lakewood, Inc., Dover, Delaware, and thereby indirectly acquire First Lakewood National Bank, Dallas, Texas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. American Marine Bank Employee Stock Ownership Plan, Bainbridge Island, Washington; to become a bank holding company by acquiring 48.58 percent of the voting shares of American Marine Bank, Winslow, Washington.

Board of Governors of the Federal Reserve System, October 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26514 Filed 10-30-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D-0137]

Animal Drug Clinical Investigator and Monitor; Final Guideline; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the final guideline entitled "Conduct of Clinical Investigations: Responsibilities of Clinical Investigators and Monitors for Investigational New Animal Drug Studies" prepared by the Center for Veterinary Medicine (CVM). The guideline addresses the responsibilities of clinical investigators and monitors in the conduct of clinical investigations of new animal drugs.

DATES: Written comments on this guideline may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the final guideline to the Communications and Education Branch (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8755, or the contact person below. Send two self-addressed adhesive labels to assist that office or the contact person in processing your requests. Submit written comments on the final guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The final guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kristi O. Smedley, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8737.

SUPPLEMENTARY INFORMATION:

I. Background

The final guideline entitled "Conduct of Clinical Investigations: Responsibilities of Clinical Investigators and Monitors for Investigational New Animal Drugs Studies" is intended to be used by clinical investigators and monitors of clinical investigations to aid the individuals in the proper conduct of clinical investigations of new animal drugs. In the Federal Register of May 13, 1992 (57 FR 20495), FDA issued a notice of availability of a draft guideline entitled "Guideline on the Conduct of Clinical Investigations: Responsibilities of Clinical Investigators and Monitors for Investigational New Animal Drug Trials." The draft guideline was made available for public comment to provide the agency with views to be considered in its development of a final guideline. Interested persons were given until July 13, 1992, to comment on the draft guideline.

The agency received a total of 15 comments on the draft guideline. The comments came from eight drug manufacturers, three individuals, a clinical investigator, and three trade associations. The draft guideline has been revised as a result of these comments, which are summarized and responded to below.

II. General Comments on the Guideline

1. Many comments suggested technical and editorial revisions. These comments have been adopted where the agency deemed that they were appropriate and clarified the guideline.

2. Comments suggested that the guideline and its title be amended to reflect that it applies only to pivotal studies and requested that CVM clarify which studies should be conducted under the guideline.

CVM makes the final determination as to whether a study is pivotal, that is, essential to the agency decision to approve or refuse to approve a new animal drug application (NADA). Therefore, restricting the guideline to pivotal studies would not aid the industry in determining which studies should be conducted in accord with the guideline. However, the introduction of the guideline has been amended to state that purely exploratory studies or studies not intended to support an NADA would not need to be conducted in accord with the guideline. Clinical studies intended to demonstrate the effectiveness of a new animal drug product, should be conducted in accord with the guideline, as should studies intended to provide animal safety data as well as demonstrate the effectiveness of the product. Clinical studies intended to support a food additive petition for animal use should be conducted in accord with the guideline. All studies in support of an abbreviated new animal drug application should be conducted in accord with 21 CFR part 58.

3. Several comments suggested that the guideline should specifically state that it will not be applied retroactively. Other comments suggested that an effective date be provided.

The guideline is not mandatory, and therefore cannot be applied retroactively—or prospectively—in the sense meant by the comments. The guideline is effective November 2, 1992.

4. Several comments stated that the guideline should be issued under the authority of § 10.90(b) (21 CFR 10.90(b)) with the assurance that studies conducted in accord with the guideline will be acceptable to the agency.

FDA has proposed to revise § 10.90(b) to state that guidelines are not binding on the agency (see 57 FR 47314 at 47318, October 15, 1992). The agency has tentatively concluded that the revisions are necessary to conform § 10.90 to current legal standards. Consistent with the proposal and the reasons for it, the final guideline whose availability is announced in this notice represent the agency's position on a procedure or practice at the time of its issuance. Such a procedure or practice is not a legal requirement. A person may follow a guideline or may choose to follow alternative procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with FDA's CVM to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable. A guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. When a guideline states a requirement imposed by statute

or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion.

5. Comments requested that CVM consider harmonizing the terminology used in the guideline with the terminology used in the GLP regulations (21 CFR part 58) and the proposed European Economic Committee Good Clinical Practice guidelines. Examples of terms to be considered included study director, archive, and raw data. On the other hand, many comments cautioned that too much overlap in specifications or terms may obscure differences between clinical and GLP studies.

CVM recognizes the merits of harmonization of terms where possible. Here, however, the use of GLP definitions could lead to confusion, because this guideline applies to clinical as opposed to nonclinical studies.

III. Comments Regarding Responsibilities of the Clinical Investigator

6. Some comments requested clarification on the need for both a monitor and clinical investigator for all clinical studies. Comments also requested that the phrase "evaluation of effectiveness" in the definition of investigator be replaced with the phrase "conduct studies" concerning effectiveness.

CVM believes that an individual cannot adequately serve as a monitor and an investigator of the same study. In addition, each clinical study, whether intramural or extramural, requires a monitor to oversee the implementation of the study protocol and the progress of the study and to ensure that the study is conducted in accordance with all applicable requirements, even if both the monitor and the investigator are employees of the sponsor. CVM concurs with the request to use the phrase "conduct studies" when describing the responsibilities of the investigator and has revised the guidelines accordingly.

7. Some comments suggested that the guideline address the responsibilities of "co-investigators".

CVM does not support the use of "co-investigators." CVM believes that one individual should ultimately be responsible for the study.

8. Comments suggested that CVM modify the guideline to provide for training "and/or" experience in the qualifications of the investigators.

This suggestion has been rejected, because section 512(j) of the Federal Food, Drug, and Cosmetic Act and § 511.1(b)(7)(i) (21 CFR 511.1(b)(7)(i)) and 21 CFR 514.1(b)(8)(ii) (FDA's regulations governing investigations of new animal drugs) require training "and" experience.

9. Some comments suggested that the guideline distinguish between protocol amendments and protocol deviations.

CVM has modified the guideline to reflect that amendments are those changes to the protocol which are described before they occur and have sponsor and investigator agreement. Protocol deviations are those unanticipated events that have occurred and that are inconsistent with the protocol. The investigator has the responsibility to document these deviations and notify the sponsor of their occurrence.

10. Two comments suggested that the guideline be modified so that the investigator would follow the protocol and labeling regarding conditions for proper drug storage.

CVM agrees that specifications for proper drug storage should be detailed in the protocol and the associated investigational labeling and that the storage of the investigational new animal drug should be in accordance with the protocol and the investigational labeling. The guideline has been modified accordingly.

11. Comments indicated that the investigator need not be informed of the identity or composition of the drug and suggested that requesting disclosure of this information may compromise those studies designed to be blinded.

The identity or composition of the new animal drug product can be shielded from the investigator by assigning a code name to the product. This approach will allow all relevant information to be supplied to the investigator without compromising the blinding of the study. The decoding information should be maintained by the sponsor or a third party in a signed and dated statement. The guideline has been modified to provide for identification of drugs by coding.

12. Several comments suggested that the provisions concerning identification of the recorder of the data were not clear. Additional comments requested that the use of initials be permitted in the recording of data.

CVM concurs that the use of initials to identify the recorder of the data is acceptable. CVM did not intend to suggest that each data entry must be initialed or signed but, rather, that all data collected by an individual on a particular day should be so attributed. Where more than one individual observes or records data on the same form, those distinctions should be reflected in the data entries. When data are recorded by one individual on one day, a single signature or initials and date on the form is acceptable.

13. Several comments concerned the recordation of data by electronic means. The comments questioned how electronically recorded data could be considered legible.

CVM considers the initial electronic recordation of electronically captured data to be source data, and does not concur with the suggestion that electronically recorded data are not legible until they are reduced to a printed copy. They are legible so long as they can be translated by an appropriate computer program. In any event, CVM encourages the transcription of the electronically captured and stored data into a printed form. Such a printed copy should be noted as transcribed, identify the individual(s) present when the observations were made or the individual(s) responsible for the equipment generating the electronic data if the equipment operated unattended, the date the electronic observations were made, and the date and individual making the printed copy. Where data are electronically captured and immediately printed, but not electronically stored, the printout is considered the source data and should be handled as such.

14. Several comments requested clarification of the handling of animal patient records.

The first record of an observation is the source data. Where case report forms and animal patient records are used, CVM prefers the first record of observation to be on the case report form with transcription to the animal patient record. When circumstances will not permit this and the first record of an observation is on an animal patient record, that record is considered the source data and should be handled accordingly. Data transcribed to the case report form from the patient record may be submitted to the agency in support of a NADA. The guideline has been modified accordingly.

15. Many comments recommended that the source data be retained by the sponsors. The comments suggested that many investigators are not equipped to provide a secure storage area and that the sponsor has a greater interest in the maintenance of the records.

CVM suggests that the sponsor place a true, accurate, and complete copy of the source data in secure storage, so that if some unexpected event renders the source data unusable, this copy of the source data may be accepted later for validating the study. Should the investigator not have adequate facilities for secure storage of the records at his

place of business, the data may be stored in a secure location in close proximity to the study site; for example, practitioners who have few investigative animals under their care may consider using a local bank vault or independent archive. To facilitate bioresearch monitoring inspection of a clinical study, the source data should be maintained under the investigator's control for a period of 2 years following the date on which an NADA, which is supported by the results of this study, is approved for the new animal drug product, or at least 5 years following the date on which the results of the study are submitted to FDA in support of an NADA, whichever period is shorter. If the investigator wishes to relinquish responsibility for the source data at the end of this time period, CVM recommends that the sponsor store the data securely. When the source data are transferred between locations for any reason, CVM should be notified prior to the transfer. CVM has removed the suggested 42-day lead time for notification purposes.

16. Some comments requested that CVM delete the request for a memorandum of explanation whenever source data are transcribed.

CVM considers a signed note or memorandum to the files, explaining the events that rendered the source data sheet(s) unusable, to be a useful item of information that should be kept in the file together with the source data sheet and the transcribed data sheet.

17. Comments suggested that CVM separate the way "serious" and "nonserious" adverse drug effects are handled by the clinical investigator.

CVM has modified the guideline to state that the investigator should immediately inform the sponsor of adverse effects related to human, animal, or environmental safety, while adverse effects related to deviations from expected performance or behavior patterns not resulting in harm to the animal should be noted in the study record and be made a part of the investigator study report.

18. Several comments suggested that it was not practical to expect an investigator to maintain a record of communications.

CVM considers the maintenance of a truthful, accurate, and complete communication record, as described in the guideline, to be essential for the proper conduct and reporting of the study. The communication record provides a means to document the chronological record of guidance and instructions for the study.

19. There were many comments about the study report. Most of these comments concerned the independence of the report and the burdensome nature of report amendments once the investigator had submitted the final investigator study report. One comment requested that CVM modify the guideline to provide for the use of professional writers. Many comments requested that CVM delete the word "evaluate" from the description of the study report.

CVM continues to support an independent final study report prepared by the investigator and for which the investigator is solely responsible. CVM does not support sponsor review of the final investigator study report prior to its issuance by the investigator. The investigator's study report need not contain statistical analysis or provide any conclusions. Because the report should be limited to a description of the conduct of the study and a record of observations, the need for sponsor amendment after receipt of the final study report should be limited, and CVM hopes that report amendments are infrequent. CVM is concerned with the content of the report rather than the form of presentation, and does not believe that there is any need to assist the investigator by providing for sponsor review or the use of professional writers. Information contained on the case report forms need not be repeated in the text of the written report, but copies of the case reports should be attached to the report.

20. Comments requested clarification of the phrase "final disposition" with respect to animals involved in the study.

"Final disposition" of animals is a description of the next use of the animal following the end of the study, the withdrawal period, or any additional observation period. As an example, "final disposition" may be slaughter, return to owner, return to herd, euthanasia, or similar description.

IV. Comments Regarding Responsibilities of the Monitor

21. Some comments disagreed with the definition of "monitor" and suggested that the guideline, if followed, would unduly limit the involvement of the monitor in protocol and NADA development.

CVM has defined the term "monitor" in relation to the duties performed by such an individual. CVM is aware that the corporate organization of some sponsors may provide for an individual who is a monitor to have additional responsibilities. The definition of monitor does not preclude an individual from having additional responsibilities, but they should not interfere with the individual's responsibilities as monitor.

22. Comments suggested that CVM modify the guideline to provide for training "and/or" experience in the qualifications of the monitor. Also, comments pointed out that the monitor's function should be in quality "control" not "assurance."

Because § 511.1(b)(8)(ii) of FDA's regulation governing investigations of new animal drugs requires training "and" experience, CVM has not amended the definition to state training "and/or" experience. CVM agrees that the function of the monitor is in quality control and has modified the guideline to reflect this change.

23. Many comments suggested that requesting prestudy visits in a time period of 6 months was burdensome.

CVM has modified the guideline to state that the recommended time interval for prestudy visits is not less than 1 year prior to the initiation of the study. In addition, an investigator conducting certain studies with limited numbers of minor animal species or wild-free ranging animals may not need to be visited within this 1 year period.

24. Several comments were received regarding the recommendation that the monitor "should not bias or be a part of the record keeping or the data collection process * * *." Comments suggested that the monitor may need to train an investigator during an investigation or perform a certain procedure during the investigation.

CVM has not changed this section of the guideline. Any training of investigators in special procedures or instrumentation should be completed prior to the initiation of the study. Monitors are to oversee the progress of the study and to serve as a quality control point and should not be a part of the study.

25. There were many comments regarding the section entitled "Monitor as Liaison."

CVM has determined that this section did not lend clarity to the description of the monitor's responsibilities and was nonsubstantive; therefore, the section has been removed from the guideline.

26. Comments suggested modification of the monitor's certification statement.

This section has been modified so that the certification statement will be an affirmative statement, by the monitor, describing when the study was monitored, certifying that the monitoring was in accordance with the guideline, and stating that the findings of study visits were conveyed to the investigator and sponsor in a timely manner.

The final guideline reflects principles commonly recognized by the scientific community as appropriate and

necessary to collecting scientific data and is equally applicable to intramural and extramural research efforts.

Interested persons may submit written comments on the final guideline to the Dockets Management Branch (address above) or the contact person (see above). Comments will be considered in evaluating the need to amend the guideline. The final guideline and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 27, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-26567 Filed 10-28-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket Nos. 92F-0376, 92F-0377, and 91P-0175]

International Food Additives Council and FMC Corporation-Marine Colloids Division, Filing of Food Additive Petitions; Hercules, Inc.; Notice of Receipt of Citizen Petition; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing that two related food additive petitions have been filed, one on behalf of the International Food Additives Council (IFAC) and one on behalf of FMC Corporation-Marine Colloids Division (FMC), each requesting amendments to the food additive regulation for carrageenan. The petition submitted by IFAC proposes to amend the food additive regulations to exclude a product known as "Philippine natural grade (PNG) carrageenan" from compliance with this regulation; the petition submitted by FMC proposes to establish a new food additive regulation for PNG and to identify the product as "Processed eucheuma seaweed."

FDA is also announcing that it has received a citizen petition from Hercules, Inc., requesting that the agency establish a common or usual name for PNG carrageenan and name the product "Alkali-treated carrageenophyte." FDA is specifically requesting that interested persons comment on the citizen petition. The agency will consider all comments that it receives in determining what action should be taken to respond to these petitions.

DATES: Submit written comments by January 4, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that two related food additive petitions have been filed, one (FAP 1A4264; Docket No. 92F-0376) on behalf of the International Food Additives Council, c/o 1201 Pennsylvania Ave. NW., P.O. Box 7566, Washington, DC 20044, and one (FAP 1A4265; Docket No. 92F-0377) on behalf of FMC Corporation-Marine Colloids Division, c/o 1150 17th St. NW., Washington, DC 30036. The petition submitted by IFAC proposes to amend the food additive regulations for carrageenan in § 172.620 *Carrageenan* (21 CFR 172.620) to revise the description of the additive in § 172.620(a), but to retain the seaweed sources listed, and to include in § 172.620(b) the requirements for carrageenan adopted in the "Food Chemicals Codex," 3d ed. (1981), as amended by the 2d supp. (1986). These revisions would have the effect of excluding PNG carrageenan from compliance with the regulation, as amended. The petition submitted by FMC proposes to establish a new food additive regulation for the excluded PNG product and to identify the product as "Processed eucheuma seaweed."

The related citizen petition, submitted under § 10.30 (21 CFR 10.30) by Hercules, Inc., (91P-0175/CP1), requests that the agency establish a common or usual name for PNG carrageenan and to call the product "Alkali-treated carrageenophyte." In accordance with § 10.30, the agency is specifically requesting information and views on this citizen petition.

I. Background

FDA does not ordinarily include in food additive petition filing notices background information associated with such actions. However, because the two food additive petitions and the citizen petition have been submitted in response to the agency's recent determination that PNG carrageenan complies with the present regulation for carrageenan in § 172.620, the agency believes that the following background information will be beneficial to interested parties who wish to comment. Thus, the agency's rulemaking history on carrageenan and the basis for FDA's recent determination that PNG carrageenan complies with § 172.620 are summarized below.

A. The Carrageenan Petition and Regulation of 1961

FDA's regulations for carrageenan in § 172.620 and salts of carrageenan in § 172.626 (21 CFR 172.626) are the result of a 1961 food additive petition (FAP 1A0393) from Marine Colloids, Inc., proposing that carrageenan be permitted for use as a stabilizer, suspension agent, or gel former in foods such as ice cream and related frozen desserts, evaporated milk, low caloric liquid diet compounds, chocolate milk, fruit syrup, icings, relishes, dietetic jams and jellies, pie fillings, dessert gels, milk puddings, dry salad dressing mixes, and other foods where the properties imparted by carrageenan are desired or needed. The establishment of the safe use of carrageenan was based on literature submitted by the petitioner indicating that, historically, the eight seaweeds used in the manufacture of the additive had been used as human food for centuries. The petitioner also provided infrared spectroscopic data that demonstrated that the extracts derived from the eight Rhodophyceae red seaweeds (*Chondrus crispus*, *C. ocellatus*, *Eucheuma cottonii*, *E. spinosum*, *Gigartina acicularis*, *G. pistillata*, *G. radula*, and *G. stellata*) were essentially identical to extracts from *C. crispus*, which were added to the list of substances generally recognized as safe in the **Federal Register** of January 31, 1961 (21 FR 938 at 939), as *C. extract* (carrageenin) (21 CFR 182.7255).

Based upon its review of the petition, FDA issued in the **Federal Register** of October 6, 1961 (26 FR 9411), separate regulations for carrageenan (§ 172.620) and the salts of carrageenan (§ 172.626) to distinguish differences in the composition, processing, and identification on food labels for these two additives. Both regulations provided, however, general clearance for use of the additives as emulsifiers, stabilizers, or thickeners in foods, except for those standardized foods that do not provide for such use. The regulations for these additives were subsequently amended (30 FR 1254, February 5, 1965) to clarify the labeling requirements for the additives. The listing of the specific seaweed sources in the carrageenan regulation was intended to limit the seaweeds used to

those sources known to be safe for use in producing the additive.

B. The Carrageenan Proposal of 1972

In the Federal Register of August 2, 1972 (37 FR 15434), FDA issued a proposal to adopt a new specification for carrageenan and the salts of carrageenan to ensure that the food-grade additives had a minimum average molecular weight greater than 100,000. The proposed requirement was based upon the results of a rat feeding study using chemically degraded carrageenan that had an average molecular weight of 10,000. The study results showed toxic changes in cells of the intestinal tract and livers in nearly 100 percent of test rats. The proposal also reported the preliminary results of teratological studies with food-grade sodium carrageenan and calcium carrageenan in rats, mice, hamsters, and rabbits. These studies were reported to convey the potential for fetotoxic and teratological effects in these animals when the test substances were fed at high levels and administered by gavage in corn oil.

FDA subsequently withdrew its 1972 proposal in a notice published in the Federal Register of July 10, 1979 (44 FR 40343). In withdrawing the proposal, the agency explained that a subsequent study, in which carrageenan was fed in the diets of test animals, did not confirm the potential fetotoxic or teratogenic effects of carrageenan. The gavage studies, in which carrageenan suspended in corn oil had been forcibly fed by intragastric intubation to the animals, produced a physiological stress that was not imposed when the animals were allowed to consume carrageenan mixed in the diet. FDA maintained its concern, however, over the potential use of degraded carrageenan in food. The agency, therefore, stated that all food-grade carrageenans must meet the specifications of the "Food Chemicals Codex," 2d ed. (1972), as amended by the 2d supp. (1975), including a viscosity specification designed to ensure that food-grade carrageenans would have a minimum number-average molecular weight of 100,000. However, the agency intentionally chose not to adopt the monograph for carrageenan in the "Food Chemicals Codex," 2d ed., 3d supp. (1978), because the description of the seaweed sources in that supplement included seaweeds that were not authorized as sources of carrageenan under § 172.620.

C. PNG Carrageenan

Representatives from the Embassy of the Philippines contacted FDA in 1984 requesting the agency's opinion on whether a carrageenan product produced in the Philippines (called PNG carrageenan) could be used in food under § 172.620. They also expressed their concern that FDA might adopt a new specification, under consideration by the Joint Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives (JECFA) and the Food Chemicals Codex Committee of the National Academy of Sciences, that would limit the acid-insoluble matter for carrageenan to 2 percent. Because the Embassy representatives did not provide adequate information on the seaweed(s) used to manufacture PNG carrageenan and on the purity and identity of this product, FDA was unable to determine whether the product would comply with § 172.620. Therefore, the Embassy representatives were advised to provide complete information on the identity and safety of PNG carrageenan in the form of a food additive petition to the agency.

In July 1989, a representative of the Embassy of the Philippines contacted FDA requesting that the agency review a protocol prepared by the Seaweed Industry Association of the Philippines (SIAP). The protocol proposed a 90-day rat feeding study of PNG carrageenan. SIAP apparently believed that review of the protocol was an initial required step to gain both JECFA and FDA clearance for the use of PNG carrageenan as a food additive. To determine the toxicity testing required for food additive approval of PNG carrageenan, FDA requested that the Embassy supply the following information on PNG carrageenan: (1) A botanical description of the seaweed source(s) used to manufacture the product; (2) the process used to isolate PNG carrageenan; (3) its purification, characterization, and quality control procedures; and (4) its uses and purity specifications.

The information requested by FDA was provided to the agency on January 30, 1990. Based on its review of the information submitted, FDA determined that PNG carrageenan was produced from *E. cottonii* and *E. spinosum* seaweeds and that the product complied with the description for carrageenan in § 172.620 and the specifications for the additive adopted in the "Food Chemicals Codex," 2d ed., 2d supp. (1975). The agency also determined that the only significant difference between PNG carrageenan and traditional carrageenan is that PNG carrageenan contains more cellulose (as much as 18 percent), compared to the traditional carrageenan product, which is expected to contain less than 2 percent cellulose. Therefore, in a letter dated July 12, 1990, the Director, Division of Food and Color Additives, Center for Food Safety and Applied Nutrition, FDA, informed SIAP and the Embassy of the Philippines that, based on a review of the information submitted on behalf of SIAP by the Philippine Embassy, PNG carrageenan satisfies the requirements in § 172.620 and may be used in food in the United States within the limits of that regulation.

D. PNG Carrageenan Reevaluation

Subsequent to FDA's decision, representatives from Hercules, Inc., and IFAC and Marinalg International, trade associations representing carrageenan manufacturers, challenged the agency's conclusion that PNG carrageenan complies with the regulation for carrageenan in § 172.620. The associations also requested that FDA rescind its decision of July 12, 1990. To ensure that the agency had thoroughly considered all relevant information relating to the July 12, 1990, decision, the Director, Division of Food and Color Additives, agreed to conduct a further review of the July 12, 1990, decision. The Division Director also requested that the interested parties that had contacted FDA about the PNG carrageenan decision submit, in writing, all information relevant to the decision that the PNG product may be used in food in the United States in accordance with § 172.620.

After reviewing all of the information on PNG carrageenan provided by IFAC, Marinalg International, Hercules, Inc., and the SIAP, the Division Director affirmed, in letters dated July 8, 1991, the Division's previous decision that PNG carrageenan complies with § 172.620 and may be used in food in the United States. The Division Director's decision was based upon an interpretation of the plain language of § 172.620, and included a review of the safety of PNG carrageenan. The Division Director acknowledged that there are differences in the extraction procedures used to manufacture PNG carrageenan and carrageenan that is made by the traditional process, but concluded that these differences have no significance with respect to the safety of the final products. In addition, the Division Director stated that there is no evidence that PNG carrageenan contains contaminants from its manufacture or processing that affect its suitability for food use or require additional toxicological testing. The Division Director also noted that FDA intentionally rejected the carrageenan specifications published in the "Food Chemicals Codex," 2d ed., 3d supp.,

because the list of seaweeds used to manufacture carrageenan set out in the 2d ed., 3d supp., includes unauthorized seaweed sources. Finally, the Division Director acknowledged that there are advantages to having, to the extent possible, uniform international standards for food additives. He noted, however, that the JECFA specifications for carrageenan authorize the use of seaweeds that have not been approved in the United States, and that these specifications do not distinguish between carrageenan, salts of carrageenan, furcelleran, and salts of furcelleran, for which FDA has promulgated separate food additive regulations. Thus, he stated that the agency is concerned that the JECFA specifications raise questions regarding the safety of the seaweeds used to manufacture carrageenan and may be the basis for mislabeled food products being imported into the United States.

In accordance with 21 CFR 10.75, IFAC and Marinalg International requested a review of the Division Director's letters of July 8, 1991, by the Director, Office of Compliance. In letters issued on August 3, 1992, the Director, Office of Compliance affirmed the decision of the Director, Division of Food and Color Additives.

II. Environmental Impact

The two food additive petitions and the citizen petition to establish a common or usual name have requested categorical exclusions, under 21 CFR 25.24, from FDA's ordinary requirements to prepare environmental assessments for such petitions. The agency gives notice that it tentatively agrees with the petitioners' statements that these petitions include only technical changes for additives that are currently marketed, and that the petitions will not have an impact on the environment because there will be no change in the intended uses of the additives.

III. Comments

Interested persons may, on or before January 4, 1993, submit to the Dockets Managements Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number(s) found in brackets in the heading of this document. The citizen petition and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 26, 1992.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-26512 Filed 10-30-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket No. 89N-0416]

Eon Labs Manufacturing, Inc.; Approval Withdrawn

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 4 abbreviated antibiotic drug applications (AADA's), portions of 1 AADA, and 14 abbreviated new drug applications (ANDA's) held by Eon Labs Manufacturing, Inc., 227-15 North Conduit Ave., Laurelton, NY 11413 (Eon). These applications were previously held by Vitarine Pharmaceuticals, Inc. (Vitarine). FDA is withdrawing these applications because the applications contain untrue statements of material fact and the drugs covered by these applications lack substantial evidence of effectiveness. The request for hearing on these products has been withdrawn. FDA is also rescinding a proposal to withdraw approval of portions of an AADA. FDA has concluded there is no evidence to support withdrawal of the product covered by this portion of the AADA.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Jean Olson, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 3, 1989 (54 FR 40740), as corrected by a notice published December 6, 1989 (54 FR 50436), FDA offered an opportunity for a hearing (NOOH) on a proposal to withdraw approval of the applications listed below, and six other applications, which were held by Vitarine. Vitarine and the following applications were subsequently purchased by Eon:

AADA 61-471; Tetracycline Hydrochloride 500 milligrams (mg) Capsules and Tetracycline Hydrochloride 250 mg Capsules

AADA 62-159; Cephalexin 250 mg and 500 mg Capsules

AADA 62-227; Doxycycline Hyclate 100 mg Capsules

AADA 62-780; Doxycycline Hyclate 50 mg Capsules

AADA 62-910; Clindamycin Hydrochloride 75 mg and 150 mg Capsules

ANDA 71-360; Triamterene 75 mg abd Hydrochlorothiazide 50 mg Tablets

ANDA 71-531; Indomethacin ER 75 mg Capsules

ANDA 71-564; Orphenadrine Compound Tablets, Single Strength

ANDA 71-565; Orphenadrine Compound Tablets, Double Strength

ANDA 71-711; Indomethacin 25 mg Capsules

ANDA 71-712; Indomethacin 50 mg Capsules

ANDA 71-832; Trimipramine Maleate 25 mg Capsules

ANDA 71-833; Trimipramine Maleate 50 mg Capsules

ANDA 71-834; Trimipramine Maleate 100 mg Capsules

ANDA 71-901; Baclofen 10 mg Tablets

ANDA 71-902; Baclofen 20 mg Tablets

ANDA 72-167; Desipramine Hydrochloride 10 mg Tablets

ANDA 72-179; Mefenamic Acid 250 mg Capsules

ANDA 72-254; Desipramine Hydrochloride 150 mg Tablets

The basis for the proposal was that the applications contain untrue statements of material fact and that the drugs covered by the applications lack substantial evidence of effectiveness. The proposal stemmed from discovery of discrepancies between records retained by the manufacturer and records submitted in the applications. FDA concluded that the discrepancies raised serious questions about the reliability and accuracy of the data submitted to support approval of the applications. The agency also concluded that the discrepancies indicated that the applications contain untrue statements of material fact and that the drugs covered by the applications lack substantial evidence of effectiveness.

On November 1, 1989, Vitarine submitted a hearing request for the applications listed above, and six other applications. On December 4, 1989, Vitarine submitted data, information, analyses, and views in support of its request for hearing. In that submission, Vitarine withdrew its request for hearing for six products. FDA withdrew approval of these six applications in the **Federal Register** of March 9, 1990 (55 FR 8995). In letters dated August 24, 1992, after its purchase of the 19 applications listed above, Eon requested withdrawal of all remaining applications covered by the NOOH, except those portions of AADA 61-471 that pertain to Tetracycline Hydrochloride 250 mg Capsules, and withdrew Vitarine's request for hearing for these products.

Previously, the Center for Drug Evaluation and Research had informed Vitarine that there was no evidence to support withdrawal of its Tetracycline Hydrochloride 250 mg Capsules and that it would not proceed with the withdrawal of this product.

I. Withdrawal of Approval

The Director of the Center for Drug Evaluation and Research under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 5.82), finds that the applications listed above, except those portions of AADA 61–471 that pertain to Tetracycline Hydrochloride 250 mg Capsules, contain untrue statements of material fact (21 U.S.C. 355(e)(5)) and that, on the basis of new information before him with respect to the drugs, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling (21 U.S.C. 355(e)(3)). Therefore, approval of the applications listed above, and all their amendments and supplements, except for those portions of AADA 61–471 that pertain to Tetracycline Hydrochloride 250 mg Capsules, is hereby withdrawn effective November 2, 1992. Shipment in interstate commerce of the products for which FDA has withdrawn approval will then be unlawful.

Section 505(j)(6)(C) of the act requires that FDA remove from its approved product list (FDA's publication "Approved Drug Products with Therapeutic Equivalence Evaluations") (the list) any drug whose approval was withdrawn for grounds described in the first sentence of section 505(e) of the act. Such grounds apply to the withdrawal of approvals announced in this notice. Notice is hereby given that the drugs covered by the applications for which FDA has withdrawn approval will be removed from the list.

II. Rescission of Proposal to Withdraw Approval

The Center for Drug Evaluation and Research has reviewed the company's submission concerning those portions of AADA 61–471 that pertain to Tetracycline Hydrochloride 250 mg Capsules, and other available information, and concludes that no evidence exists to support the withdrawal of the drug product's approval. Accordingly, the proposal to withdraw approval of those portions of AADA 61–471 that pertain to Tetracycline Hydrochloride 250 mg Capsules is hereby rescinded.

Dated: October 23, 1992.

Gerald F. Meyer,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 92-26508 Filed 10–30–92; 8:45 a.m.]

BILLING CODE 4160-01-F

Morantel Tartrate for Goats; Availability of Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of target animal safety and effectiveness, human food safety, and environmental data to be used in support of a new animal drug application (NADA) or supplemental NADA for the use of morantel tartrate as an anthelmintic in Type C goat feed. The data, contained in Public Master File (PMF) 5366, were compiled under Interregional Research Project No. 4 (IR–4), a national agriculture program for obtaining clearances for use of agricultural products for minor species or special uses.

ADDRESSES: Submit NADA's to the Document Control Unit (HFV–199), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Naba K. Das, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8659.

SUPPLEMENTARY INFORMATION: The use of morantel tartrate in a Type A article to make a Type C goat feed is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug, it is subject to section 512 of the act (21 U.S.C. 360b). Goats are a minor species under 21 CFR 514.1(d)(1)(ii). Therefore, the use of morantel tartate in goats must be covered by an approved NADA or supplemental NADA.

The IR–4 Project, Southern Region, University of Florida, College of Veterinary Medicine, Gainesville, FL 32611, has provided data and information demonstrating safety and effectiveness to the target animal and human food safety for the use of morantel tartrate Type A articles to make Type C goat feeds for the removal and control of mature gastrointestinal nematodes *Haemonchus contortus*, *Teladorsagia circumcincta*, and *Trichostrongylus axei* in goats. IR–4 also provided an environmental assessment of possible impacts at the site of use of the animal drug product. The data and information are contained in PMF 5366.

Sponsors of NADA's or supplemental NADA's may, without further authorization, reference the PMF to support approval under 21 CFR 514.1(d). An NADA or supplemental NADA must include, in addition to a reference to the PMF, animal drug labeling and other information needed for approval, such as additional human food safety data supporting extrapolation from a major species in which the drug is currently approved, or authorized reference to such data, and data concerning manufacturing methods, facilities and controls, and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact Naba K. Das (address above).

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 21, 1992.

Gerald B. Guest

Director, Center for Veterinary Medicine.

[FR Doc. 92-26511 Filed 10–30–92; 8:45 a.m.]

BILLING CODE 4160-01-F

National Institutes of Health

National Heart, Lung, and Blood Institute; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be open to the public to discuss administrative details relating to Special Emphasis Panel (SEP) business for approximately one-half hour at the beginning of the first session of each meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion,

and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, National Heart, Lung, and Blood Institute, Westwood Building, room 7A15, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–7548, will furnish summaries of the meetings and rosters of panel members. Substantive program information may be obtained from each Scientific Review Administrator whose telephone number is provided. Since it is necessary to schedule meetings well in advance, it is suggested that anyone planning to attend a meeting contact the Scientific Review Administrator to confirm the exact date, time, and location.

Name of Panel: NHLBI SEP on SCOR Programs in Acute Lung Injury, Cardiopulmonary Disorders in Sleep, and Cystic Fibrosis.

Scientific Review Administrator: Dr. Matthew Starr, Telephone: (301) 496–7351.

Date of Meeting: November 8–10, 1992.

Place of Meeting: The Bethesda Ramada Inn, Bethesda, MD.

Time of Meeting: 8 p.m.

Name of Panel: NHLBI SEP Review for Transfusion Safety Study: HIV Immunopathology (Telephone Conference).

Scientific Review Administrator: Dr. David Monsees, Telephone: (301) 496–7361.

Date of Meeting: November 11, 1992.

Place of Meeting: Bethesda Hyatt Regency, Bethesda, MD.

Time of Meeting: 10 a.m.

Name of Panel: NHLBI SEP for the Review of Program Project Grant Applications in Cardiovascular, Pulmonary, and Blood Research.

Scientific Review Administrator: Dr. Robert M. Chasson, Telephone: (301) 496–7917.

Dates of Meeting: December 2, 1992.

Place of Meeting: Chevy Chase Holiday Inn, Chevy Chase, MD.

Time of Meeting: 7 p.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: October 21, 1992

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–26483 Filed 10–30–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Institute on Drug Abuse for November 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Director, NIH, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301/443–2755).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee Name: Biobehavioral/Clinical Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: November 12–13, 1992.

Place: Haytt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: November 12, 9 a.m. to 9:30 a.m.

Closed: 9:30 a.m., November 12 to adjournment on November 13

Contact: Iris W. O'Brien, room 10–42, Parklawn Building, Telephone (301) 443–2620.

Committee Name: Sociobehavioral Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: November 17–19, 1992.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: November 17, 9 a.m. to 9:30 a.m.

Closed: 9:30 a.m., November 17 to adjournment on November 19.

Contact: H. Noble Jones, room 10–22, Parklawn Building, Telephone (303) 443–9042.

(Catalog of Federal Domestic Assistance Program Numbers: 93:277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: October 26, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–26487 Filed 10–30–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on December 1–2, 1992 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina. The meeting will be open to the public on December 1 from 8:30 a.m. until approximately 8:45 a.m. and from 1 p.m. until approximately 2 p.m. for general discussion. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public December 1, from approximately 9 a.m. until Noon and from 2 p.m. to adjournment on December 2, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Scientific Review Administrators, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919–541–7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: October 26, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–26486 Filed 10–30–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–680–01–4130–02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management

and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0104), Washington, DC 20503, telephone (202) 395-7340.

Title: Surface Management of Public Lands Under the U.S. Mining Laws (43 CFR 3809), and Exploration and Mining, Wilderness Review Program (43 CFR 3802).

OMB Approval Number: 1004-0104.

Abstract: Sections 302(b) and 603(c) of the Federal Land Policy and Management Act of 1976 require that "In managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the [public] lands." The 43 CFR 3802 and 43 CFR 3809 regulations have been promulgated to regulate surface disturbance and ensure reclamation on mining claims and sites located under the mining laws on public land, including areas being considered for wilderness, under the administration of the Bureau of Land Management.

Bureau Form Number: None.

Frequency: Once.

Description of Respondents: Respondents may range from an individual to multi-national corporations.

Estimated Completion Time: 11 hours.

Annual Responses: 2,400.

Annual Burden Hours: 26,400.

Bureau Clearance Officer (Alternate): Gerri Jenkins, (202) 653-6105.

Hillary A. Oden,

Assistant Director for Energy and Mineral Resources.

[FR Doc. 92-26501 Filed 10-30-92; 8:45 am]

BILLING CODE 4310-84-M

[WO 220-93-4320-03]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0041), Washington, DC 20503, Telephone (202) 395-7340.

Title: Grazing Preference Statement.

OMB Approval Number: 1004-0041.

Abstract: This form is used as a grazing permit application which states the recognized grazing preference (use) as a reminder and allows the applicant to show requested changes for the coming grazing season.

Bureau Form Number: 4130-3.

Frequency: Annually.

Description of Respondents: Livestock grazing permittees using the public lands.

Estimated Completion Time: 14 minutes.

Annual Responses: 7,665.

Annual Burden Hours: 1,794.

Bureau Clearance Officer (Alternate): Gerri Jenkins, (202) 653-6105.

Dated: September 25, 1992.

Michael J. Penfold,

Assistant Director, Land and Renewable Resources.

[FR Doc. 92-26503 Filed 10-30-92; 8:45 am]

BILLING CODE 4310-84-M

[NV-010-93-4140-01]

Elko District Advisory Council Meeting

SUMMARY: Notice is hereby given that the District Advisory Council for the Elko District, Nevada, will meet on November 24, 1992, in accordance with 43 CFR 1784.6-4. The meeting will begin at 8 a.m. in the District Conference Room at 3900 E. Idaho, in Elko, and may last into the early afternoon.

The meeting agenda will include:

1. A brief discussion of the Northwest Pipeline;
2. An overview of rangeland fire rehabilitation;
3. A briefing on mine expansion in the Carlin Trend as well as a summary of associated dewatering issues;
4. An outline of current land exchanges on the Elko District;
5. An overview of the Proposed Wells RMP Wild Horse Amendment in association with the Draft Antelope Valley Herd Management Plan; focus will be on selective removals and fertility control.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and members of the public may make statements before the Council from 8:30-9 a.m. Persons wishing to make a statement to the Council should contact Lauren Mermejo at the District Office at (702) 753-0200 no later than November 20.

Dated: October 21, 1992.

Rodney Harris,

Elko District Manager.

[FR Doc. 92-26437 Filed 10-30-92; 8:45 am]

BILLING CODE 4310-HC-M

[WY-930-4210-06; WYW 120797]

Public Meeting on Withdrawal; Ashenfelder Basin Research Natural Area; Medicine Bow National Forest, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming meeting on a Forest Service withdrawal application. This meeting will provide the opportunity for public involvement in the proposed withdrawal of National Forest Service System land for the protection of research opportunities in natural ecological processes near Douglas, Wyoming. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: Meeting will be held on December 2, 1992, at 7 p.m.

MEETING ADDRESS: Converse County Courthouse, 107 North 5th Street, Douglas, Wyoming.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6127, or Miscese Gagen, Douglas Ranger District, Forest Service, 809 South 9th Street, Douglas, Wyoming 82633, 307-358-4690.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Ashenfelder Basin Research Natural Area published in 55 FR 33964 on August 20, 1990.

This meeting will be open to all interested persons, including those who desire to be heard in person, and those who desire to submit written statements on this subject. All written comments should be submitted to the Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, by January 8, 1993.

Dated: October 27, 1992.

James K. Murkin,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 92-26488 Filed 10-30-92; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Great Lakes Nonindigenous Aquatic Nuisance Species Panel; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Great Lakes Panel (Panel) on Nonindigenous Species, a regional committee of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed, including an information and education strategy; the role of the Panel in coordinating management activities; Panel policy statement; and an update on the annual report to the Task Force.

TIME AND DATE: The Great Lakes Panel on Nonindigenous Species will meet from 10 a.m. to 4:30 p.m. on Thursday, November 19, 1992.

PLACE: The meeting will be held at the Great Lakes Environmental Research Laboratory, 2205 Commonwealth Blvd., Ann Arbor, MI 48105.

STATUS: The meeting is open to the public. Interested persons may make oral statements to the Panel or may file written statements for consideration.

CONTACT PERSON FOR MORE INFORMATION: Katherine Glassner-Schwayder, Great Lakes Commission, The Argus Building, 400 Fourth Street, Ann Arbor, MI, at (313) 665–9135.

SUPPLEMENTARY INFORMATION: Pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. app.), this notice announces a meeting of the Great Lakes Panel on Nonindigenous Aquatic Nuisance Species, a regional committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meeting will be maintained by Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, VA 22203 and the Great Lakes Panel Coordinator, Great Lakes Commission, the Argus Building, 400 Fourth Street, Ann Arbor, MI, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: 26 October, 1992.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 92–26439 Filed 10–30–92; 8:45 am]

BILLING CODE 4310–55–M

Aquatic Nuisance Species Task Force Ruffe Control Committee; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force. The Committee will meet to continue development of a plan for control of ruffe as described in the draft proposed Aquatic Nuisance Species Program.

TIME AND DATE: The Ruffe Control Committee will meet from 9 a.m. on Tuesday, November 17, 1992, to 12 noon on Wednesday, November 18, 1992.

PLACE: The meeting will be held in room 571 in the Bishop Whipple Federal Building, 1 Federal Drive, Fort Snelling MN.

STATUS: The meeting is open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration.

CONTACT PERSON FOR MORE INFORMATION: Tom Busiahn, Ruffe Control Committee Chairperson, U.S. Fish and Wildlife Service, Fishery Resources Office, 2800 Lake Shore Drive East, Ashland, WI 54806 at (715) 682–6185.

SUPPLEMENTARY INFORMATION: Pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. app.), this notice announces a meeting of the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meeting will be maintained by Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, VA 22203 and the Chairperson, Ruffe Control Committee, U.S. Fish and Wildlife Service, Fishery Resources Office, 2800 Lake Shore Drive East, Ashland, WI 54806, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 28, 1992.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 92–26440 Filed 10–30–92; 8:45 am]

BILLING CODE 4310–55–M

Aquatic Nuisance Species Task Force; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed during the Task Force meeting including: Progress of the Ruffe Control Committee, an update on the intentional introductions policy review, an update on the ballast water/shipping initiatives, the Aquatic Nuisance Species Program, and announcement of upcoming events.

TIME AND DATE: The Aquatic Nuisance Species Task Force will meet from 8 a.m. to 3 p.m. on Friday, November 20, 1992.

PLACE: The Aquatic Nuisance Species Task Force meeting will be held at the Best Western-Domino Farms, 3600 Plymouth Road, Ann Arbor, MI 48105.

STATUS: The meeting is open to the public. Interested persons may make oral statements to the Task Force, or may file written statements for consideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Gross, Aquatic Nuisance Species Task Force Coordinator, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203 at (703) 358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. app.), this notice announces a meeting of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meeting will be maintained by the Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, VA 22203 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 26, 1992.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 92–26441 Filed 10–30–92; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Advisory Commission of the San Francisco Maritime National Historical Park

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Advisory Commission of the San Francisco Maritime National Historical Park will be held from 11 a.m. to 12 noon and 1 p.m. to 5 p.m. (P.S.T.) on Thursday, November 19, 1992 in Building A, Fort Mason, San Francisco, California. The Advisory Commission was established for a period of ten years by Public Law 100–348 to provide advice on the management and development of the park.

The main agenda item at this public meeting will be the presentation of progress reports by the various committees of the Advisory Commission. These committees are: Ships; Buildings and Grounds; Marketing; Planning and Development; Collections, Exhibits and Library; and Governmental Relations. The afternoon session will be devoted to hearing comments from the public, and election of new Advisory Commission Officers.

The meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval by the Commission. Upon approval, a transcript will be available by contacting the Superintendent, San Francisco Maritime National Historical Park, Fort Mason, Building E, Second Floor, San Francisco, California 94123.

Dated: October 21, 1992.

W.H. Patton,

Acting Regional Director, Western Region.

[FR Doc. 92–26465 Filed 10–30–92; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council; Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), an announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council.

DATES: The meeting begins on Tuesday, November 17, 1992, at 1 p.m. and reconvenes on Wednesday, November 18, 1992, at about 2 p.m.

ADDRESSES: The meeting will be held at the Hyatt Newporter Hotel, 1107 Jamboree Road, Newport Beach, California 92660.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley (Stan) W. Gappa, Colorado River Salinity Program Coordinator, Bureau of Reclamation, D–5003, P.O. Box 25007, Denver, CO 80225; telephone: 303–236–6782.

SUPPLEMENTARY INFORMATION: Advisory Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Department of the Interior, the Department of Agriculture, and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss Colorado River Basin Salinity Control Activities and the content of their annual report

The meeting of the Advisory Council is open to the public. Any member of the public may file a written statement with the Council before, during, or after the meeting in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

Dated: October 9, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–26529 Filed 10–30–92; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–342]

Certain Circuit Board Testers; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on September 25, 1992, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Integri-Test Corporation, 77 Modular Avenue, Commack, New York 11725. The complaint and motion for temporary relief were supplemented on October 14, 1992. The complaint, as supplemented, alleges violations of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain circuit board testers by reason of alleged infringement of claims 1, 9, and 28 of U.S. Letters Patent 4,565,966, and that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of infringing circuit board testers during the course of the Commission's investigation.

ADDRESSES: The complaint and the motion for temporary relief, except for any confidential information contained therein, 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., room 112 Washington, DC 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12. The authority for provisional acceptance of the motion for temporary relief is contained in § 210.24(e) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.24(e).

SCOPE OF INVESTIGATION: Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on October 26, 1992, *Ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation or the sale within the United States after importation of certain circuit board testers by reason of direct, contributory, or induced infringement of claims 1, 9, or 28 of U.S. Letters Patent 4,565,966, and

whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to § 210.24(e)(8) of the Commission's Interim Rules of Practice and Procedure, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, be provisionally accepted and referred to an administrative law judge.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Integri-Test Corporation, 77 Modular Avenue, Commack, New York 11725.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Bath Scientific, Ltd., Lysander Road, Bowerhill Estates, Melksham, Wiltshire, United Kingdom SN126SP.

BSL North America, 152 West Grove Street, Middleboro Massachusetts 02346.

(c) Kent R. Stevens, Esq., Office of Unfair Import, Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401L, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and temporary relief proceedings so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with §§ 210.21 and 210.24 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21 and 210.24. Pursuant to §§ 201.16(d), 210.21(a), and 210.24(e)(9) of the Commission's Rules, 19 CFR 210.16(d), 210.21(a), and 210.24(e)(9), such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against such respondent.

Issued: October 27, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-26528 Filed 10-30-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-33 (Sub-No. 70)]

Union Pacific Railroad Co.—Abandonment—Wallace Branch, ID; Notice of Findings

The Commission has issued a certificate authorizing Union Pacific Railroad Company (UP) to abandon its Wallace Branch line, extending 71.5 miles from milepost 16.5 near Plummer to milepost 80.4 and/or 0.00 near Wallace, and then to milepost 7.6 near Mullan, in Benewah, Kootenai, and Shoshone Counties, Idaho, subject to environmental conditions and also a public use condition under 49 U.S.C. 10906. 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: "Section of Legal Counsel, 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.

Decided: October 15, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Vice Chairman McDonald, joined by Commissioner Simmons, dissented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-26522 Filed 10-30-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32164]

Southern Pacific Transportation Co.; Trackage Rights Exemption; Burlington Northern Railroad Co.

Burlington Northern Railroad Company (BN) has agreed to grant overhead and local trackage rights to Southern Pacific Transportation Company (SPT) between Southern Sherman, TX at BN milepost 650.01 (plus 1231.3 feet connecting with SPT milepost 324.39) and Sherman, TX at BN milepost 646.39, a distance of approximately 3.85 miles.[1] The trackage rights will enable SPT to preserve its commercial relations and operations in the Sherman and South Sherman area. The transaction will be effective contingent upon the closing of the sale in the related proceeding.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, Room 846, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 27, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-26521 Filed 10-30-92; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding is related to the petition for exemption in Finance Docket No. 32157, *Burlington Northern Railroad Company—Purchase Exemption—Southern Pacific Transportation Company*, filed October 13, 1992. There, BN seeks to purchase SPT's line of railroad from SPT milepost 324.39 at South Sherman, TX to SPT milepost 337.84 at Denison, TX, a distance of approximately 13.45 miles.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/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/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/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

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 the uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ([202] 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, 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 3001, Washington, DC 20503 ([202] 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Pension Welfare Benefits Administration.

Employee Benefits Supplement (April 1993 Supplement to the Current Population Survey).

On occasion.

Individuals or households.

29,000 respondents; .207 average hours per response; 6,000 total hours; 2 forms CPS–1, CPS–684.

These data will measure both the extent to which employers (private and government) offer retirement, disability, and sick leave benefits, and the extent to which workers choose to participate. They will also provide characteristics of persons who do and do not participate in these employer-sponsored programs.

Revisions

Employment and Training Administration.

Job Corps Placement and Assistance Record.

1205–0035: ETA 678.

On occasion.

State or local governments; Businesses or other for-profit 60,000 respondents; 30 minutes per response; 30,000 total hours; 1 form.

This information is used in evaluating overall program effectiveness. It provides placement agencies with basic information regarding terminated students and provides the Department of Labor with information on the status of students subsequent to termination from the program.

Extension

Employment and Training Administration.

Occupational Code Request.

1205–0137; ETA 741.

As needed.

State or local governments.

255 respondents; 30 minutes per response; 128 total hours; 1 form Provided as public service to obtain occupational codes and titles for jobs not included in the Dictionary of Occupational Titles.

Employment Standards Administration.

OFCCP Recordkeeping/Reporting: Supply and Service.

1215–0072.

Annually.

State or local governments; Small businesses or organizations; Businesses or other for-profit; Non-profit institutions.

61,420 respondents; 1.0602 number per respondent; 11.4045 average hours per response; 742,664 burden hours.

89,093 recordkeepers; 162.0776 average hours per recordkeeper; 14,439,980 burden hours.

Total hours 15,182,644.

Recordkeeping and reporting obligations incurred by Federal contractors/subcontractors under E.O. 11246, section 503 of the Rehabilitation Act of 1973, and 38 U.S.C. 2012 are necessary to substantiate compliance with nondiscrimination and affirmative action requirements monitored by the Office of Federal Contract Compliance Programs. The Scheduled Letter portion of this clearance has been revised; however, this change does not affect the substance or method of collection.

Employment Standards Administration.

Application for Federal Certificate of Age.

1215–0083; WH–14.

On occasion.

Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.

500 respondents; 10½ minutes per response; 88 total hours; 1 form section 3(1) of the Fair Labor Standards Act (FLSA) provides that an employer may protect against unwitting employment of oppressive child labor by obtaining a certificate of age certifying that a youth meets the FLSA minimum age requirement. The WH form 14 is an application for a Federal Certificate of Age.

Employment Standards Administration.

Annual Report of Earnings.

1215–0136; CM–777.

Annually.

Individuals or households.

570 respondents; 11 minutes per response; 104 total hours; 1 form Black Lung Beneficiaries' Annual Report of Earnings is used to adjust benefits disbursed for the proceeding year and to estimate adjustments, if any, for the following year due to excess earnings.

Mine Safety and Health Administration.

Respirator Program Records.

1219–0048.

On occasion.

Businesses or other for-profit; Small businesses or organizations.

Written standard operating procedures: 600 responses 5 hours per response; 3,000 total burden hours.

Respirator fit testing records: 1,500 responses; 15 minutes per response; 375 total burden hours.

Record date of inspections of emergency-use respirators: 750 responses; 2 seconds per response × 12 inspections × 2 respirators; 10 total burden hours.

Record results of inspections of emergency-use respirators: 30 responses; 15 seconds; 1 burden hour.

Total Hours 3,386.

Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. Mine operators are also required to conduct fit testing of respirator devices and to keep records of the results. Fit-testing records are used to ensure that a respirator worn by an individual received a tight fit. Emergency-use respirators are required to be inspected monthly to assure that they are in satisfactory working condition.

Mine Safety and Health Administration.

Product Testing by Applicant or Third Party.

1219-0100.

Businesses or other for-profit; Small businesses or organizations.

Regulation	Respondents	Frequency	Per Response	Total
30 CFR 7 Subpart B	77	One-time	.5 hours	39 hours.
Application Procedure: 30 CFR 7 Subpart B	57	Yearly	.25 hour	14 hours.
Distribution: 30 CFR 7 Subpart C	36	One-time	1.25 hours	45 hours.
Application Procedure: 30 CFR 7 Subpart C	15	1.5 times yearly	.25 hours	6 hours.
Distribution: 30 CFR 7 Subpart C	15	One-time ongoing	2 hours	30 hours.
Approval Checklist: 30 CFR 7 Subpart D	1	One-time	4 hours	4 hours.
Application: 30 CFR 7.7(d)	4	One-time	.25 hours	1 hour.
30 CFR 7	4	One-time	2 hours	8 hours.
Total Hours				147

This information collection contains requirements for applications for MSHA approval of products and equipment that are tested by an applicant or third party.

Occupational Safety and Health Administration.

1218-0145.

Formaldehyde.

On occasion.

Businesses or other for-profit; Small businesses or organizations 166 respondents; .08 hours per response; 13 total hours; 0 form. The purpose of the Formaldehyde standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to Formaldehyde. The standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Formaldehyde standard.

Reinstatement

Employment and Training Administration.

Application for Alien Employment Certification.

1205-0015; ETA 750 A&B; ETA 4748.

On occasion.

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 750 A&B	Individuals or households, Businesses or other for-profit	54,000	On occasion	2 hours 30 minutes.
ETA 4748	State or local governments	54,000	On occasion	18 minutes.

Total Hours 104,000.

The ETA 750 provides the necessary information required to implement the labor certification process while the ETA 4748 (a derivative form in part, developed from certain ETA 750 information) serves as the only record the SESA has about the application. This record is used to compile internal reports to management as well as answering public inquiries about the status of a case.

Signed at Washington, DC this 27th day of October, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92-26527 Filed 10-30-92; 8:45 am]

BILLING CODE 4510-30-M; 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

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 Dance Advisory Panel (Grants to Dance Presenters Section) to the National Council on the Arts will be held on November 16-17, 1992 from 9 a.m.-8 p.m. and November 18 from 9 a.m.-5 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 November 18 from 2 p.m.-5 p.m. The topic will be policy discussion.

The remaining portions of this meeting on November 16-17 from 9 a.m.-8 p.m. and November 18 from 9 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, as amended, 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.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

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) 682–5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–26490 Filed 10–30–92; 8:45 am]

BILLING CODE 7537-01-M

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 Design Arts Advisory Panel (Project Grants for Individuals, Individual Grants for Design Innovation, USA Fellowships and International Exchange Fellowships US/Japan Sections) to the National Council on the Arts will be held on November 18–19, 1992 from 9 a.m.–7 p.m. and November 20 from 9 a.m.–4 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 18 from 9 a.m.–10 a.m. and November 20 from 3 p.m.–4 p.m. The topics will be welcoming remarks, policy discussion and guidelines review.

The remaining portions of this meeting on November 18 from 10 a.m.–7 p.m., November 19 from 9 a.m.–7 p.m., and November 20 from 9 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, 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.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania, 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) 682–5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations National Endowment for the Arts.

[FR Doc. 92–26491 Filed 10–30–92; 8:45 am]

BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collections: Collection Maintenance Section) to the National Council on the Arts will be held on November 20, 1992 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 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portion of this meeting from 10 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 of November 21, 1991, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

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 lest 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) 682–5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–26492 Filed 10–30–92; 8:45 am]

BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Care of Collections: Conservation Section) to the National Council on the Arts will be held on November 17–18, 1992 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 November 17 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on November 17 from 10 a.m.–5:30 p.m. and November 18 from 9:15 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, 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.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

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) 682-5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-26493 Filed 10-30-92; 8:45 am]

BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on November 16, 1992 from 9 a.m.-6 p.m., November 17 from 9 a.m.-7 p.m., and November 18-19 from 9 a.m.-6 p.m. in room M-09, and November 20 from 9 a.m.-4 p.m. in room 415 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 20 from 2 p.m.-4 p.m. for policy discussion and guidelines review.

The remaining portions of this meeting on November 16 from 9 a.m.-6 p.m., November 17 from 9 a.m.-7 p.m., November 18-19 from 9 a.m.-6 p.m., and November 20 from 9 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, 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.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

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) 682-5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-26494 Filed 10-30-92; 8:45 am]

BILLING CODE 7537-01-M

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 Visual Arts Advisory Panel (Visual Artists Organizations Section) to the National Council on the Arts will be held on November 16-19, 1992 from 9 a.m.-9 p.m. and November 20 from 9:30 a.m.-5 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 November 20 from 3:30 p.m.-5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on November 16-19 from 9 a.m.-9 p.m. and November 20 from 9:30 a.m.-3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 21, 1991, 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.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

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) 682-5439.

Dated: October 26, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-26495 Filed 10-30-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Boiling Water Reactors; Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactors will hold a meeting on November 19 and 20, 1992, in room P-422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 19, 1992—8:30 a.m. until the conclusion of business.

Friday, November 20, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Draft Final Safety Evaluation Report (DFSER) for the ABWR design and any residual issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted

only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, GE Nuclear Energy, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 26, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-26507 Filed 10-30-92; 8:45 am]

BILLING CODE 7590-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Public Hearing

AGENCY: Overseas Private Investment Corporation.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of the Overseas Private Investment Corporation (OPIC) on December 3, 1992. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATES: The hearing will be held on December 3, 1992, and will begin promptly at 2 p.m. Prospective participants must submit to OPIC before close of business November 20, 1992, notice of their intent to participate.

ADDRESSES: The location of the hearing will be: Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC.

Notices and prepared statements should be sent to James R. Offutt, Department of Legal Affairs, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527.

Procedure

(a) Attendance; Participation. The hearing will be open to the public. However, a person wishing to present views at the hearing must provide OPIC with advance notice on or before November 20, 1992. The notice must include the name, address and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) Prepared Statements. Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5 p.m. on November 30, 1992. Prepared statements must be typewritten, double spaced and may not exceed twenty-five (25) pages.

(c) Duration of Presentations. Oral presentations will in no event exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) Agenda. Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subject or subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) Publication of Proceedings. A verbatim transcript of the hearing will be compiled and published. The transcript will be available to members of the public at the cost of reproduction.

SUPPLEMENTARY INFORMATION: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for projects which confer positive developmental benefits upon the project country while avoiding negative effects on the U.S. economy and the environment of the project country. OPIC's Board of Directors is required by section 231A(b) of the Foreign Assistance Act of 1961, as amended ("the Act") to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country)."

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC has agreed to provide a worker rights report to the Congress for any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (Pub. L. 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT: James R. Offutt, Department of Legal Affairs, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527 (202) 336-8414.

Dated: October 27, 1992.

Dennis K. Dolan,

Corporate Secretary.

[FR Doc. 92-26446 Filed 10-30-92; 8:45 am]

BILLING CODE 3710-01-M

POSTAL RATE COMMISSION

[Docket No. A93-8]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

In the Matter of Wolf Lake, Minnesota 56593 (Mary Ann Pivec, et al., Petitioners). Issued October 28, 1992

Docket Number: A93-8.

Name of Affected Post Office: Wolf Lake, Minnesota 56593.

Name(s) of Petitioner(s): Mary Ann Pivec and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: October 9, 1992.

Categories of Issues Apparently Raised: 1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before November 9, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp.

Secretary.

October 23, 1992—Filing of Petition

October 28, 1992—Notice and Order of Filing of Appeal

November 17, 1992—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]

November 27, 1992—Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)]

December 17, 1992—Postal Service Answering Brief [see 39 CFR 3001.115(c)]

January 4, 1993—Petitioners' Reply Brief should Petitioners choose to fine one [see 39 CFR 3001.115(d)]

January 11, 1993—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]

February 20, 1993—Expiration of 120-day decisional schedule [see 39 CFR 404(b)(5)]

[FR Doc. 92-26550 Filed 10-30-92; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31350; International Series Release No. 477; File No. SR-Amex-92-32]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options on the Eurotop 100 Index

October 23, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 10, 1992, the American Stock Exchange ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes, in connection with the listing of options on the Eurotop 100 Index ("Index"), to change the divisor applied to the Index calculation as disseminated by the European Options Exchange ("EOE") from five to two and to begin trading such options at 8:30 a.m. New York Time.[1]

The text of the proposal 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Commission approved, on March 14, 1992, an Exchange proposal to list options on the Eurotop 100 Index.[2] The proposal, as approve, provided that a divisor of five would be applied to the Index calculation as disseminated by the EOE so that the Eurotop 100 Index options would trade on an index value equal to one-fifth the value of the EOE-disseminated Index. Through various discussions with the member firm community, the Exchange believes that the Index options will primarily be traded by institutional investors seeking to hedge large portfolios. Therefore, the Exchange is proposing to introduce Eurotop 100 Index options on an index value equal to one-half the Index value disseminated by the EOE.[3] This value would result from the Amex applying a divisor of two to the EOE-disseminated Index value.

The Exchange believes that options on a larger valued Index will better meet the needs of institutional investors and at the same time will not result in premiums too highly priced for retail investors. Since the Commodity Exchange, Inc. ("COMEX") plans to introduce futures based on the Index at its full value, options based on one-half the value of the Index can be easily used and understood by investors seeking to use both the options and futures markets.

Lastly, to attract European investors and to align trading in the Index options as closely as possible with planned futures trading on the COMEX (which is proposed to begin at 7:30 a.m. New York time), the Exchange plans to begin trading the Index options at 8:30 a.m. New York Time. The proposal amends Exchange Rule 1 to provide that the Index options will begin trading at 8:30 a.m. The proposal further amends Rule 1 to add Japan Index options and Standard and Poor's MidCap 400 Index options to the list of index options that trade on the Exchange until 4:15 p.m.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is

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[1] The proposal was amended on September 29, 1992, to amend Exchange Rule 1 to provide that trading in Eurotop 100 Index options on the Exchange will begin at 8:30 a.m. and to add Japan Index options and Standard and Poor's MidCap 400 Index options to the list of index options that trade on the Exchange until 4:15 p.m.

[2] Securities Exchange Act Release No. 30463 (March 14, 1992), 57 FR 9284 (March 17, 1992).

[3] The Amex-calculated Index value currently is at approximately a 400 level.

designed to remove impediments to and perfect the mechanism of a free and open market and the national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6.[4] Specifically, the Commission continues to believe that the trading of options on the Eurotop 100 Index will promote the public interest, and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with European stock investments.

The Commission further believes that changing the Index divisor from five to two should make the options more attractive to institutional investors, while still resulting in options premiums affordable to retail investors. Additionally, the Commission does not believe that increasing the Index value without lowering position and exercise limits will result in making the market for Index options readily susceptible to manipulation. In this regard, the Commission notes that under existing position limits an investor in options on the Index, at the proposed value, has the ability to control up to approximately one billion dollars of securities in the underlying market. This amount does not exceed the value of the stocks that an investor in options on the Standard & Poor's 500 ("S&P 500") Index or on the Amex Major Market Index ("MMI") can control.[5]

Finally, the Commission believes that permitting the Exchange to begin trading the Index options at 8:30 a.m. to more closely align the trading of the options with the trading of futures on the same index is a proper exercise of the Amex's business judgment and does not raise any significant issues. In addition, the Exchange has represented that there will be adequate Exchange and member firm personnel present on the Amex's trading floor to accommodate trading in the Index options at 8:30 a.m. In this regard, the Exchange has represented that OPRA will be able to disseminate floor and trade information concerning the Index options at 8:30 a.m.[6] The Commission further finds that amending Exchange Rule 1 to add Japan Index options and Standard and Poor's MidCap 400 Index options to the list of index options that trade on the Exchange until 4:15 p.m. merely codifies current Exchange practice and does not raise any new issues.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Accelerating approval of this proposal will permit the Exchange to commence trading options on the Index at the same time that futures trading commences on the Index. The Commission further believes that merely changing the Index's divisor from five to two and permitting the Index options to begin trading at 8:30 a.m. do not substantially change the character of the Index options as approved by the Commission on March 14, 1992,[7] and do not raise any new issues. Finally, the Commission believes that amending Exchange Rule 1 to add Japan Index options and Standard and Poor's MidCap 400 Index options to the list of Index options that trade on the Exchange until 4:15 p.m. merely codifies current Exchange practice and does not raise any new issues. Accordingly, the Commission believes it is consistent with sections 19(b)(2) and 6(b)(5) of the Act to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 23, 1992.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [8] that the proposed rule change (SR-Amex-92-32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26525 Filed 10-30-92; 8:45 am]

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[4] 15 U.S.C. 78f(b)(5) (1988).

[5] At the close of business on October 5, 1992, an investor in pm-settled S&P 500 Index options could control approximately one billion dollars of securities in the underlying market and an investor in MMI options could control approximately 800 million dollars of securities in the underlying market.

[6] See Letter to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation, from Ellen Kander, Special Counsel, Derivative Securities, Amex, dated October 19, 1992.

[7] See *supra* note 2.

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 200.30-3(a)(12) 1992.

Issuer Delisting; Application to Withdraw From Listing and Registration; (Alza Corporation, Class A Common Stock, $.01 Par Value) File No. 1-6247

October 27, 1992.

Alza Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock commenced trading on the NYSE at the opening of

business on June 1, 1992 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not believe that trading of its common stock on both national exchanges is in the best interests of the Company or its stockholders and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 18, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-26523 Filed 10-30-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application to Withdraw From Listing and Registration; (BIC Corporation, Common Stock, $1.00 Par Value) File No. 1-6832

October 27, 1992.

BIC Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock commenced trading on the NYSE at the opening of business on October 6, 1992 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 18, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-26524 Filed 10-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-19053; File No. 812-8066]

Integrity Life Insurance Company, et al.

October 26, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Integrity Life Insurance Company ("Integrity") and Separate Account SF of Integrity Life Insurance Company ("Separate Account SF").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of Separate Account SF, which funds group and individual variable annuity contracts.

FILING DATES: The application was filed on August 24, 1992 and amended on October 21, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1992, and should be accompanied by proof of services on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, 1325 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Counsel, at (202) 504-2802, or Michael V. Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. In 1966, Integrity was organized under Arizona law as a stock life insurance company. Integrity is an indirect, wholly-owned subsidy of The National Mutual Life Association of Australasia, Ltd., and is licensed to sell variable insurance contracts in 42 states. Integrity will offer individual and group variable annuity contracts (the "Contracts"). Participant contributions will be allocated to the investment divisions of Separate Account SF.

2. Separate Account SF was established on May 21, 1992 under Arizona insurance law pursuant to a certification of Integrity's Chief Executive Officer. Separate Account SF has registered as a unit investment trust under the 1940 Act, and has filed a registration statement on Form N-4. Initially, Separate Account SF will have ten investment divisions, each of which will invest in shares of a corresponding portfolio of Integrity Series Fund, Inc. (the "Fund"), an open-end diversified management investment company. Integrity, which is registered under the

Investment Advisers Act of 1940, will provide advisory services to the Fund, although it will enter into a sub-advisory agreement for each portfolio.

3. Integrity, a registered broker-dealer and a member in good standing of the National Association of Securities Dealers, Inc., will be the distributor and principal underwriter with respect to Separate Account SF. Integrity will not be paid for such services.

4. Certain administrative charges will be assessed by Integrity. An annual administrative charge of $30 per participant will be assessed against a Contract valued at less than $50,000 at the end of the participation year. A daily administrative charge equal to an effective annual rate of .15% of the value of each of Separate Account SF's investment divisions also is paid to Integrity. Each of those administrative charges is designed to reimburse Integrity for expenses actually incurred, without profit. Applicants will rely on Rule 26a-1 under the 1940 Act to deduct such charges.

5. Integrity has the right to impose a charge of up to $25 per transfer after a participant has made twelve transfers during any participation year, except that transfers pursuant to Integrity's dollar cost averaging program would not be considered for purposes of imposing this charge. This charge has not been increased to take into account the fact that not all Contracts would incur the charge.

6. No sales charge is imposed when a participant or an employer makes a contribution. However, a contingent withdrawal charge of up to 7% of the total amount of purchase payments withdrawn may be paid to Integrity to defray sales and promotional expenses. The contingent withdrawal charge declines by 1% per year, and there is no contingent withdrawal charge for withdrawals of contributions that have been in Separate Account SF for six years or longer.

7. Integrity proposes to assess a daily charge equal to an effective annual rate of 1.20% of the value of each investment division of Separate Account SF for its assumption of mortality and expense risks under the Contracts. Applicants anticipate that .85% of the charge will be attributable to the expense risk and .35% will be attributable to the mortality risk, although the relative proportion of the components may be modified. Integrity may realize a gain from these daily charges to the extent they are not needed to meet actual expenses incurred. If there is a gain, part of the charges may be considered an indirect reimbursement for sales and promotional expenses associated with the Contracts.

8. The mortality risk assumed by Integrity arises because of its promise to pay annuitants according to annuity rates set forth in the Contracts, without regard to the annuitant's own longevity or any improvement in the life expectancy of the general population. A further mortality risk is that a Contract participant may die at a time when the death benefit payable under the Contract exceeds the participant's value in the Contract. The expense risk assumed by Integrity is the risk that actual expenses of administering the Contracts will exceed the proceeds of the administrative and expense charges discussed above.

Applicants' Legal Analysis

1. Applicants request an exemption from sections 26(a)(2(C) and 27(c)(2) of the 1940 Act to the extent relief is necessary to permit the deduction of the mortality and expense risk charge from the assets of Separate Account SF. Section 27(c)(2) of the 1940 Act prohibits any registered investment company issuing periodic payment plan certificates, and any depositor of or underwriter for such company, from selling any such certificate unless, among other things, the proceeds of all payments on such certificates (excluding sales loads) are held by a qualified trustee or custodian under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and 26(a)(3) for trust indentures of unit investment trusts. Among the provisions required to be included in such an indenture or agreement is the proviso in section 26(a)(2)(C) that permits the trustee or custodian to deduct from the assets of the trust as an expense only bookkeeping and other administrative services charges not exceeding such reasonable amount as the Commission may prescribe. Thus, the proposed mortality and expense risk charge is not the type of expense permitted by section 26(a)(2)(C), and Applicants therefore seek an order of exemption.

2. Applicants represent that the expense risk and mortality risk charges are reasonable in relation to the risks assumed by Integrity under the Contracts. Applicants also represent that the mortality and expense risk charges are within the range of industry practice with respect to comparable annuity contracts. Applicants state that this representation is based upon analysis of publicly available information by Integrity about similar variable annuity products, taking into consideration such factors as the manner of distribution, the degree of investment flexibility, payment minima and maxima, current charge levels, the existence of guaranteed expense charges, and guaranteed annuity rates. Integrity will maintain at its administrative office, and make available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

3. Applicants further represent that each has concluded that there is a reasonable likelihood that the distribution financing arrangement under the Contracts, based on a contingent withdrawal charge, will benefit Separate Account SF and its participants under the Contracts. Integrity will maintain at its administrative office, and make available to the Commission upon request, a memorandum setting forth the basis for this representation. Integrity acknowledges that the contingent withdrawal charges under the Contracts may be insufficient to cover distribution costs, and that any shortfall would be absorbed by Integrity's general account, which might include assets attributable to mortality and expense risk charges.

4. Separate Account SF will invest only in open-end management investment companies that have undertaken to have a board of trustees (or directors), a majority of whom are not interested persons of such open-end management company, formulate and approve any plan to finance distribution expenses pursuant to Rule 12b-1 under the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26478 Filed 10-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-19052; File No. 812-8056]

National Integrity Life Insurance Company, et al.

October 26, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: National Integrity Life Insurance Company ("National Integrity"), Separate Account SFN of National Integrity Life Insurance Company ("Separate Account SFN"), and Integrity Financial Services, Inc. ("IFS").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seeks an order permitting the deduction of a mortality and expense risk charge from the assets of Separate Account SFN, which funds group and individual variable annuity contracts.

FILING DATES: The application was filed on August 20, 1992 and amended on October 21, 1992.

HEARING OR NOTIFICATIONS OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the requests, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Applicants, 1325 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Counsel, at (202) 504-2802, or Michael V. Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Divisions of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. In 1968, National Integrity was organized under New York law as a stock like insurance company. National Integrity is an indirect, wholly-owned subsidiary of the National Mutual Life Association of Australasia, Ltd. and a wholly-owned subsidiary of Integrity Life Insurance Company ("Integrity"), an Arizona stock life insurance company. National Integrity is authorized to sell life insurance and annuity contracts in New York and six other states, as well as in the District of Columbia. National Integrity will offer individual and group variable annuity contracts (the "Contracts"). participant contributions will be allocated to the investment divisions of Separate Account SFN.

2. Separate Account SFN was established on May 21, 1992 under New York insurance law pursuant to a certification of National Integrity's Chief Executive Officer. Separate Account SFN has registered as a unit investment trust under the 1940 Act, and has filed a registration statement on Form N-4. Initially, Separate Account SFN will have ten investment divisions, each of which will invest in shares of a corresponding portfolio of Integrity Series Fund, Inc. (the "Fund"), an open-end diversified management investment company. Integrity, which is registered under the Investment Advisers Act of 1940, will provide advisory services to the Fund, although it will enter into a sub-advisory agreement for each portfolio.

3. IFS is a wholly-owned subsidiary of National Integrity that is registered as a broker-dealer with the Commission and is a member in good standing of the National Association of Securities Dealers, Inc. IFS will be the distributor of Fund shares, and the distributor and principal underwriter for Separate Account SFN.

4. Certain administrative charges will be assessed by National Integrity. An annual administrative charge of $30 per participant will be assessed against a Contract valued at less than $50,000 at the end of the participation year. A daily administrative charge equal to an effective annual rate of .15% of the value of each of Separate Account SFN's investment divisions also is paid to National Integrity. Each of those administrative charges is designed to reimburse National Integrity for expenses actually incurred, without profit. Applicants will rely on Rule 26a-1 under the 1940 Act to deduct such charges.

5. National Integrity has the right to impose a charge of up to $25 per transfer after a participant has made twelve transfers during any participation year, except that transfers pursuant to National Integrity's dollar cost averaging program would not be considered for purposes of imposing this charge. This charge has not been increased to take into account the fact that not all contracts would incur the charge.

6. No sales charge is imposed when a participant or an employer makes a contribution. However, a contingent withdrawal charge of up to 7% of the total amount of purchase payments withdrawn may be paid to National Integrity to defray sales and promotional expenses. The contingent withdrawal charge declines by 1% per year, and there in no withdrawal charge for withdrawals of contributions that have been in Separate Account SFN for six years or longer.

7. National Integrity proposes to assess a daily charge equal to an effective annual rate of 1.20% of the value of each investment division of Separate Account SFN for its assumption of mortality and expense risks under the Contracts. Applicants anticipate that .85% of the charge will be attributable to the expense risk and .35% will be attributable to the mortality risk, although the relative proportion of the components may be modified. National Integrity may realize a gain from these daily charges to the extent they are not needed to meet actual expenses incurred. If there is a gain, part of the charges may be considered an indirect reimbursement for sales and promotional expenses associated with the Contracts.

8. The mortality risk assumed by National Integrity arises because of its promise to pay annuitants according to annuity rates set forth in the Contracts, without regard to the annuitant's own longevity or any improvement in the life expectancy of the general population. A further mortality risk is that a Contract participant may die at a time when the death benefit payable under the Contract exceeds the participant's value in the Contract. The expense risk assumed by National Integrity is the risk that actual expenses of administering the Contracts will exceed the proceeds of the administrative and expense charges discussed above.

Applicants' Legal Analysis

1. Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent relief is necessary to permit the deduction of the mortality and expense risk charge from the assets of Separate Account SFN. Section 27(c)(2) of the 1940 Act prohibits

any registered investment company issuing periodic payment plan certificates, and any depositor of or underwriter for such company, from selling any such certificate unless, among other things, the proceeds of all payments on such certificates (excluding sales loads) are held by a qualified trustee or custodian under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and 26(a)(3) for trust indentures of unit investment trusts. Among the provisions required to be included in such an indenture or agreement is the proviso in section 26(a)(2)(C) that permits the trustee or custodian to deduct from the assets of the trust as an expense only bookkeeping and other administrative services charges not exceeding such reasonable amount as the Commission may prescribe. Thus, the proposed mortality and expense risk charge is not the type of expense permitted by section 26(a)(2)(C), and Applicants therefore seek an order of exemption.

2. Applicants represent that the expense risk and mortality risk charges are reasonable in relation to the risks assumed by National Integrity under the Contracts. Applicants also represent that the mortality and expense risk charges are within the range of industry practice with respect to comparable annuity contract. Applicants state that this representation is based upon analysis of publicly available information by National Integrity about similar variable annuity products, taking into consideration such factors as the manner of distribution, the degree of investment flexibility, payment minima and maxima, current charge levels, the existence of guaranteed expense charges, and guaranteed annuity rates. National Integrity will maintain at its administrative office, and make available to the Commission upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

3. Applicants further represent that each has concluded that there is a reasonable likelihood that the distribution financing arrangement under the Contracts, based on a contingent withdrawal charge, will benefit Separate Account SFN and its participants under the Contracts. National Integrity will maintain at its administrative office, and make available to the Commission upon request, a memorandum setting forth the basis for this representation. National Integrity acknowledges that the contingent withdrawal charges under the Contracts may be insufficient to cover distribution costs, and that any shortfall would be absorbed by National Integrity's general account, which might include assets attributable to mortality and expense risk charges.

4. Separate Account SFN will invest only in open-end management investment companies that have undertaken to have a board of trustees (or directors), a majority of whom are not interested persons of such open-end management company, formulate and approve any plan to finance distribution expenses pursuant to Rule 12b-1 under the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26455 Filed 10-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25660]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 23, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 16, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System (70-6938)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a post-effective amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated September 14, 1977, July 6, 1979, March 15, 1984 and November 22, 1988 (HCAR Nos. 20173, 21133, 23246 and 24754, respectively), the Commission authorized NEES to issue and sell from time-to-time through December 31, 1992, an aggregate of up to 2,916,793 shares of its authorized but unissued common shares, $1 par value, pursuant to the NEES Companies Employees' Share Ownership Plan ("Plan"). After a common stock split on January 24, 1986, and including all issuances under the Plan through September 30, 1992, NEES has issued 2,835,384 shares pursuant to the Plan leaving a balance of 81,409 authorized but unissued shares.

NEES seeks authority to extend the period for issuing the remaining common shares pursuant to the Plan through December 31, 1996. The proceeds from the continued sale of the common shares will be added to the general funds of NEES and be used for any or all of the following purposes: (1) Investment in its subsidiaries, through loans or advances to such subsidiaries, purchases of additional shares of their capital stocks, or capital contributions; (2) payment of NEES indebtedness; or (3) general corporate purposes.

New England Electric System (70-7573)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a post—effective amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated January 10, 1980, February 12, 1980, June 25, 1985 and November 29, 1988 (HCAR Nos. 21387, 21428, 23743 and 24761, respectively), the Commission authorized NEES to issue and sell from time-to-time through December 31, 1992, an aggregate of up to

4,489,585 shares of its authorized but unissued common shares, $1 par value, pursuant to the NEES Companies Incentive Thrift Plan ("Plan"). After a common stock split on January 24, 1986, and including all issuances under the Plan through September 30, 1992, NEES has issued 2,297,463 shares pursuant to the Plan leaving a balance of 2,192,122 authorized but unissued shares.

NEES seeks authority to extend the period for issuing the remaining common shares pursuant to the Plan through December 31, 1996. The proceeds from the continued sale of the common shares will be added to the general funds of NEES and be used for any or all of the following purposes: (1) Investment in its subsidiaries, through loans or advances to such subsidiaries, purchases of additional shares of their capital stocks, or capital contributions; (2) payment of NEES indebtedness; or (3) general corporate purposes.

Northeast Utilities, et al. (70–8048)

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned subsidiaries ("Subsidiaries"), Holyoke Water Power Company ("Holyoke"), Canal Street, Holyoke, Massachusetts 01040, Western Massachusetts Electric Company ("WMECO") and Quinnehtuk Company ("Quinnehtuk"), both of 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, Public Service Company of New Hampshire ("PSNH") and North Atlantic Energy Corporation ("North Atlantic"), both of 1000 Elm Street Manchester, New Hampshire 03105, and The Connecticut Light & Power Company ("CL&P"), Northeast Nuclear Energy Company ("Nuclear") and The Rocky River Realty Company ("Rocky River"), each of 107 Selden Street, Berlin, Connecticut 06037 (all companies collectively, "Applicants"), have filed an application-declaration under Sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

By order dated December 27, 1990 (HCAR No. 25234) ("December 1990 Order"), the Commission authorized, through December 31, 1992: (i) Northeast to make open account advances to its subsidiary companies; (ii) the continuation of the Northeast Utilities System Money Pool ("Money Pool"); and (iii) the issuance of short-term notes pursuant to lines of credit and the issuance and sale of commercial paper by Northeast, Holyoke, WMECO, Quinnehtuk, CL&P, Nuclear, Rocky River and Northeast Utilities Service Company ("Service"), another subsidiary of Northeast. The funds from those short-term borrowings were to be utilized by Northeast's subsidiary companies for operational, maintenance and construction expenses, and to meet certain cash needs. The December 1990 Order limited the aggregate amount of all short-term borrowing, whether through the issuance of short-term notes, commercial paper, open account advances, borrowing from the Money Pool, or through existing revolving credit agreements (as authorized by orders of the Commission dated August 18, 1989 and July 29, 1988 (HCAR Nos. 24943 and 24686)), to the following maximum amounts: Northeast, $135 million; Holyoke, $2 million; WMECO, $95 million; Qyunnehtuk, $5 million; CL&P, $300 million; Nuclear, $50 million; Rocky River, $55 million; and Service, $65 million.

By order of the Commission dated May 5, 1992 (HCAR No. 25527) ("May 1992 Order"), PSNH and North Atlantic were authorized, through December 31, 1992, to participate in the Money Pool. PSNH's and North Atlantic's borrowings from the Money Pool were limited by the May 1992 Order to a maximum of $125 million and $65 million, respectively.

The Applicants now propose: (1) To make short-term borrowings from time to time after December 31, 1992 through December 31, 1994, evidenced (a) in the case of Northeast, Holyoke, WMECO, PSNH, North Atlantic, CL&P, Nuclear, and Rocky River, by short-term notes ("Short-Term Notes") issued to banks and non-bank lending institutions through formal and informal credit lines, and (b) in the case of Northeast, WMECO and CL&P, by commercial paper ("Commercial Paper") issued to a dealer or dealers in commercial paper; (2) the continued use, through December 31, 1994, of the Money Pool, to assist in meeting the Subsidiaries' respective short-term borrowing needs; (3) that Northeast make open account advances, through December 31, 1994, to PSNH, Nuclear, North Atlantic, Quinnehtuk and Rocky River; and (4) that PSNH receive authorization for the continued use, until its termination on May 14, 1994, of a revolving credit facility ("PSNH Facility") entered into before PSNH became subject to Commission jurisdiction.

The aggregate amount of all short-term borrowings through December 31, 1994, whether through the issuance of Short-Term Notes, Commercial Paper or borrowings from the Money Pool or the PSNH Facility or pursuant to open account advances, will not exceed $175 million for Northeast, $375 million for CL&P, $75 million for WMECO, $125 million for PSNH, $8 million for Holyoke, $65 million for Nuclear, $50 million for North Atlantic, $15 million for Rocky River and $8 million for Quinnehtuk.[1]

Each of the Subsidiaries, except for Quinnehtuk and North Atlantic, proposes to issue Short-Term Notes. Short-Term Notes will be issued both on a transactional basis ("Transactional Notes"), with a separate note evidencing each loan, and on a "grid-note" basis ("Grid Notes").

Each Transactional Note will be dated the date of issue, will have a maximum term of 270 days, and will bear interest at a fixed or floating rate, as described below. Transactional Notes will be issued no later than December 31, 1994, and will, with certain exceptions as described below, be subject to prepayment at any time at the borrower's option.

Grid Notes will be issued by an Applicant to a particular lending institution at or prior to the first borrowing under the Grid Note from that lender by the Applicant. Each repayment and reborrowing subequent to the first borrowing will be recorded on a schedule to the note without the necessity of issuing additional notes. Also recorded on a schedule to the Grid Note at the time of a borrowing will be the date of the borrowing, the maturity (which may not exceed 270 days from the date of the borrowing), the number of days the borrowing is outstanding, the interest rate or method of determining the interest rate, the amount of interest due, and the date of payment. Except as described below, borrowings on a Grid Note basis will be subject to prepayment at any time at the borrower's option.

The interest rate on all Short-Term Notes will be determined on the basis of competitive quotations from several lending institutions, and will either be at a fixed interest rate or at a floating interest rate determined with reference to an agreed-upon index (such as a lending institution's prime rate, the London InterBank Offered Rate (LIBOR), certificate of deposit rates, money market rates and commercial paper rates). The interest rate will not exceed two percentage points above the Federal

[1] The aggregate amount of short-term debt that can be incurred by CL&P and WMECO is further restricted by the provisions of their respective preferred stock certificates. CL&P and WMECO each have authorization from the holders of their respective preferred stocks, through February 10, 1994, to issue securities representing unsecured indebtedness up to a maximum of 20% of their respective capitalizations. Both CL&P and WMECO plan to solicit their respective preferred stockholders to extend such authority for an additional five years.

Funds Effective Rate. The Applicants will select the lending institution(s) from which to make a particular short-term borrowing and determine whether to borrow at a fixed or a floating rate on the basis of the lowest expected effective interest cost for borrowings of comparable sizes and maturities.

Borrowings bearing floating interest rates will generally be subject to prepayment at the borrower's option. The Applicants believe that many lending institutions lending funds at fixed interest rates are engaged in "matched funding," i.e., such lenders acquire for comparable maturities the funds that are lent to their borrowers. Because the lenders would remain obligated under their own borrowings from others if the Applicants were to prepay their borrowings in advance of their scheduled maturities, many lending institutions lending funds at fixed interest rates stipulate that such borrowings may not be prepaid or may be prepaid only with a premium that will make the lender whole for any losses (including lost profits) it may incur. Accordingly, in order to realize the benefits of fixed interest rates when a fixed-rate borrowing is evaluated to be the lowest cost borrowing available, the Applicants may from time to time agree with individual lenders that such borrowings may not be prepaid or may only be prepaid if the lender is made whole for its losses.

The Applicants propose to secure both formal and informal credit lines with a number of lending institutions. Formal credit lines may be subject to compensating balance and/or fee requirements and will therefore be used only when an applicant determines that such a credit line offers advantages as compared with other available credit options. Compensating balance requirements will not exceed 5% of the committed credit line amount, and fees will not exceed 0.25% per annum. Each Applicant participating in a credit line would be able to draw funds to the exclusion of the other Applicants. The Applicants may change their credit lines and may obtain additional lines over time. The continued availability of such credit lines is subject to the continuing review of the lending institutions.

Northeast, CL&P and WMECO propose to issue and sell Commercial Paper, to be issued in the form of short-term promissory notes in denominations of not less than $50,000 and not more than $10 million, of varying maturities, with no maturity more than 270 days after the date of issue. The Commercial Paper will not be repayable prior to maturity. The Commercial Paper will be sold directly to a dealer or dealers in a co-managed commercial paper program at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by public utility issuers thereof to commercial paper dealers. No Commercial paper will be issued unless the issuing Applicant believes that the effective interest cost the the Applicant will be equal to or less than the effective interest rate at which the Applicant could issue Short-Term Notes in an amount at least equal to the principal amount of such Commercial Paper. Aside from the discount described in the next sentence, no commissions or fees will be payable in connection with the issuance and sale of the Commercial Paper. The purchasing dealer or dealers, as principal, will re-offer the Commercial Paper at a discount of not more than ⅛ of 1% per annum less than the prevailing discount rate to the Applicant.

The Applicants request that the Commission exempt the issuance and sale of the Commercial Paper from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereunder.

The Applicants also propose the continued use, through December 31, 1994, of the Money Pool, which is composed of available funds loaned by the participating Subsidiaries and borrowed by those Subsidiaries to assist in meeting their respective short-term borrowing needs.

Another component of the Money Pool is funds borrowed by Northeast through the issuance of Short-Term Notes, by selling Commercial Paper or by borrowing through the New Facility (pursuant to File No. 70–8052) for the purpose of making open account advances through the Money Pool. Northeast requests that its authority for such borrowings be extended through December 31, 1994. The recipients of such open account advances will be: PSNH, Nuclear, North Atlantic, Quinnehtuk and Rocky River. The amounts to be borrowed by Northeast for the purpose of making open account advances and to be borrowed through the Money Pool by the recipients set forth above will also be subject to the short-term limits on aggregate amount outstanding for which approval is sought in this filing.

All borrowings from and contributions to the Money Pool, including the open account advances, will be documented and will be evidenced on the books of each Applicant that is borrowing from or contributing surplus funds to the Money Pool. Except for loans from the proceeds of external borrowings by Northeast, all loans made under the Money Pool will bear interest for both the borrower and lender, payable monthly, equal to the daily Federal Funds Effective Rate as quoted by the Federal Reserve Bank of New York. Loans from the proceeds of external borrowings by Northeast will bear interest at the same rate paid by Northeast on the borrowings, and no such loans may be prepaid (unless Northeast is made whole for any additional costs that may be incurred because of such prepayment). To the Extent that there are any excess funds available in the Money Pool, such funds will be invested with the earnings allocated on a pro rata basis.

The Applicants also request authorization for PSNH to continue its use of a revolving credit facility ("PSNH Facility") that became available to PSNH before it was subject to Commission jurisdiction. The PSNH facility includes commitments from 21 participating banks for an aggregate amount of $125 million. The amount borrowed by PSNH under the PSNH Facility will be subject to the short-term borrowing limits of this application-declaration. The PSNH facility continues to be secured by a second mortgage on certain of PSNH's assets. Bankers Trust Company, Chemical Bank and Citibank, N.A. are co-agents for the participating banks, Chemical Bank is the administrative agent for the participating banks, and Bankers Trust Company holds the collateral as collateral agent for the participating banks.

Interest on the PSNH Facility accrues on one of four bases. The first is a "Eurodollar Rate" equal to the average of the co-agents' London interbank offered rates plus a margin of 50 basis points. The second interest rate option is a "CD Rate" equal to the average of the co-agents' certificate of deposit rates plus a margin of 87.5 basis points. The third interest rate option is an "Alternate Base Rate" equal to the greater of Chemical Bank's prime lending rate or the Federal Funds Rate in effect plus 50 basis points. And the final interest rate option is a rate bid by some or all of the participating banks in a competitive bid procedure. The margin on "Eurodollar Rate" and "CD Rate" borrowings increases by 25 basis points if PSNH's debt does not receive a rating of at least Baa3 from Moody's Investor Service, Inc. and at least BBB— from Standard and Poor's Corporation, and by 37.5 basis points if the advance on which that interest is accruing would be

onsidered a "Highly Leveraged ransaction" under applicable banking egulations.

Borrowings under the Eurodollar Rate ption can have maturities of one, two, ree or six months. Borrowings under ne CD Rate option can have maturities f 30, 60, 90 or 180 days. Borrowings nder the Alternate Base Rate option an be repaid at any time prior to the ermination of the PSNH Facility on May 4, 1994. Borrowings under the ompetitive bid option can have any aturity up to 270 days. PSNH pays uarterly to each participating bank a acility fee equal to 0.25% of its ommitment per annum, and it pays ertain agency fees to each of the co-gents and to the administrative agent, s agreed among them from time to time. he interest rate option to be selected ill be the most advantageous to PSNH ased on the alternative options, terms nd conditions.

Northeast, WMECO and CL&P ntered into a Revolving Credit greement, dated as of August 23, 1989 as authorized by HCAR No. 24943 (Aug. 3, 1989)), which permits them to borrow p to $100 million, $105 million and $350 nillion, respectively, but not more than $350 million in the aggregate, on a short-erm revolving credit basis through September 4, 1993. In addition, all of the Subsidiaries, except Quinnehtuk and PSNH, have entered into a Revolving Credit Agreement, dated as of August 25, 1988 (as authorized by HCAR No. 24686 (July 29, 1988)), which permits each of them to borrow up to $50 million, but not more than $50 million in the aggregate, on a short-term revolving credit basis through August 24, 1993. At present, the only credit facility, aside from participation in the Money Pool, under which PSNH may effect short-term borrowing is the PSNH Facility, which was entered into before the Commission had jurisdiction over such arrangements. Furthermore, Northeast, WMECO, CL&P, Holyoke, Nuclear and Rocky River have filed for authorization to borrow under a new Revolving Credit Facility ("New Facility"). The New Facility would consolidate existing credit lines and reduce the total aggregate amount from $400 million to an amount not to exceed $360 million. The amounts borrowed by each Applicant under the New Facility will be subject to the short-term borrowing limits of this application-declaration. The amount that each Applicant will be allowed to borrow under the New Facility will be limited to the overall borrowing limit to be approved by the Commission pursuant to this application-declaration with an aggregate limit of $360 million.

Alabama Power Company (70–8069)

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

In order to comply with prescribed environmental standards of the State of Alabama respecting air quality, it has been and will be necessary to construct facilities for this purpose. Alabama entered into Installment Sale Agreements and supplements thereto ("Agreements") with the Industrial Development Boards of various cities within the State of Alabama ("Boards") to finance and refinance certain pollution control facilities at Alabama's plants located in or near such cities ("Projects"). Pursuant to such Agreements, the Boards purchased the then existing portions of the Projects, undertook to complete their construction and to sell the completed Projects to Alabama for a purchase price payable in semi-annual installments over a term of years. Each Board issued its Series A pollution control revenue bonds ("Original Bonds"), and, in certain cases, subsequent series of pollution control revenue bonds ("Additional Bonds") pursuant to various Trust Indentures and supplements thereto ("Indentures"), in various amounts, then estimated to be sufficient to cover the Cost of Construction, as defined in the Agreements, of the Projects.

To secure its obligations under the Agreements, Alabama granted to certain Boards a security interest in the Project subordinate to the lien of the Indenture, dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as supplemented and amended ("First Mortgage Indenture"). In other instances, Alabama issued and pledged bonds under the First Mortgage Indenture ("Collateral First Mortgage Bonds") as security for its obligations under the Agreements. Each Board assigned all its right, title and interest in the applicable Agreement, including either the Collateral First Mortgage Bonds or the subordinate security interest, to the trustee under the applicable Indenture ("Trustee") as security for the pollution control revenue bonds, including the Original Bonds and Additional Bonds to be issued under such Indenture. The proceeds of the sale of the Original Bonds and the Additional Bonds were deposited by each Board with the appropriate Trustee. Such proceeds have been applied to payment of the Cost of Construction of the respective Projects. The total Cost of Construction of one or more of the Projects may exceed the proceeds of the Original Bonds and the Additional Bonds. Additionally, it may be necessary or appropriate to refund one or more series of such bonds.

Consequently, Alabama proposes to request that the appropriate Board or Boards issue up to an aggregate of $450 million principal amount of revenue bonds ("New Bonds") through December 31, 1995. Upon issuance of the New Bonds, Alabama's obligation under the appropriate Agreement to make semi-annual purchase price payments may be revised as necessary ("Supplemental Agreement") to require additional payments sufficient, together with other moneys held by the Trustee under the Indenture for that purpose, to pay the principal of, premium (if any), and interest on the New Bonds as they become due and payable. The Board and the Trustee may enter into a supplement ("Supplement") to the Indenture providing for the New Bonds. The Supplement will provide for redemption provisions for the New Bonds comparable to those provided for the Original Bonds and the Additional Bonds. As in the Original Bonds and the Additional Bonds, it is proposed that the New Bonds will mature not more than 30 years from the first day of the month in which they are initially issued. The New Bonds may be entitled to the benefit of serial maturities and/or a mandatory redemption sinking fund calculated to retire a portion of the New Bonds prior to maturity. Alabama and the Board will execute and deliver to the Trustee, as required by the Indenture, the Supplemental Agreement providing for the payment of all expenses and costs incurred or to be incurred by virtue of the issuance of the New Bonds.

The Supplement may give the holders of the related New Bonds the right, during such time, if any, as such New Bonds bear interest at a fluctuating rate, to require Alabama to purchase such New Bonds from time-to-time, and arrangements may be made for the remarketing of any such New Bonds through a remarketing agent. Alabama also may be required to purchase the New Bonds, or the New Bonds may be subject to mandatory redemption, at any time if the interest thereon is determined to be subject to federal income tax. Also in the event of taxability, interest on the New Bonds may be effectively converted to a higher variable or fixed

rate, and Alabama also may be required to indemnify the bondholders against any other additions to interest, penalties, and additions to tax.

Alternatively, Alabama may enter into a new Agreement with the appropriate Board, and such Board may enter into a new Indenture with the appropriate Trustee pursuant to which the New Bonds will be issued. In such event, such Agreement and such Indenture will contain provision of the type described herein.

In order to obtain the benefit of ratings for the New Bonds equivalent to the rating of Alabama's first mortgage bonds outstanding under the Mortgage, which ratings Alabama has been advised may be attained, Alabama may determine to secure its obligations under the Agreements by delivering to the Trustee, to be held as collateral, a series of collateral first mortgage bonds ("Collateral Bonds") in principal amount either (1) equal to the principal amount of the New Bonds or (2) equal to the sum of such principal amount of the New Bonds plus interest payments thereon for a specified period. Such series of Collateral Bonds will be issued under an indenture supplemental to the First Mortgage Indenture ("Supplemental Indenture") to be dated as of the first day of the month in which the Collateral Bonds are to be issued and delivered, will mature on the maturity date of such New Bonds and will be non-transferable by the Trustee. The Collateral Bonds, in the case of clause (1), above, would bear interest at a rate or rates equal to the interest rate or rates to be borne by the related New Bonds and in the case of clause (2), above, would be non-interest bearing.

The Supplemental Indenture will provide, however, that the obligation of Alabama to make payments with respect to the Collateral Bonds will be satisfied to the extent that payments are made under the Agreement sufficient to meet the payments when due in respect of the related New Bonds. The Supplemental Indenture will provide that, upon acceleration by the Trustee of the principal amount of all related outstanding New Bonds under the Indenture, the Trustee may demand the mandatory redemption of the related Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indenture may also provide that, upon the optional redemption of the New Bonds, in whole or in part, at any time after they have been outstanding for a specified period, a related principal amount of the Collateral Bonds will be redeemed at the redemption price of the Revenue Bonds. The Indenture will provide that, upon deposit with the Trustee of funds sufficient to pay or redeem all or any part of the related New Bonds, or upon direction to the Trustee by Alabama to apply funds available therefor, or upon delivery of such outstanding New Bonds to the Trustee by or for the account of Alabama, the Trustee will be obligated to deliver to Alabama the Collateral Bonds then held as collateral in an aggregate principal amount related to the aggregate principal amount of the New Bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been delivered.

In the case of interest bearing Collateral Bonds, because interest will accrue on the Collateral Bonds until satisfied by payments under the Agreement, annual interest charges for the Collateral Bonds will be included in computing the interest earnings requirement of the Mortgage which restricts the amount of first mortgage bonds which may be issued and sold to the public in relation to Alabama's net earnings. In the case of non-interest bearing Collateral Bonds, since no interest would accrue on the Collateral Bonds, the interest earnings requirement would not be affected.

Alabama may determine to secure its obligations under any Agreement by causing an irrevocable letter of credit ("Letter of Credit") of a bank ("Bank") to be delivered to the Trustee. The Letter of Credit would be an irrevocable obligation of the Bank to pay to the Trustee, upon request, up to an amount necessary in order to pay principal of and premium, if any, and certain accrued interest on the related New Bonds when due. Pursuant to a separate agreement with the Bank, Alabama would agree to pay to the Bank on demand all amounts that are drawn under the Letter of Credit, as well as certain fees and expenses. Such delivery of the Letter of Credit to the Trustee would obtain for the related New Bonds the benefit of a rating equivalent to the credit rating of the Bank.

As an alternative to, or in conjunction with, securing its obligations under any Agreement as described above, and in order to obtain a "AAA" rating for the related New Bonds by one or more nationally recognized securities rating agencies, Alabama may cause an insurance company to issue a policy of insurance guaranteeing the payment when due of the principal of and interest of such New Bonds. Such insurance policy would extend for the term of the related New Bonds and would be non-cancelable by the insurance company for any reason. Alabama's payment in respect of said insurance policy could be in various forms, including a non-refundable, one-time insurance premium paid at the time the policy is issued, and/or an additional interest percentage to be paid to said issuer in correlation with regular interest payments. In addition, Alabama may be obligated to make payments of certain specified amounts into separate escrow funds and to increase the amounts on deposit in such funds under certain circumstances. The amount in each escrow fund would be payable to the insurance company as indemnity for any amounts paid pursuant to the related insurance policy in respect of principal of or interest on the related New Bonds.

It is contemplated that any New Bonds will be sold by the Board pursuant to arrangements with a purchaser or purchasers to be selected. In accordance with the laws of the State of Alabama, the interest rate to be borne by any series of New Bonds will be fixed by the Board and will be either a fixed rate, which fixed rate may be convertible to a rate which will fluctuate in accordance with a specified prime or base rate or rates or be determined through auction or remarketing procedures, or a fluctuating rate, which may be convertible to a fixed rate. Bond counsel will issue an opinion that interest on the New Bonds will generally be exempt from federal income taxation. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, recently have been and can be expected at the time of issue of any series of New Bonds to be approximately one to three percentage points lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26479 Filed 10-30-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2586]

Florida, Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with

mendments dated September 6 and October 3, 1992, to the President's major disaster declaration of August 24, to establish the incident period for this disaster as beginning on August 23, 1992 and continuing through August 25, 1992, and to extend the deadline for filing applications for physical damage. The new deadline is December 21, 1992.

The termination date for filing applications for economic injury remains the close of business on May 24, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 13, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-26447 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2599]

Florida, (and Contiguous Counties in Georgia); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 8, 1992, I find that the Counties of Baker, Clay, Duval, and Pinellas in the State of Florida constitute a disaster area as a result of damages caused by severe storms, tornadoes and flooding beginning on October 3, 1992 and continuing. Applications for loans for physical damage may be filed until the close of business on December 7, 1992, and for loans for economic injury until the close of business on July 8, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, Georgia 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Bradford, Columbia, Hillsborough, Nassau, Pasco, Putnam, St. Johns, and Union in the State of Florida, and Charlton, Clinch and Ware Counties in the State of Georgia may be filed until the specified date at the above location.

The interest rates are:

For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000%
Homeowners Without Credit Available Elsewhere	4.000%
Businesses With Credit Available Elsewhere	8.000%
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000%
Others (including Non-Profit Organizations) With Credit Available Elsewhere	6.500%
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000%

The number assigned to this disaster for physical damage is 259911 and for economic injury the numbers are 774200 for Florida and 774300 for Georgia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 13, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-26442 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2596]

Hawaii, Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated September 18, 1992, to the President's major disaster declaration of September 12, to include the Island of Molokai State of Hawaii as a disaster area as a result of damages caused by Hurricane Iniki which occurred September 11, 1992.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 13, 1992, and June 14, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 13, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-26443 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2588]

Louisiana (And Contiguous Counties in Mississippi), Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated August 30 and September 1, 1992, to the President's major disaster declaration of August 26, to include the parishes of Acadia, Allen, Avoyelles, Calcasieu, Cameron, Evangeline, Jefferson Davis, Livingston, Orleans, Plaquemines, Rapides, St. Bernard, St. Helena, St. James, St. Landry, Tangipahoa, Vermilion, and Washington in the State of Louisiana as a disaster area as a result of damages caused by Hurricane Andrew, and to establish the incident period as beginning on August 25, 1992 and continuing through August 30, 1992.

In addition, small business located in the contiguous parishes of Beauregard, Catahoula, Grant, LaSalle, Natchitoches, and Vernon in the Louisiana; Pike, Walthall, and Marion Counties in Mississippi; and Jefferson, Newton, and Orange Counties in Texas may file applications until the specified date at the aforementioned location.

The economic injury numbers are 769500 for Louisiana, 7703300 for Mississippi, and 773300 for Texas.

All other information remains the same, i.e., the termination date for filing applications for physical damage is October 24, 1992, and May 26, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 1, 1992.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 92-26445 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2598]

Wisconsin (And Contiguous Counties in Minnesota & Iowa); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 30, 1992, I find that the Counties of Buffalo, Crawford, Jackson, Juneau, Pepin, Pierce, Richland, Sauk, Trempealeau, and Vernon in the State of Wisconsin constitute a disaster area as a result of damages caused by severe storms and flooding which occurred September 14–24, 1992. Applications for loans for physical damage may be filed until the close of business on November 30, 1992, and for loans for economic injury until the close of business on June 30, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Adams, Clark, Columbia, Dane, Dunn, Eau Claire, Grant, Iowa, La Crosse, Monroe, St. Croix, and Wood in the State of Wisconsin; Dakota, Goodhue, Houston, Wabasha, Washington, and Winona Counties in the State of Minnesota; and Allamakee and Clayton Counties in the

State of Iowa may be filed until the specified date at the above location.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 259806 and for economic injury the numbers are 772100 for Wisconsin; 772200 for Minnesota; and 772300 for Iowa.

(Catalog for Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 13, 1992.

Alfred E. Judd,

Acting Assistant Administrotor for Disaster Assistonce.

[FR Doc. 92-26444 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

Interest Rate

AGENCY: Small Business Administration.

ACTION: Notice of interest rate.

SUMMARY: Pursuant to 13 CFR 108.503-8(b)(4), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 108.503-4) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. For a fixed rate loan, the initial rate shall be the legal rate for the term of the loan.

Charles R. Hertzberg,

Assistont Administrotor for Finonciol Assistance.

[FR Doc. 92-26448 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Boston, will hold a public meeting at 10 a.m. on Monday, December 7, 1992 at the Thomas P. O'Neill Federal Building, 10 Causeway Street, Conference Room 262, Boston, Massachusetts, 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 Mr. Joseph D. Pellegrino, District Director, U.S. Small Business Administration, 10 Causeway Street, room 265, Boston, Massachusetts 02222-1093, (617) 565-5560.

Dated: October 26, 1992.

Caroline J. Beeson,

Assistant Administrotor, Office of Advisory Councils.

[FR Doc. 92-26450 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

Small Business Administration

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, will hold a public meeting at 9:30 a.m. on Monday, December 7, 1992 at the U.S. Small Business Administration, 625 Silver SW., Suite 320, Albuquerque, New Mexico, 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 Mr. Tom Dowell, District Director, U.S. Small Business Administration, 625 Silver SW., Suite 320, Albuquerque, New Mexico 87102, (505) 766-1886.

Dated: October 26, 1992.

Caroline J. Beeson,

Assistont Administrotor, Office of Advisory Councils.

[FR Doc. 92-26451 Filed 10-30-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Mercedita Airport, Ponce, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Mercedita Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suit 130, Orlando, FL 32827-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brig. Gen. Jose Buitrago, Executive Director of the Puerto Rico Ports Authority, at the following address: G.P.O. Box 362829, San Juan, PR 00936-2829

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Puerto Rico Ports Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, FAA, Orlando Airport District Office, 9677 Tradeport Drive, Suite 130, Orlando, FL 32827-5397, telephone (407) 648-6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Mercedita Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 16, 1992 the FAA determined that the application to impose and use the revenue from a PFC submitted by the Puerto Rico Ports Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in the whole or in part, no later than January 12, 1993.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1993.

Proposed charge expiration date: January 1, 1999.

Total estimated FFC revenue: $888.000.

Brief description of proposed projects: Expand and improve existing terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person in the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Puerto Rico Ports Authority, Central Offices, Isla Grande Airport, San Juan, PR.

Issued in Atlanta, GA, October 16, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92-26544 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at the Luis Munoz Marin International Airport, San Juan, PR, and Use the PFC Revenue at Luis Munoz Marin International Airport, San Juan, PR, Mercedita Airport, Ponce, PR, and Rafael Hernandez Airport, Aguadilla, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Luis Munoz Marin International Airport and use the PFC revenue at Luis Munoz Marin International Airport, Mercedita Airport, and Rafael Hernandez Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, FL 32827-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brig. Gen. Jose Buitrago, Executive Director of the Puerto Rico Ports Authority, at the following address: G.P.O. Box 362829 San Juan, PR 00936-2829.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Puerto Rico Ports Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, FL 32827-5397, telephone (407) 648-6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Luis Munoz Marin International Airport and use the PFC revenue at Luis Munoz Marin International Airport, Mercedita Airport, and Rafael Hernandez Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 16, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Puerto Rico Ports Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 12, 1993.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1993.

Proposed charge expiration date: January 1, 1999.

Total estimated PFC revenue: $79,444,000.

Brief description of proposed projects:

Luis Munoz Marin International Airport:

1. Construct single west cross-field taxiway.
2. Construct new international terminal.
3. Develop the south-side general aviation area.
4. Widen the north/south taxiway.

Mercedita Airport:

1. Construct a 1,100-foot extension to Runway 12.
2. Expand and improve existing terminal building.

Rafael Hernandez Airport:

1. Expand and improve existing terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Puerto Rico Ports Authority, Isla Grande Airport, San Juan, PR.

Issued in Atlanta, GA, on October 16, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92-26543 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent to Rule an Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Rafael Hernandez Airport, Aguadilla, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Rafael Hernandez Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, FL 32827-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Brig. Gen. Jose Buitrago, Executive Director of the Puerto Rico Ports Authority, at the following address: G.P.O. Box 362829 San Juan, PR 00936-2829

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Puerto Rico Ports Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, FL 32827-5397, telephone (407) 648-6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Rafael Hernandez Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and

part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 16, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Puerto Rico Ports Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 12, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.
Proposed charge effective date: March 1, 1993.
Proposed charge expiration date: January 1, 1999.
Total estimated PFC revenue: $1,080,000.
Brief description of proposed project: Expand and improve existing terminal building.
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Puerto Rico Ports Authority, Isla Grande Airport, San Juan, PR.

Issued in Atlanta, GA, on October 16, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92-26542 Filed 10-30-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0213.
Form Number: IRS Form 5578.
Type of Review: Extension.
Title: Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.
Description: Form 5578 is used by private schools that do not file Schedule A (Form 990) to certify that they have a racially nondiscriminatory policy toward students as outlined in Rev. Proc. 75-50. The Internal Revenue Service uses the information to help ensure that the school is maintaining a nondiscriminatory policy in keeping with its exempt status.
Respondents: Non-profit institutions.
Estimated Number of Respondents/Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hours, 52 minutes.
Learning about the law or the form—53 minutes.
Preparing the form and sending the for to the IRS—59 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 4,750 hours.
Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 92-26477 Filed 10-30-92; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 212
Monday, November 2, 1992

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).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 F.R. 48654.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Thursday, November 5, 1992.

CHANGES IN THE AGENDA: The Commodity Futures Trading Commission has added to the agenda Proposed Revisions to Part 34—Regulation of Hybrid Instruments.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-26637 Filed 10-29-92; 3:08 pm]

BILLING CODE 6351-01-M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, November 5, 1992

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 5, 1992, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Tariff Filing Requirements for Interstate Common Carriers (CC Docket No. 92-13). Summary: The Commission will consider adoption of a *Report and Order* regarding permissive detariffing of domestic nondominant carriers.

2—Common Carrier—Title: Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* regarding the application of the Open Network Architecture regulatory framework to GTE Corporation.

3—Common Carrier—Title: Regulation of International Common Carrier Services (CC Docket No. 90-337, Phase II). Summary: The Commission will consider adoption of a *Second Report and Order and Second Further Notice of Proposed Rulemaking* concerning international accounting rates.

4—Private Radio—Title: Amendment of the Commission's Rules Concerning Maritime Communications (RMs-7956 and 8031). Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking and Notice of Inquiry* to review, update, and streamline the marine radio service rules concerning non-compulsory ship and coast stations.

5—Private Radio—Title: Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and 935-940 MHz Bands Allocated to the Specialized Mobile Radio Service (PR Docket No. 89-553, RMs-6724 and 6579). Summary: The Commission will consider adoption of a *Report and Order* concerning the licensing of 200 channels in the 900 MHz band allocated for use in the Specialized Mobile Radio Service.

6—Mass Media General Counsel—Title: Implementation of Section 10 of the Cable Television Consumer Protection and Competition Act of 1992. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* relating to indecent programming on cable access channels.

7—Mass Media Plans and Policy—Title: Implementation of the Cable Television Consumer Protection and Competition Act of 1992—Broadcast Signal Carriage Issues. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* regarding the mandatory signal carriage and retransmission consent provisions of the 1992 Cable Act.

8—Mass Media Field Operations—Title: Implementation of Section 16 of the Cable Television Consumer Protection and Competition Act of 1992. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning the cable home wiring provision of the 1992 Cable Act.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: October 29, 1992.

Federal Communications Commission

William F. Caton,
Acting Secretory.

[FR Doc. 92-26687 Filed 10-29-92; 8:45 am]

BILLING CODE 6712-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 2, 9, 16, and 23, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 2

Monday, November 2

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on Organizational Conflicts of Interest
b. Randall C. Orem, D.O.-Atomic Safety and Licensing Board Memorandum and Order Approving of Settlement Agreement and Terminating Proceeding (LBP-92-18, Docket No. 30-31758-EA)

Week of November 9—Tentative

Friday, November 13

10:00 a.m.
Briefing on Proposed Method for Regulating Major Materials Licensees (Public Meeting)
(Contact: John Greeves, 301-504-3334)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" (Tentative)

2:00 p.m.
Briefing on Current Reactor Technical Issues, e.g. Thermo-Lag Barriers and Reactor Water Level Indicators (Public Meeting)
(Contact: Ashok Thadani, 301-504-2884)

Week of November 16—Tentative

Friday, November 20

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 23—Tentative

Monday, November 23

9:30 a.m.
Briefing on Progress of Design Certification Review and Implementation (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)

2:00 p.m.
Briefing on Rulemaking Procedures for Design Certification Under Part 52 (Public Meeting)
(Contact: Geary Mizuno, 301-504-1639)

Tuesday, November 24

10:00 a.m.
Briefing by OGC on Regulatory Issues and Options for Decommissioning Proceedings (Public Meeting)
(Contact: Mitzi Young, 301-504-1523)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Briefing on Large Release Definition (Public Meeting)

(Contact: Charles Ader, 301-492-3975) (Tentative)

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 Meeting Call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: October 27, 1992.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 92-26636 Filed 10-29-92; 3:11 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 2, 1992.

A closed meeting will be held on Tuesday, November 3, 1992, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 3, 1992, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Consideration of *amici* participation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Chris Sakach at (202) 272-2300.

Dated: October 26, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-26656 Filed 10-29-92; 3:12 pm]

BILLING CODE 8010-01-M

federal register

Monday
November 2, 1992

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1, 20, 25 and 602

Valuation Tables; Proposed Rule and Hearing

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25 and 602

RIN 1545-AM81

Valuation Tables

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations under the Internal Revenue Code relating to the valuation of any annuity, any interest for life or a term of years, or any remainder or reversionary interest. These amendments are necessary because section 7520, which provides a new method for valuing these interests after April 30, 1989, was added to the Internal Revenue Code (the Code) by section 5031 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, 102 Stat. 3342) (the Act). These proposed regulations would affect all transfers of such interests in property. The proposed regulations do not apply for purposes of section 72 of the Code (relating to the income taxation of life insurance, endowments, and annuities), for purposes of sections 401 through 419A, 457, 3121(v), 3306(r), and 6058 (relating to deferred compensation arrangements), for purposes of section 7872 (relating to income and gift taxation of interest-free and below-market interest rate loans), for purposes of certain property interests under sections 83 and 451, or for purposes of certain transfers under Chapter 14.

DATES: Written comments, requests to appear and outlines of comments to be presented at a public hearing must be received by November 30, 1992.

ADDRESSES: All submissions should be sent to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (PS-100-88), Room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: William L. Blodgett, telephone 202-622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this proposed rulemaking is in §§ 20.7520-1 through 20.7520-4. This information is required to compute the present value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest for income, gift, estate, and generation-skipping transfer tax purposes. The likely respondents are individuals, estates, trusts, and nonprofit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. Estimated total annual reporting burden: 4,500 hours. The estimated annual burden per respondent varies from 30 minutes to one hour, depending on individual circumstances, with an estimated average of 45 minutes. Estimated number of respondents: 6,000. Estimated annual frequency of responses: one.

Background

This document provides proposed regulations (26 CFR 20.7520) for the valuation of certain partial interests in property under section 7520 of the Internal Revenue Code of 1986 (the Code), as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988 (the Act).

In General

Section 7520 provides that the value of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is to be determined under tables published by the Internal Revenue Service based on a discount rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the applicable Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. These tables have been published in Internal Revenue Service Publications 1457 "Actuarial Values, Alpha Volume" and 1458 "Actuarial Values, Beta Volume." Those publications also contain special factors to make necessary adjustments for frequency and time of payments when the value of the interest is based upon recurring payments, along with examples of computations. The tables will be revised at least once every 10 years to reflect the most recent mortality experience available. Certain tables contained in those publications are included in these regulations so that taxpayers and their advisers can have more ready access to the tables.

To compute the present value of the property interest being transferred, it is necessary to use the interest rate that is 120 percent of the applicable Federal mid-term rate compounded annually and that is published in the Internal Revenue Bulletin for the month in which the valuation date falls. This rate must be rounded to the nearest two-tenths of one percent. However, if an income, estate, or gift tax charitable deduction is allowable for any part of the property transferred, the transferor may elect to use an interest rate that is 120 percent of the applicable Federal mid-term rate for either of the two months preceding the month in which the valuation date falls.

Section 7520 does not apply for purposes of section 72 of the Code (involving the income taxation of life insurance, endowments, and annuities), for purposes of sections 401 through 419A, 457, 3121(v), 3306(r), and 6058 (relating to deferred compensation arrangements), for purposes of section 7872 (relating to income and gift taxation of interest-free and below-market interest rate loans), for purposes of certain property interests under sections 83 and 451, or for purposes of certain transfers under chapter 14 of the Code.

During the 5 and 1/2 year period before the enactment of section 7520 of the Code, the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest was computed using an interest rate of 10 percent, based on tables contained in regulations under section 2031 (estate tax), section 2512 (gift tax), section 2624 (generation-skipping transfer tax), section 664 (charitable remainder trusts), and section 642 (pooled income funds). The regulations under each of these sections are amended to provide that transfers of such interests with respect to which the valuation date falls on or after May 1, 1989, are valued under section 7520.

The following is a chart that summarizes the periods of time, the interest rates, and the applicable regulation sections under the existing and proposed regulations.

CROSS REFERENCE TO REVISED SECTIONS

Valuation period	Interest rate	Prior section	Revised section
§ 642:			
Valuation, in general			1.642(c)-6
05/01/89-present	§ 7520	None	1.642(c)-6(e)
Before 01/01/52	4%	None	1.642(c)-6A(a)
01/01/52-12/31/70	3.5%	None	1.642(c)-6A(b)
01/01/71-11/30/83	6%	1.642(c)-6(e)	1.642(c)-6A(c)
12/01/83-04/30/89	10%	1.642(c)-6(d)	1.642(c)-6A(d)
§ 664:			
Valuation, in general			1.664-4
05/01/89-present	§ 7520	None	1.664-4(e)
Before 01/01/52	4%	None	1.664-4A(a)
01/01/52-12/31/70	3.5%	None	1.664-4A(b)
01/01/71-11/30/83	6%	1.664-4(d)	1.664-4A(c)
12/01/83-04/30/89	10%	1.664-4(b)	1.664-4A(d)
§ 2031:			
Valuation, in general			20.2031-7
05/01/89-present	§ 7520	None	20.2031-7(e)
Before 01/01/52	4%	None	20.2031-7A(a)
01/01/52-12/31/70	3.5%	None	20.2031-7A(b)
01/01/71-11/30/83	6%	20.2031-10	20.2031-7A(c)
12/01/83-04/30/89	10%	20.2031-7	20.2031-7A(d)
§ 2512:			
Valuation, in general			25.2512-5
05/01/89-present	§ 7520	None	25.2512-5(e)
Before 01/01/52	4%	None	25.2512-5A(a)
01/01/52-12/31/70	3.5%	None	25.2512-5A(b)
01/01/71-11/30/83	6%	25.2512-9	25.2512-5A(c)
12/01/83-04/30/89	10%	25.2512-5	25.2512-5A(d)

With respect to transfers to pooled income funds, the proposed regulations provide rules for determining the rate of return for purposes of valuing charitable remainder gifts in pooled income funds described in section 642. In general, the rate of return for a pooled income fund is equal to the highest annual rate of return of the fund for the 3 taxable years immediately preceding the year in which the transfer of property to the fund is made. For a pooled income fund that has been in existence for less than 3 years, § 1.642(c)-6(b)(2) of the existing regulations provides a deemed rate of return of 9 percent for funds created between December 1, 1983, and April 30, 1989. This deemed rate was 1 percent less than general interest rate of 10 percent that was prescribed by the regulations for that period. Notice 89-60, 1989-1 C.B. 700 (See § 601.601(d)(2)(ii)(*b*) of the Statement of Procedural Rules), announced a method of determining the deemed rate of return for pooled income funds created after April 30, 1989. Under the Notice, the deemed rate is equal to 1 percent less than the highest average annual rate (120 percent of the applicable Federal mid-term rate rounded to the nearest two-tenths of one percent) for the 3 years preceding the date the fund is created. The proposed regulation provides that the deemed rate for pooled income funds created after April 30, 1989, is 90 percent of the same highest average annual rate for the 3 years preceding the creation of the fund. In the case of funds created in 1989 (after April 30), 1990, 1991, and 1992, the method in the proposed regulation yields the same deemed rate of return as the method in Notice 89-60. Although the proposed regulation applies to pooled income funds created after April 30, 1989, for transfers to pooled income funds created prior to November 2, 1992, a transferor can rely on the notice.

Transitional Rules

Under section 5031 of the Act, section 7520 is effective where the valuation date with respect to a transfer occurs on or after May 1, 1989. These proposed regulations provide certain transitional rules intended to alleviate any adverse consequences resulting from the statutory change. Several principal provisions of the proposed regulations were announced in Notice 89-24, 1989-1 C.B. 660 (which announced the change from the 10 percent fixed rate of interest to the section 7520 floating rate of interest), and Notice 89-60 (which announced the change in mortality tables)(see § 601.601(d)(2)(ii)(*b*) of the Statement of Procedural Rules). A transitional rule in the proposed regulation provides that, for valuation dates of transfers after April 30, 1989, and before November 2, 1992, a transferor can rely on Notice 89-24 or Notice 89-60 in valuing the transferred interest. For gift tax purposes, a transitional rule provides that if, after December 31, 1988, but before May 1, 1989, a donor transferred an interest in property, retaining an interest in the same property, and the donor later transferred the retained interest in the property after April 30, 1989, and before January 1, 1990, the donor may elect to value the transfer of the retained interest under either the 10 percent tables or the section 7520 tables (whichever is more beneficial). For estate tax purposes, a transitional rule provides that a decedent's estate may elect to value the property interest included in the gross estate under either set of tables if the decedent was under a mental incapacity that existed on May 1, 1989, and continued uninterrupted until the decedent's death. For determining the value of the remainder interest in a testamentary charitable remainder unitrust or annuity trust, a transitional rule provides that the interest rate of either 10 percent or the rate under section 7520 may be used if the decedent was mentally incompetent on May 1, 1989, and (1) such incompetency continued uninterrupted until death or (2) the decedent died within 90 days of first regaining competency after April 30, 1989.

Election Requirements

These regulations specify the time and manner of making the election to use the applicable Federal mid-term rate for either of the two months preceding the month in which the valuation date falls when a charitable deduction is

allowable for part of the interest transferred. The election must be made with the first income, estate, or gift tax return that is filed after the transfer. Generally, the person required to file the return is also required to make the election. Any election may be revoked if revocation occurs within the period of limitations on assessment and collection under section 6501. If, in addition to the charitable interest, another interest in the same property is transferred and the taxpayer elects to use an interest rate from one of the two preceding months, the taxpayer must use the same rate to determine the value of each interest transferred. A cross-reference is provided in the proposed regulations to § 301.9100-8(a)(1), which provides interim rules for this election, which was enacted under the Technical and Miscellaneous Revenue Act of 1988.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and 8 copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. See the notice of public hearing published elsewhere in this issue of the Federal Register.

Drafting Information

The principal author of these regulations is William L. Blodgett of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.51-1 through 1.194-4

Bonds, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.641(a)-0 through 1.665(g)-2A

Estates, Income taxes, Reporting and recordkeeping requirements, Trusts and trustees.

26 CFR 1.1011-1 through 1.1021-1

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.7520

Valuation tables.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, 25, and 602 are proposed to be amended as follows:

PARTS 1, 20 and 25—[AMENDED]

Paragraph 1. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column:

Section	Remove	Add
1.52-1(f)	Or 20.2031-10, whichever is appropriate	
1.101-2(e)(1) (iii)(*b*)(*3*)	Paragraph (f) of	
1.101-2(e)(2), Example (1)(ii)	Paragraph (f) of	
1.170A-4(d), Example 9, third sentence	§ 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-5(b), Example 5, fifth sentence	Table A(1) in § 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-6(c)(3)(i)	Or § 20.2031-10, whichever Is appropriate	
1.170A-6(c)(3) (iii) Example 1, second sentence	Table B in § 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-6(c)(3) (iii) Example 2, second sentence	Table B in § 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-6(c)(3) (iii) Example 3, third sentence	§ 20.2031-10(e)	§ 20.2031-7A(c).
1.170A-6(c)(3) (iii) Example 3, fourth sentence	Table B in § 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-6(c)(4) second sentence	Or § 20.2031-10, whichever is appropriate	
1.170A-6(c)(5) Example 1, sixth sentence	Table B in § 20.2031-10(f)	§ 20.2031-7A(c).
1.170A-6(c)(5) Example 2(b)	§ 1.664-4(b)(5)	§ 1.664-4A(c).
1.170A-6(c)(5) Example 3(b)	§ 20.2031-10(f)	§ 20.2031-7A(c).
1.70A-7(c) third sentence	Or § 20.2031-10, whichever is appropriate	
1.170A-12(b)(1) first sentence	Paragraph (d) of § 25.2512-5 or 25.2512-9 of this chapter (Gift Tax Regulations), using Table A, A(1), or A(2) (whichever is appropriate).	§ 25.2512-5 of this chapter (Gift Tax Regulations).
1.170A-12(b)(1) second sentence	Column 4 of Table A in paragraph (f) of § 25.2512-5 or Table A(1) or A(2) in paragraph (f) of § 25.2512-9.	§ 25.2512-5A(c) or § 25.2512-5A(d).
1.170A-12(b)(2) first sentence	§ 20.2031-7 (§ 20.2031-10	§ 20.2031-7A(d) (§ 20.2031-7A(c).
1.170A-12(c) first and third sentences	Paragraph (d) in § 25.2512-5 or 25.2512-9	§ 25.2512-5A(c) or § 25.2512-5A(d).
1.170A-12(c) Example, fourth sentence	§ 25.2512-9(f)	§ 25.2512-5A(c)(6).
1.170A-12(e)(1) second sentence	§ 20.2031-7 (§ 20.2031-10	§ 20.2031-7A(d) (§ 20.2031-7A(c).
1.170A-12(e)(2) (in the formula)	§ 20.2031-7(f) or § 20.2031-10(f)	§ 20.2031-7A(d)(6) or § 20.2031-7A(c)(6).
1.414(c)-2(b) (2)(ii) second sentence	Or § 20.2031-10 (Estate Tax Regulations), whichever is appropriate.	
1.414(c)-4(b) (3)(i) last sentence	Or § 20.2031-10 (Estate Tax Regulations), whichever is appropriate.	
1.642(c)-6(d)(2) third and fifth sentences	Paragraph (d)(2)	Paragraph (d)(3)
1.642(c)-6(d)(2) fourth sentence	Paragraph (a)(2) of this section	§ 1.642(c)-6(b).
1.642(c)-7(d)(2) first and second sentences	Paragraph (b)(2) of	
1.664-1(a)(6) Example (6)(ii), second sentence	§ 1.664-4(b)(2)	§ 1.664-4A(c).
1.664-4(a)(4) last sentence	Subparagraph (1) of this paragraph	Paragraph (a) of this section.
1.664-4(b)(2) second sentence	Paragraph (4) of this section	§ 1.664-4(a).
1.664-4(b)(2) last sentence	Paragraph (a)(3) of this section	§ 1.664-4(b).

Section	Remove	Add
1.664-4(b)(3) first sentence	Paragraph (b)(5)	Paragraph (d)(6).
1.664-4(b)(3) third and sixth sentences	Paragraph (b)(3)	Paragraph (d)(4).
1.664-4(b)(3) fifth sentence	Paragraph (a)(4) of this section.	§ 1.664-4(b).
1.1014-5(a)(3) first sentence	Or § 20.2031-10, whichever Is applicable	
1.1014-5(c) Example (1), fourth sentence	Table A(2) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
1.1014-5(c) Example (2), second sentence	Table A(2) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
1.1014-5(c) Example (3), sixth sentence	Table A(1) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
1.1014-5(c) Example (4), third sentence	Table A(1) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
1.1014-5(c) Example (5)(a), fifth sentence	Table A(1) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
1.1014-5(c) Example (6), fourth sentence	Table A(2) in paragraph (f) of § 20.2031-10	§ 20.2031-7A(c).
20.2031-7(a)(2) first and second sentences	Paragraph (f)	Paragraph (d)(6).
20.2031-7(a)(2)	Paragraph (e)	Paragraph (d)(5).
20.2031-7(b)(1)	Paragraph (b)(1)	Paragraph (d)(2)(i).
20.2031-7(b)(2)	Paragraph (b)(2)	Paragraph (d)(2)(ii).
20.2031-7(b)(2) (in the Example)	Paragraph (b)(1)	Paragraph (d)(2)(i).
20.2031-7(b)(3)(i)	Paragraphs (b)(1) or (2)	Paragraphs (d)(2)(i) or (ii).
20.2031-7(b)(3)(i)	Paragraph (b)(3)(i)	Paragraph (d)(2)(iii) (A).
20.2031-7(b)(3)(i) (in the Example)	Paragraph (b)(2)	Paragraph (d)(2)(ii).
20.2031-7(b)(3)(ii)	Paragraph (b)(3)(ii)	Paragraph (d)(2)(iii) (B).
20.2031-7(c)	Paragraph (c)	Paragraph (d)(3).
20.2031-7(d)	Paragraph (d)	Paragraph (d)(4).
20.2031-7(e)	Paragraph (f)	Paragraph (d)(6).
20.2032-1(f)(1) fourth sentence	§ 20.2031-7	§ 20.2031-7A(d).
20.2039-2(c) (1)(viii)	Through 20.2031-10	
20.2039-5(c)(1)	Through 20.2031-10	
20.2039-5(c)(2)	Through 20.2031-10	
20.2055-2(f) (2)(iv)	Or 20.2031-10, whichever is appropriate,	
20.2056(b)-4(d) fourth sentence	Paragraph (e)	Paragraph (b).
25.2511-1(h)(6)	Paragraph (e) of § 25.2512-5 or paragraph (e) of § 25.2512-9, whichever is applicable,.	§ 25.2512-5.
25.2511-1(h)(7)	Paragraph (e) of § 25.2512-5 or paragraph (e) of § 25.2512-9, whichever is applicable,.	§ 25.2512-5.
25.2512-5(a)(2) first and second sentences	Paragraph (f)	Paragraph (d)(6).
25.2512-5(a)(2) third sentence	Paragraph (e)	Paragraph (d)(5).
25.2512-5(b)(2) last sentence	Paragraph (b)(2)	Paragraph (d)(2)(ii).
25.2512-5(b)(2) (in the Example)	Paragraph (b)(1)	Paragraph (d)(2)(i).
25.2512-5(b)(3)(i)	Paragraphs (b)(1) or (2)	Paragraphs (d)(2)(i) or (ii).
25.2512-5(b)(3)(i) last sentence	Paragraphs (b)(3)(i)	Paragraphs (d)(2)(iii) (A).
25.2512-5(b)(3)(ii)	Paragraph (b)(3)(ii)	Paragraph (d)(2)(iii)(B).
25.2512-5(c)	Paragraph (c)	Paragraph (d)(3).
25.2512-5(d)	Paragraph (d)	Paragraph (d)(4).
25.2518-3(a)(1)(iv)(A)	§ 20.2031-10	§ 20.2031-7.
25.2522(c)-3(d)(2)(iv) first sentence	Or 25.2512-9, whichever is appropriate	
25.2522(c)-3(d) (2)(iv) Example 1, second sentence	Table B in § 25.2512-9(f)	§ 25.2512-5A(c).
25.2522(c)-3(d) (2)(iv) Example 2, second sentence	Table B in § 25.2512-9(f)	§ 25.2512-5A(c).
25.2522(c)-3(d) (2)(iv) Example 3, third sentence	§ 25.2512-9(e)	§ 25.2512-5A(c).
25.2522(c)-3(d) (2)(iv) Example 3, fourth sentence	Table B in § 25.2512-9(f)	§ 25.2512-5A(c).
25.2523(c)-1(c) Example, tenth sentence	(70,000 X .708919, as found in Table II of § 25.2512-5)	As determined under § 25.2512-5A(c).

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Par. 2. The authority citation for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 3. Section 1.170A-14, paragraph (h)(4) *Example 2* is amended by revising the third and fourth sentences and removing the fifth sentence to read as follows:

§ 1.170A-14 Qualified conservation contributions.

* * * * *

(h) * * *

(4) * * *

Example 2. * * * Under § 1.170A-12(b), the value of a remainder interest in real property following one life is determined under § 25.2512-5A(d) of this chapter (Gift Tax Regulations). (See § 25.2512-5A(a) through § 25.2512-5A(c) of this chapter with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred before December 1, 1983).

* * * * *

Par. 4. Immediately following § 1.643(d)-2, an undesignated center heading and § 1.642(c)-6A are added to read as follows:

Pooled Income Fund Actuarial Tables Applicable Before May 1, 1989

§ 1.642(c)-6A Valuation of charitable remainder interests created before May 1, 1989.

(a) *Voluotion of charitable remainder interests created before January 1, 1952.* There was no provision for the qualification of pooled income funds under section 642 until 1969. See § 20.2031-7A(a) of this chapter (Estate Tax Regulations) for the determination of the present value of a charitable remainder interest created before January 1, 1952.

(b) *Voluotion of choritable remainder interests created after December 31, 1951, and before January 1, 1971.* No charitable deduction is allowable for a transfer to a pooled income fund after the effective dates of the Tax Reform Act of 1969 unless the pooled income fund meets the requirements of section 642(c)(5). See § 20.2031-7A(b) of this chapter (Estate Tax Regulations) for the determination of the present value of a charitable remainder interest created after December 31, 1951, and before January 1, 1971.

(c) *Present value of remainder interest dependent on the termination of one life in the cose of transfers to pooled income funds made after December 31, 1970, and before December 1, 1983.* For determination of the present value of the remainder interest in property transferred to a pooled income fund after December 31, 1970, and before December 1, 1983, see § 20.2031-7A(c) of this chapter (Estate Tax Regulations)

and former § 1.642(c)-6(e) (as contained in CFR edition revised as of April 1, 1992).

(d) *Present value of remainder interest dependent on the termination of one life in the case of transfers to pooled income funds made after November 30, 1983, for which the valuation date falls before May 1, 1989*—(1) *In general.* For transfers to pooled income funds made after November 30, 1983, for which the valuation date falls before May 1, 1989, the present value of a remainder interest at the time property is transferred to the fund is determined by computing the present value (at the time of transfer) of the life income interest and substracting that value from the fair market value of the transferred property on the valuation date. The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by use of Table G in paragraph (d)(4) of this section. For purposes of the computation under this section, the age of an individual is to be taken as the age of the individual at the individual's nearest birthday.

(2) *Present value of life income interest.* The present value of the life income interest in property transferred to a pooled income fund shall be computed on the basis of:

(i) Life contingencies determined from the values of *lx* that are set forth in Table LN of § 20.2031-7A(d)(6) of this chapter (Estate Tax Regulations); and

(ii) Discount at a rate of interest compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (d)(2), the first taxable year of a pooled income fund shall be considered a taxable year even though such taxable year consists of less than 12 months. However, appropriate adjustments shall be made to annualize the rate of return earned by the fund for such period. Where it appears from the facts and circumstances that the highest yearly rate of return for the 3 taxable years immediately preceding the taxable year in which the tranfer of property is made has been purposely arranged to be substantially incommensurate with the reasonably anticipated earnings of the fund with the objective of obtaining an excessive charitable contributions deduction, such rate of return shall not be used. In such a case the highest yearly rate of return of the fund shall be determined by treating the fund as a pooled income fund which has been in existence for less than 3 preceding taxable years. If the pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made, the highest yearly rate of return is deemed to be 9 percent. For purposes of this paragraph (d)(2), the yearly rate of return of a pooled income fund is determined as provided in § 1.642(c)-6(c) unless the highest yearly rate of return is deemed to be 9 percent.

Par. 5. Section 1.642(c)-6 is amended as follows:

1. The section heading is revised.
2. Paragraphs (a) and (b) are revised.
3. Paragraph (c)(1) is revised.
4. Paragraphs (d)(2) and (d)(3) are redesignated as § 1.642(c)-6A, paragraphs (d)(3) and (d)(4), respectively.
5. Paragraph (d) is revised.
6. Paragraph (e) is revised.
7. The revised provisions read as follows:

§ 1.642(c)-6 Valuation of a remainder interest in property transferred to a pooled income fund after April 30, 1989.

(a) *In general.* (1) For purposes of sections 170, 2055, 2106, and 2522, the fair market value of a remainder interest in property transferred to a pooled income fund is its present value determined under paragraph (d) of this section.

(2) The present value of the remainder interest at the time the property is transferred to the fund is determined by computing the present value (at the time of the transfer) of the life income interest and subtracting that value from the fair market value of the transferred property on the valuation date. The fact that the income beneficiary may not receive the last income payment, as provided in paragraph (b)(7) of § 1.642(c)-5, is not taken into account for purposes of determining the value of the life income interest. For purposes of this section, the valuation date is the date on which property is transferred to the fund by the donor except that, for purposes of section 2055 or 2106, it is the alternate valuation date, if elected, under the provisions of section 2032 and the regulations thereunder.

(b) *Actuarial Computations by the Internal Revenue Service.* The regulations in this and in related sections provide tables of actuarial factors and examples that illustrate the use of the tables in determining the value of remainder interests in property. Section 20.7520-1(a)(2) of this chapter (Estate Tax Regulations) refers to government publications that provide additional tables of factors and examples of computations for more complex situations. Some older publications are no longer available. If the computation requires the use of a factor that is not provided in this section, the Commissioner may supply the factor upon a request for a ruling. A request for a ruling must be accompanied by a recitation of the facts including the pooled income fund's highest yearly rate of return for the three taxable years immediately preceding the date of transfer, the date of birth of each measuring life, and copies of the relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (See §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee. If the Commissioner furnishes the factor, a copy of the letter supplying the factor should be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in this section. Any claim for a deduction on any return for the value of the remainder interest in property transferred to a pooled income fund must be supported by a statement attached to the return showing the computation of the present value of the interest.

(c) *Computation of pooled income fund's yearly rate of return.* (1) For purposes of determining the present value of the life income interest, the yearly rate of return earned by a pooled income fund for a taxable year is the percentage obtained by dividing the amount of income earned by the pooled income fund for the taxable year by an amount equal to—

(i) The average fair market value of the property in such fund for that taxable year; less

(ii) The corrective term adjustment.

* * * * *

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund after April 30, 1989, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund before May 1, 1989, is determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	1-1-52	1.642(c)-6A(a)
12-31-51	1-1-71	1.642(c)-6A(b)
12-31-70	1-1-83	1.642(c)-6A(c)
11-30-83	5-1-89	1.642(c)-6A(d)

(e) *Present value of the remainder interest dependent on the termination of one life in the case of transfers to pooled income funds for which the valuation date falls after April 30, 1989*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date falls after April 30, 1989, the present value of a remainder interest is determined under this section. The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (e)(4) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday. If the valuation date of a transfer to a pooled income fund is after April 30, 1989, and before November 2, 1992, a transferor can rely on Notice 89–24, 1989–1 C.B. 660, or Notice 89–60, 1989–1 C.B. 700 (See § 601.601(d)(2)(ii)(*b*) of this chapter), in valuing the transferred interest.

(2) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in § 20.2031–7(e)(6) of this chapter (Estate Tax Regulations) and which are derived from Table 80CNSMT; and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e)(2)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the 3 taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than earnings that would otherwise be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than 3 preceding taxable years. If a pooled income fund created after April 30, 1989, has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is 90 percent of the highest annual average of the monthly rates (120 percent of the applicable Federal mid-term rate (rounded to the nearest two-tenths of one percent) for purposes of section 1274(d)(1), as described in section 7520) for the 3 calendar years immediately preceding the year in which the pooled income fund is created. That deemed rate of return of the pooled income fund remains the same until the fund has been in existence for 3 taxable years and can compute its highest rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made. In no event is the deemed rate less than 2.2 percent. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in § 1.642(c)–6(c) unless the highest rate of return is deemed to be the rate described above.

(3) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from table S in paragraph (e)(4) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based. If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided in table S, a linear interpolation must be made. If the yearly rate of return is between 2.2 and 26 percent, see paragraph (e)(4) of this section for information necessary to find the appropriate actuarial factors. If the yearly rate of return is below 2.2 percent or above 26 percent, see § 1.642(c)–6(b). The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the factor from table S. This paragraph may be illustrated by the following example:

Example. A, who will be 55 years old on May 8, 1990, transfers $100,000 to a pooled income fund on January 1, 1990, and retains a life income interest in the property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.47 percent. In table S, the remainder factor opposite 55 years under 9.4 percent is .18785 and under 9.6 percent is .18322. The present value of the remainder interest is $18,623, computed as follows:

Factor at 9.4 percent for age 55	.18785
Factor at 9.6 percent for age 55	.18322
Difference	.00463

$$\frac{9.47\% - 9.4\%}{0.2\%} = \frac{X}{.00463}$$

Interpolation adjustment:

X=.00162

Factor at 9.4 percent for age 55	.18785
Less: Interpolation adjustment	.00162
Interpolated factor	.18623

Present value of remainder interest: ($100,000 X .18623) $18,623

(4) *Actuarial table.* In the case of transfers for which the valuation date falls after April 30, 1989, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the table set forth below. Many actuarial factors not contained in the following table are contained in Table S in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8–89). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, DC 20402.

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
0	.07389	.06749	.06188	.05695	.05261	.04879	.04541	.04243	.03978	.03744
1	.06494	.05832	.05250	.04738	.04287	.03889	.03537	.03226	.02950	.02705
2	.06678	.05999	.05401	.04874	.04410	.03999	.03636	.03314	.03028	.02773
3	.06897	.06200	.05587	.05045	.04567	.04143	.03768	.03435	.03139	.02875
4	.07139	.06425	.05796	.05239	.04746	.04310	.03922	.03578	.03271	.02998

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
5	.07401	.06669	.06023	.05451	.04944	.04494	.04094	.03738	.03421	.03137
6	.07677	.06928	.06285	.05677	.05156	.04692	.04279	.03911	.03583	.03289
7	.07968	.07201	.06521	.05918	.05381	.04903	.04477	.04097	.03757	.03453
8	.08274	.07489	.06792	.06172	.05621	.05129	.04689	.04297	.03945	.03630
9	.08597	.07794	.07079	.06443	.05876	.05370	.04917	.04511	.04148	.03821
10	.08936	.08115	.07383	.06730	.06147	.05626	.05159	.04741	.04365	.04027
11	.09293	.08453	.07704	.07035	.06436	.05900	.05419	.04988	.04599	.04250
12	.09666	.08807	.08040	.07354	.06739	.06188	.05693	.05248	.04847	.04486
13	.10049	.09172	.08387	.07684	.07053	.06487	.05977	.05518	.05104	.04731
14	.10437	.09541	.08738	.08017	.07370	.06788	.06263	.05791	.05364	.04978
15	.10827	.09912	.09090	.08352	.07688	.07090	.06551	.06064	.05623	.05225
16	.11220	.10285	.09445	.08689	.08008	.07394	.06839	.06337	.05883	.05472
17	.11615	.10661	.09802	.09028	.08330	.07699	.07129	.06612	.06144	.05719
18	.12017	.11043	.10165	.09373	.08656	.08009	.07422	.06890	.06408	.05969
19	.12428	.11434	.10537	.09726	.08992	.08327	.07724	.07177	.06679	.06226
20	.12850	.11836	.10919	.10089	.09337	.08654	.08035	.07471	.06959	.06492
21	.13282	.12248	.11311	.10462	.09692	.08991	.08355	.07775	.07247	.06765
22	.13728	.12673	.11717	.10848	.10059	.09341	.08686	.08090	.07546	.07049
23	.14188	.13113	.12136	.11248	.10440	.09703	.09032	.08418	.07858	.07345
24	.14667	.13572	.12575	.11667	.10839	.10084	.09395	.08764	.08187	.07659
25	.15167	.14051	.13034	.12106	.11259	.10486	.09778	.09130	.08536	.07991
26	.15690	.14554	.13517	.12569	.11703	.10910	.10184	.09518	.08907	.08346
27	.16237	.15081	.14024	.13056	.12171	.11359	.10614	.09930	.09302	.08724
28	.16808	.15632	.14555	.13567	.12662	.11831	.11068	.10366	.09720	.09125
29	.17404	.16208	.15110	.14104	.13179	.12329	.11547	.10827	.10163	.09551
30	.18025	.16808	.15692	.14665	.13721	.12852	.12051	.11313	.10631	.10002
31	.18672	.17436	.16300	.15255	.14291	.13403	.12584	.11827	.11127	.10480
32	.19344	.18090	.16935	.15870	.14888	.13980	.13142	.12367	.11650	.10985
33	.20044	.18772	.17598	.16514	.15513	.14587	.13730	.12938	.12201	.11519
34	.20770	.19480	.18287	.17185	.16165	.15221	.14345	.13533	.12780	.12080
35	.21522	.20215	.19005	.17884	.16846	.15883	.14989	.14159	.13388	.12670
36	.22299	.20974	.19747	.18609	.17552	.16571	.15660	.14812	.14022	.13287
37	.23101	.21760	.20516	.19360	.18286	.17288	.16358	.15492	.14685	.13933
38	.23928	.22572	.21311	.20139	.19048	.18032	.17085	.16201	.15377	.14607
39	.24780	.23409	.22133	.20945	.19837	.18804	.17840	.16939	.16097	.15310
40	.25658	.24273	.22982	.21778	.20654	.19605	.18624	.17706	.16847	.16043
41	.26560	.25163	.23858	.22639	.21499	.20434	.19436	.18502	.17627	.16806
42	.27486	.26076	.24758	.23525	.22370	.21289	.20276	.19326	.18434	.17597
43	.28435	.27013	.25683	.24436	.23268	.22172	.21143	.20177	.19270	.18416
44	.29407	.27975	.26633	.25373	.24191	.23081	.22038	.21057	.20134	.19265
45	.30402	.28961	.27808	.26337	.25142	.24019	.22962	.21966	.21028	.20144
46	.31420	.29970	.28608	.27328	.26120	.24983	.23913	.22904	.21951	.21053
47	.32460	.31004	.29632	.28341	.27123	.25975	.24892	.23870	.22904	.21991
48	.33521	.32058	.30679	.29379	.28151	.26992	.25897	.24862	.23883	.22957
49	.34599	.33132	.31746	.30438	.29201	.28032	.26928	.25879	.24888	.23949
50	.35695	.34224	.32833	.31518	.30273	.29094	.27978	.26921	.25918	.24966
51	.36809	.35335	.33940	.32619	.31367	.30180	.29055	.27987	.26973	.26010
52	.37944	.36468	.35070	.33744	.32486	.31292	.30158	.29081	.28057	.27083
53	.39098	.37622	.36222	.34892	.33629	.32429	.31288	.30203	.29170	.28186
54	.40269	.38794	.37393	.36062	.34795	.33590	.32442	.31349	.30308	.29316
55	.41457	.39985	.38585	.37252	.35983	.34774	.33621	.32522	.31474	.30473
56	.42662	.41194	.39796	.38464	.37193	.35981	.34824	.33720	.32666	.31658
57	.43884	.42422	.41028	.39697	.38426	.37213	.36053	.34945	.33885	.32872
58	.45123	.43668	.42279	.40951	.39682	.38468	.37307	.36196	.35132	.34114
59	.46377	.44931	.43547	.42224	.40958	.39745	.38584	.37471	.36405	.35383
60	.47643	.46206	.44830	.43513	.42250	.41040	.39880	.38767	.37699	.36674
61	.48916	.47491	.46124	.44814	.43556	.42350	.41192	.40080	.39012	.37985
62	.50196	.48783	.47427	.46124	.44874	.43672	.42518	.41408	.40340	.39314
63	.51480	.50081	.48736	.47444	.46201	.45006	.43856	.42749	.41684	.40658
64	.52770	.51386	.50054	.48773	.47540	.46352	.45208	.44105	.43043	.42019
65	.54069	.52701	.51384	.50115	.48892	.47713	.46577	.45480	.44422	.43401
66	.55378	.54029	.52727	.51472	.50262	.49093	.47965	.46876	.45824	.44808
67	.56697	.55368	.54084	.52845	.51648	.50491	.49373	.48293	.47248	.46238
68	.58026	.56717	.55453	.54231	.53049	.51905	.50800	.49729	.48694	.47691
69	.59358	.58072	.56828	.55624	.54459	.53330	.52238	.51179	.50154	.49160
70	.60689	.59427	.58205	.57021	.55874	.54762	.53683	.52638	.51624	.50641
71	.62014	.60778	.59578	.58415	.57287	.56193	.55131	.54100	.53099	.52126
72	.63334	.62123	.60948	.59808	.58700	.57624	.56579	.55563	.54577	.53617
73	.64648	.63465	.62315	.61198	.60112	.59056	.58029	.57030	.56059	.55113
74	.65961	.64806	.63682	.62590	.61527	.60492	.59485	.58504	.57550	.56620
75	.67274	.66149	.65054	.63987	.62948	.61936	.60950	.59990	.59053	.58140
76	.68589	.67495	.66429	.65390	.64377	.63390	.62427	.61487	.60570	.59676
77	.69903	.68841	.67806	.66796	.65811	.64849	.63910	.62993	.62097	.61223
78	.71209	.70182	.69179	.68199	.67242	.66307	.65393	.64501	.63628	.62775
79	.72500	.71507	.70537	.69588	.68660	.67754	.66867	.65999	.65151	.64321
80	.73768	.72809	.71872	.70955	.70058	.69180	.68320	.67479	.66655	.65849
81	.75001	.74077	.73173	.72288	.71422	.70573	.69741	.68926	.68128	.67345
82	.76195	.75306	.74435	.73582	.72748	.71926	.71123	.70335	.69562	.68804

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
83	.77346	.76491	.75654	.74832	.74026	.73236	.72460	.71699	.70952	.70219
84	.78456	.77636	.76831	.76041	.75265	.74503	.73756	.73021	.72300	.71592
85	.79530	.78743	.77971	.77212	.76466	.75733	.75014	.74306	.73611	.72928
86	.80560	.79806	.79065	.78337	.77621	.76917	.76225	.75544	.74875	.74216
87	.81535	.80813	.80103	.79404	.78717	.78041	.77375	.76720	.76076	.75442
88	.82462	.81771	.81090	.80420	.79760	.79111	.78472	.77842	.77223	.76612
89	.83356	.82694	.82043	.81401	.80769	.80147	.79533	.78929	.78334	.77747
90	.84225	.83593	.82971	.82357	.81753	.81157	.80570	.79991	.79420	.78857
91	.85058	.84455	.83861	.83276	.82698	.82129	.81567	.81013	.80466	.79927
92	.85838	.85263	.84696	.84137	.83585	.83040	.82503	.81973	.81449	.80933
93	.86557	.86009	.85467	.84932	.84405	.83884	.83370	.82862	.82360	.81865
94	.87212	.86687	.86169	.85657	.85152	.84653	.84160	.83673	.83192	.82717
95	.87801	.87298	.86801	.86310	.85825	.85345	.84872	.84404	.83941	.83484
96	.88322	.87838	.87360	.86888	.86420	.85959	.85502	.85051	.84605	.84165
97	.88795	.88328	.87867	.87411	.86961	.86515	.86074	.85639	.85208	.84782
98	.89220	.88769	.88323	.87883	.87447	.87016	.86589	.86167	.85750	.85337
99	.89612	.89176	.88745	.88318	.87895	.87478	.87064	.86656	.86251	.85850
100	.89977	.89555	.89136	.88722	.88313	.87908	.87506	.87109	.86718	.86327
101	.90326	.89917	.89511	.89110	.88712	.88318	.87929	.87543	.87161	.86783
102	.90690	.90294	.89901	.89513	.89128	.88746	.88369	.87995	.87624	.87257
103	.91076	.90694	.90315	.89940	.89569	.89200	.88835	.88474	.88116	.87760
104	.91504	.91138	.90775	.90415	.90058	.89704	.89354	.89006	.88661	.88319
105	.92027	.91681	.91337	.90996	.90658	.90322	.89989	.89659	.89331	.89006
106	.92763	.92445	.92130	.91816	.91506	.91197	.90890	.90586	.90284	.89983
107	.93799	.93523	.93249	.92977	.92707	.92438	.92170	.91905	.91641	.91378
108	.95429	.95223	.95018	.94814	.94611	.94409	.94208	.94008	.93809	.93611
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
0	.03535	.03349	.03183	.03035	.02902	.02783	.02676	.02579	.02492	.02413
1	.02486	.02292	.02119	.01963	.01824	.01699	.01587	.01486	.01395	.01312
2	.02547	.02345	.02164	.02002	.01857	.01727	.01609	.01504	.01408	.01321
3	.02640	.02429	.02241	.02073	.01921	.01785	.01662	.01552	.01451	.01361
4	.02753	.02535	.02339	.02163	.02005	.01863	.01735	.01619	.01514	.01418
5	.02883	.02656	.02453	.02269	.02105	.01958	.01822	.01700	.01590	.01490
6	.03026	.02790	.02578	.02387	.02215	.02060	.01919	.01792	.01677	.01572
7	.03180	.02935	.02714	.02515	.02336	.02174	.02027	.01894	.01773	.01664
8	.03347	.03092	.02863	.02656	.02469	.02300	.02146	.02007	.01881	.01766
9	.03528	.03263	.03025	.02810	.02615	.02438	.02278	.02133	.02000	.01880
10	.03723	.03449	.03201	.02977	.02774	.02590	.02423	.02271	.02133	.02006
11	.03935	.03650	.03393	.03160	.02949	.02757	.02583	.02424	.02279	.02147
12	.04160	.03865	.03598	.03356	.03136	.02936	.02755	.02589	.02438	.02299
13	.04394	.04088	.03811	.03560	.03331	.03123	.02934	.02761	.02603	.02458
14	.04629	.04312	.04025	.03764	.03527	.03311	.03113	.02933	.02768	.02617
15	.04864	.04536	.04238	.03968	.03721	.03496	.03290	.03103	.02930	.02773
16	.05099	.04759	.04451	.04170	.03913	.03679	.03466	.03270	.03090	.02926
17	.05333	.04982	.04662	.04370	.04104	.03861	.03638	.03434	.03247	.03075
18	.05570	.05207	.04875	.04573	.04296	.04044	.03812	.03599	.03404	.03225
19	.05814	.05438	.05095	.04781	.04494	.04231	.03990	.03769	.03565	.03378
20	.06065	.05677	.05321	.04996	.04698	.04424	.04173	.03943	.03731	.03535
21	.06325	.05922	.05554	.05217	.04907	.04623	.04362	.04122	.03901	.03697
22	.06594	.06178	.05797	.05447	.05126	.04831	.04559	.04309	.04078	.03865
23	.06876	.06446	.06051	.05688	.05355	.05048	.04766	.04505	.04265	.04042
24	.07174	.06729	.06321	.05945	.05599	.05281	.04987	.04715	.04465	.04233
25	.07491	.07031	.06609	.06219	.05861	.05530	.05224	.04941	.04680	.04438
26	.07830	.07355	.06918	.06515	.06142	.05799	.05481	.05187	.04915	.04662
27	.08192	.07702	.07250	.06832	.06446	.06090	.05759	.05454	.05170	.04906
28	.08577	.08071	.07603	.07171	.06772	.06402	.06059	.05740	.05445	.05170
29	.08986	.08464	.07981	.07534	.07120	.06736	.06380	.06049	.05742	.05456
30	.09420	.08882	.08383	.07921	.07492	.07095	.06725	.06381	.06081	.05763
31	.09881	.09327	.08812	.08335	.07891	.07479	.07095	.06738	.06405	.06095
32	.10369	.09797	.09267	.08774	.08315	.07888	.07491	.07120	.06774	.06451
33	.10885	.10297	.09750	.09241	.08767	.08325	.07913	.07529	.07170	.06834
34	.11430	.10824	.10261	.09736	.09246	.08790	.08363	.07964	.07592	.07243
35	.12002	.11380	.10800	.10259	.09754	.09282	.08841	.08428	.08041	.07679
36	.12602	.11963	.11366	.10809	.10288	.09800	.09344	.08917	.08516	.08140
37	.13230	.12574	.11961	.11387	.10850	.10347	.09876	.09433	.09018	.08628
38	.13887	.13214	.12584	.11994	.11441	.10922	.10436	.09978	.09549	.09145
39	.14573	.13883	.13237	.12630	.12061	.11527	.11025	.10553	.10109	.09690
40	.15290	.14583	.13920	.13297	.12712	.12162	.11644	.11157	.10698	.10266
41	.16036	.15312	.14833	.13994	.13393	.12827	.12294	.11792	.11318	.10871

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
42	.16810	.16071	.15375	.14720	.14103	.13522	.12973	.12456	.11967	.11505
43	.17614	.16858	.16146	.15475	.14842	.14245	.13682	.13149	.12645	.12169
44	.18447	.17675	.16948	.16261	.15613	.15000	.14421	.13873	.13355	.12864
45	.19310	.18524	.17780	.17078	.16414	.15787	.15192	.14630	.14096	.13591
46	.20204	.19402	.18644	.17926	.17247	.16604	.15995	.15418	.14870	.14350
47	.21128	.20311	.19538	.18806	.18112	.17454	.16830	.16238	.15676	.15141
48	.22080	.21249	.20462	.19716	.19007	.18335	.17696	.17090	.16513	.15964
49	.23059	.22214	.21413	.20653	.19930	.19244	.18591	.17970	.17379	.16816
50	.24063	.23206	.22391	.21617	.20881	.20180	.19514	.18879	.18274	.17697
51	.25095	.24225	.23398	.22610	.21861	.21147	.20466	.19818	.19199	.18609
52	.26157	.25275	.24436	.23636	.22874	.22147	.21453	.20791	.20159	.19556
53	.27249	.26357	.25505	.24694	.23919	.23180	.22474	.21799	.21154	.20537
54	.28369	.27466	.26604	.25782	.24995	.24244	.23526	.22839	.22181	.21552
55	.29518	.28605	.27734	.26900	.26103	.25341	.24611	.23912	.23243	.22601
56	.30695	.29774	.28893	.28050	.27242	.26469	.25728	.25019	.24338	.23685
57	.31902	.30973	.30084	.29232	.28415	.27632	.26881	.26161	.25469	.24805
58	.33138	.32203	.31306	.30446	.29621	.28829	.28069	.27339	.26637	.25962
59	.34402	.33461	.32558	.31691	.30859	.30059	.29290	.28550	.27839	.27155
60	.35690	.34745	.33836	.32963	.32124	.31317	.30540	.29792	.29073	.28379
61	.36999	.36050	.35137	.34259	.33414	.32601	.31817	.31062	.30334	.29633
62	.38325	.37374	.36458	.35576	.34726	.33907	.33117	.32356	.31621	.30912
63	.39669	.38717	.37799	.36913	.36060	.35236	.34441	.33674	.32933	.32217
64	.41031	.40078	.39159	.38272	.37415	.36588	.35789	.35016	.34270	.33548
65	.42416	.41464	.40545	.39656	.38798	.37968	.37166	.36390	.35639	.34912
66	.43825	.42876	.41958	.41070	.40211	.39380	.38576	.37797	.37043	.36312
67	.45260	.44315	.43399	.42513	.41655	.40824	.40019	.39238	.38482	.37749
68	.46720	.45779	.44868	.43985	.43129	.42299	.41494	.40713	.39956	.39221
69	.48197	.47263	.46357	.45478	.44625	.43798	.42995	.42215	.41458	.40722
70	.49686	.48760	.47861	.46988	.46140	.45316	.44516	.43738	.42983	.42248
71	.51182	.50265	.49374	.48508	.47666	.46847	.46051	.45276	.44523	.43790
72	.52685	.51778	.50896	.50038	.49203	.48390	.47599	.46829	.46079	.45349
73	.54194	.53298	.52426	.51578	.50751	.49946	.49161	.48397	.47652	.46926
74	.55714	.54832	.53972	.53134	.52317	.51520	.50744	.49986	.49247	.48527
75	.57250	.56382	.55536	.54710	.53904	.53118	.52351	.51601	.50870	.50156
76	.58803	.57951	.57120	.56308	.55515	.54740	.53984	.53245	.52522	.51817
77	.60369	.59535	.58720	.57923	.57144	.56383	.55639	.54912	.54200	.53504
78	.61942	.61126	.60329	.59549	.58787	.58040	.57310	.56596	.55896	.55212
79	.63508	.62713	.61935	.61174	.60428	.59698	.58983	.58283	.57597	.56925
80	.65059	.64285	.63527	.62785	.62058	.61345	.60646	.59961	.59290	.58632
81	.66579	.65827	.65090	.64368	.63659	.62965	.62283	.61615	.60959	.60316
82	.68061	.67332	.66616	.65914	.65226	.64550	.63886	.63235	.62595	.61968
83	.69499	.68793	.68099	.67418	.66749	.66092	.65447	.64813	.64191	.63579
84	.70896	.70213	.69541	.68881	.68233	.67595	.66969	.66353	.65748	.65153
85	.72256	.71596	.70947	.70308	.69681	.69063	.68456	.67859	.67271	.66693
86	.73569	.72931	.72305	.71688	.71081	.70484	.69896	.69318	.68748	.68188
87	.74818	.74204	.73599	.73003	.72417	.71839	.71271	.70711	.70159	.69616
88	.76011	.75419	.74836	.74261	.73695	.73137	.72588	.72046	.71512	.70986
89	.77169	.76599	.76037	.75484	.74938	.74400	.73870	.73347	.72831	.72323
90	.78302	.77755	.77215	.76683	.76158	.75640	.75129	.74625	.74128	.73638
91	.79395	.78870	.78352	.77842	.77337	.76840	.76349	.75864	.75385	.74913
92	.80423	.79920	.79423	.78933	.78449	.77971	.77499	.77033	.76572	.76118
93	.81377	.80894	.80417	.79946	.79481	.79022	.78568	.78120	.77677	.77239
94	.82247	.81784	.81325	.80873	.80425	.79983	.79547	.79115	.78688	.78266
95	.83033	.82586	.82145	.81709	.81278	.80852	.80431	.80014	.79602	.79195
96	.83729	.83298	.82872	.82451	.82034	.81622	.81215	.80812	.80414	.80019
97	.84361	.83944	.83532	.83124	.82721	.82322	.81927	.81537	.61151	.80769
98	.84929	.84525	.84126	.83730	.83339	.82952	.82569	.82190	.81615	.81443
99	.85454	.85062	.84674	.84290	.83910	.83534	.83161	.82792	.82427	.82066
100	.85942	.85561	.85184	.84810	.84440	.84074	.83711	.83352	.82997	.82644
101	.86408	.86037	.85670	.85306	.84946	.84589	.84236	.83886	.83539	.83196
102	.86894	.86534	.86177	.85823	.85473	.85126	.84782	.84442	.84104	.83770
103	.87408	.87060	.86714	.86371	.86032	.85695	.85362	.85031	.84703	.84378
104	.87980	.87644	.87311	.86980	.86653	.86328	.86005	.85686	.85369	.85054
105	.88684	.88363	.88046	.87731	.87418	.87108	.86800	.86494	.86191	.85890
106	.89685	.89389	.89095	.88804	.88514	.88226	.87940	.87656	.87374	.87094
107	.91117	.90858	.90600	.90344	.90089	.89836	.89584	.89334	.89085	.88838
108	.93414	.93217	.93022	.92828	.92634	.92442	.92250	.92060	.91870	.91681
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
0	.02341	.02276	.02217	.02163	.02114	.02069	.02027	.01989	.01954	.01922
1	.01237	.01170	.01108	.01052	.01000	.00953	.00910	.00871	.00834	.00801
2	.01243	.01172	.01107	.01048	.00994	.00944	.00899	.00857	.00819	.00784
3	.01278	.01203	.01135	.01073	.01016	.00964	.00916	.00872	.00832	.00795
4	.01332	.01253	.01182	.01116	.01056	.01001	.00951	.00904	.00862	.00822
5	.01400	.01317	.01241	.01172	.01109	.01051	.00998	.00949	.00904	.00862
6	.01477	.01390	.01310	.01238	.01171	.01110	.01054	.01002	.00954	.00910
7	.01563	.01472	.01389	.01312	.01242	.01178	.01118	.01064	.01013	.00966
8	.01660	.01564	.01477	.01396	.01322	.01254	.01192	.01134	.01081	.01031
9	.01770	.01669	.01577	.01492	.01414	.01342	.01276	.01216	.01159	.01107
10	.01891	.01785	.01688	.01599	.01517	.01442	.01372	.01308	.01249	.01194
11	.02026	.01915	.01814	.01720	.01634	.01555	.01481	.01414	.01351	.01293
12	.02173	.02056	.01950	.01852	.01761	.01678	.01601	.01529	.01463	.01402
13	.02326	.02204	.02092	.01989	.01895	.01807	.01726	.01651	.01582	.01517
14	.02478	.02351	.02234	.02126	.02027	.01935	.01850	.01771	.01698	.01630
15	.02628	.02495	.02372	.02259	.02155	.02058	.01969	.01886	.01810	.01738
16	.02774	.02635	.02507	.02388	.02279	.02178	.02084	.01997	.01917	.01842
17	.02917	.02772	.02637	.02513	.02399	.02293	.02194	.02103	.02018	.01940
18	.03059	.02907	.02767	.02637	.02517	.02406	.02302	.02207	.02118	.02035
19	.03205	.03046	.02899	.02763	.02637	.02521	.02412	.02312	.02218	.02131
20	.03355	.03188	.03035	.02892	.02760	.02638	.02524	.02419	.02320	.02229
21	.03509	.03334	.03173	.03024	.02886	.02758	.02638	.02527	.02424	.02328
22	.03669	.03487	.03318	.03162	.03017	.02882	.02757	.02640	.02532	.02430
23	.03837	.03646	.03470	.03306	.03154	.03013	.02881	.02759	.02644	.02538
24	.04018	.03819	.03634	.03463	.03303	.03155	.03016	.02888	.02767	.02655
25	.04214	.04006	.03812	.03633	.03465	.03309	.03164	.03029	.02902	.02784
26	.04428	.04210	.04008	.03820	.03644	.03481	.03328	.03186	.03052	.02928
27	.04662	.04434	.04223	.04025	.03841	.03670	.03509	.03360	.03219	.03088
28	.04915	.04677	.04456	.04249	.04056	.03876	.03708	.03550	.03403	.03264
29	.05189	.04941	.04709	.04493	.04291	.04102	.03925	.03760	.03604	.03458
30	.05485	.05226	.04984	.04757	.04546	.04348	.04162	.03988	.03825	.03671
31	.05805	.05535	.05282	.05045	.04824	.04616	.04421	.04238	.04067	.03905
32	.06149	.05867	.05603	.05356	.05124	.04906	.04702	.04510	.04329	.04160
33	.06520	.06226	.05950	.05692	.05449	.05221	.05007	.04806	.04616	.04438
34	.06916	.06609	.06322	.06052	.05799	.05560	.05336	.05125	.04926	.04738
35	.07339	.07020	.06720	.06439	.06174	.05925	.05690	.05469	.05260	.05063
36	.07787	.07455	.07143	.06850	.06573	.06313	.06068	.05836	.05617	.05411
37	.08262	.07917	.07593	.07287	.06999	.06727	.06470	.06228	.05999	.05783
38	.08765	.08407	.08069	.07751	.07451	.07167	.06899	.06646	.06407	.06180
39	.09296	.08925	.08574	.08243	.07931	.07635	.07356	.07092	.06841	.06604
40	.09858	.09472	.09109	.08765	.08440	.08132	.07841	.07565	.07303	.07055
41	.10449	.10050	.09673	.09316	.08978	.08658	.08355	.08067	.07794	.07535
42	.11069	.10656	.10265	.09895	.09544	.09212	.08896	.08596	.08312	.08041
43	.11718	.11291	.10887	.10503	.10140	.09794	.09466	.09154	.08858	.08576
44	.12399	.11958	.11540	.11143	.10766	.10407	.10067	.09743	.09434	.09141
45	.13111	.12656	.12224	.11814	.11423	.11052	.10699	.10362	.10042	.09736
46	.13856	.13387	.12941	.12516	.12113	.11728	.11362	.11013	.10680	.10363
47	.14633	.14150	.13690	.13252	.12835	.12438	.12059	.11697	.11352	.11022
48	.15442	.14945	.14471	.14020	.13589	.13179	.12787	.12412	.12055	.11713
49	.16280	.15769	.15281	.14816	.14373	.13949	.13544	.13157	.12787	.12433
50	.17147	.16622	.16121	.15643	.15186	.14749	.14331	.13931	.13548	.13182
51	.18045	.17507	.16993	.16501	.16030	.15580	.15150	.14737	.14342	.13963
52	.18979	.18427	.17899	.17394	.16911	.16448	.16004	.15579	.15172	.14780
53	.19947	.19383	.18842	.18324	.17828	.17352	.16896	.16458	.16038	.15635
54	.20950	.20372	.19819	.19288	.18779	.18291	.17822	.17372	.16940	.16524
55	.21986	.21397	.20831	.20288	.19767	.19266	.18785	.18322	.17878	.17450
56	.23058	.22457	.21879	.21324	.20791	.20278	.19785	.19310	.18854	.18414
57	.24167	.23554	.22965	.22399	.21854	.21329	.20824	.20338	.19870	.19419
58	.25314	.24690	.24090	.23512	.22956	.22420	.21904	.21407	.20927	.20464
59	.26497	.25863	.25252	.24664	.24097	.23550	.23023	.22515	.22024	.21551
60	.27712	.27068	.26448	.25849	.25272	.24716	.24178	.23659	.23158	.22674
61	.28956	.28304	.27674	.27067	.26480	.25913	.25366	.24837	.24325	.23831
62	.30228	.29567	.28929	.28312	.27717	.27141	.26584	.26045	.25524	.25020
63	.31525	.30857	.30211	.29586	.28982	.28397	.27832	.27284	.26754	.26240
64	.32851	.32176	.31522	.30890	.30278	.29685	.29111	.28555	.28018	.27493
65	.34209	.33528	.32868	.32229	.31610	.31010	.30429	.29865	.29317	.28787
66	.35604	.34918	.34253	.33609	.32983	.32377	.31788	.31217	.30663	.30124
67	.37037	.36347	.35678	.35028	.34398	.33786	.33191	.32614	.32053	.31508
68	.38508	.37815	.37142	.36489	.35854	.35237	.34638	.34055	.33488	.32937
69	.40008	.39313	.38638	.37982	.37344	.36724	.36120	.35533	.34961	.34405
70	.41533	.40838	.40162	.39504	.38864	.38241	.37634	.37043	.36468	.35907
71	.43076	.42382	.41705	.41047	.40405	.39780	.39171	.38578	.38000	.37436
72	.44638	.43945	.43269	.42611	.41969	.41344	.40733	.40138	.39558	.38991
73	.46218	.45527	.44854	.44197	.43556	.42931	.42321	.41725	.41143	.40575
74	.47823	.47137	.46466	.45812	.45173	.44549	.43940	.43345	.42763	.42195
75	.49459	.48777	.48112	.47462	.46826	.46205	.45598	.45004	.44424	.43856
76	.51127	.50452	.49793	.49148	.48517	.47900	.47297	.46706	.46129	.45563
77	.52823	.52157	.51505	.50867	.50243	.49632	.49033	.48447	.47873	.47311

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
78	.54541	.53885	.53242	.52613	.51996	.51392	.50800	.50220	.49652	.49094
79	.56267	.55621	.54989	.54369	.53762	.53166	.52582	.52009	.51448	.50897
80	.57987	.57354	.56733	.56125	.55527	.54941	.54366	.53802	.53248	.52705
81	.59685	.59065	.58457	.57860	.57274	.56699	.56134	.55579	.55035	.54499
82	.61351	.60746	.60151	.59567	.58993	.58429	.57875	.57331	.56796	.56270
83	.62978	.62387	.61806	.61236	.60675	.60123	.59581	.59047	.58523	.58007
84	.64567	.63992	.63426	.62869	.62321	.61783	.61253	.60731	.60218	.59713
85	.66125	.65565	.65014	.64472	.63938	.63413	.62896	.62387	.61886	.61392
86	.67636	.67092	.66557	.66030	.65511	.65000	.64496	.64000	.63511	.63030
87	.69081	.68554	.68034	.67522	.67016	.66520	.66031	.65548	.65071	.64602
88	.70468	.69957	.69453	.68956	.68466	.67983	.67507	.67037	.66574	.6611[illegible]
89	.71821	.71326	.70838	.70357	.69882	.69414	.68952	.68495	.68045	.67601
90	.73153	.72676	.72204	.71739	.71280	.70827	.70379	.69938	.69502	.69071
91	.74447	.73986	.73532	.73083	.72640	.72202	.71770	.71343	.70921	.70504
92	.75669	.75225	.74787	.74354	.73927	.73504	.73087	.72674	.72267	.71864
93	.76807	.76379	.75957	.75540	.75127	.74719	.74317	.73918	.73524	.73135
94	.77849	.77437	.77030	.76627	.76229	.75835	.75446	.75061	.74680	.74303
95	.78792	.78394	.78001	.77611	.77226	.76845	.76468	.76098	.75727	.75362
96	.79630	.79244	.78863	.78485	.78112	.77742	.77377	.77015	.76657	.76303
97	.80391	.80016	.79646	.79280	.78917	.78559	.78203	.77852	.77504	.77160
98	.81076	.80712	.80352	.79996	.79643	.79294	.78948	.78606	.78267	.77931
99	.81709	.81354	.81004	.80657	.80313	.79972	.79635	.79302	.78971	.78644
100	.82296	.81950	.81609	.81270	.80934	.80602	.80273	.79947	.79624	.79304
101	.82855	.82518	.82185	.81854	.81526	.81201	.80880	.80561	.80245	.79932
102	.83438	.83110	.82785	.82462	.82142	.81826	.81512	.81200	.80892	.80586
103	.84056	.83737	.83420	.83106	.82795	.82487	.82181	.81878	.81577	.81279
104	.84743	.84433	.84127	.83822	.83521	.83221	.82924	.82630	.82338	.82048
105	.85591	.85295	.85001	.84709	.84419	.84132	.83846	.83563	.83282	.83003
106	.86816	.86540	.86266	.85993	.85723	.85454	.85187	.84922	.84659	.84397
107	.88592	.88348	.88105	.87863	.87623	.87384	.87147	.86911	.86676	.86443
108	.91493	.91306	.91119	.90934	.90749	.90566	.90383	.90201	.90020	.89840
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
0	.01891	.01864	.01838	.01814	.01791	.01770	.01750	.01732	.01715	.01698
1	.00770	.00741	.00715	.00690	.00667	.00646	.00626	.00608	.00590	.00574
2	.00751	.00721	.00693	.00667	.00643	.00620	.00600	.00580	.00562	.00544
3	.00760	.00728	.00699	.00671	.00646	.00622	.00600	.00579	.00560	.00541
4	.00786	.00752	.00721	.00692	.00665	.00639	.00616	.00594	.00573	.00554
5	.00824	.00788	.00755	.00724	.00695	.00668	.00643	.00620	.00598	.00578
6	.00869	.00832	.00796	.00764	.00733	.00705	.00678	.00654	.00630	.00608
7	.00923	.00883	.00846	.00811	.00779	.00749	.00720	.00694	.00669	.00646
8	.00986	.00943	.00904	.00867	.00833	.00801	.00771	.00743	.00716	.00692
9	.01059	.01014	.00972	.00933	.00897	.00863	.00831	.00801	.00773	.00747
10	.01142	.01095	.01051	.01009	.00971	.00935	.00901	.00869	.00840	.00812
11	.01239	.01189	.01142	.01098	.01057	.01019	.00983	.00950	.00918	.00889
12	.01345	.01292	.01243	.01197	.01154	.01113	.01075	.01040	.01007	.00975
13	.01457	.01401	.01349	.01300	.01255	.01212	.01172	.01135	.01100	.01067
14	.01567	.01508	.01453	.01402	.01354	.01309	.01267	.01227	.01190	.01155
15	.01672	.01610	.01552	.01498	.01448	.01400	.01356	.01314	.01275	.01238
16	.01772	.01707	.01646	.01589	.01536	.01486	.01439	.01396	.01354	.01315
17	.01866	.01798	.01734	.01674	.01618	.01566	.01516	.01470	.01427	.01386
18	.01958	.01886	.01818	.01755	.01697	.01641	.01590	.01541	.01495	.01452
19	.02050	.01974	.01903	.01837	.01775	.01717	.01662	.01611	.01563	.01517
20	.02143	.02064	.01989	.01919	.01854	.01793	.01735	.01681	.01630	.01582
21	.02238	.02154	.02075	.02002	.01933	.01868	.01807	.01750	.01696	.01646
22	.02336	.02247	.02164	.02087	.02014	.01946	.01882	.01821	.01764	.01711
23	.02438	.02345	.02257	.02176	.02099	.02027	.01959	.01895	.01835	.01778
24	.02550	.02451	.02359	.02273	.02192	.02115	.02044	.01976	.01913	.01853
25	.02673	.02569	.02472	.02381	.02295	.02214	.02138	.02067	.01999	.01936
26	.02811	.02701	.02598	.02502	.02411	.02326	.02246	.02170	.02098	.02031
27	.02965	.02849	.02741	.02639	.02543	.02452	.02367	.02287	.02211	.02140
28	.03134	.03013	.02898	.02790	.02689	.02593	.02503	.02418	.02338	.02262
29	.03322	.03193	.03072	.02958	.02851	.02750	.02654	.02564	.02479	.02398
30	.03527	.03391	.03264	.03143	.03030	.02923	.02821	.02726	.02635	.02550
31	.03753	.03610	.03475	.03348	.03228	.03115	.03008	.02907	.02811	.02720
32	.04000	.03849	.03707	.03573	.03446	.03326	.03213	.03105	.03004	.02907
33	.04269	.04111	.03961	.03819	.03685	.03558	.03438	.03325	.03217	.03115
34	.04561	.04394	.04236	.04087	.03946	.03812	.03685	.03565	.03451	.03342
35	.04877	.04702	.04535	.04378	.04229	.04087	.03953	.03826	.03706	.03591
36	.05215	.05031	.04856	.04690	.04533	.04384	.04242	.04108	.03980	.03859

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
37	.05578	.05384	.05200	.05025	.04860	.04703	.04553	.04411	.04276	.04148
38	.05965	.05761	.05568	.05385	.05211	.05045	.04888	.04738	.04595	.04460
39	.06379	.06165	.05962	.05770	.05587	.05412	.05247	.05089	.04939	.04795
40	.06820	.06596	.06383	.06181	.05989	.05806	.05631	.05465	.05307	.05155
41	.07288	.07054	.06832	.06620	.06418	.06226	.06042	.05868	.05701	.05541
42	.07784	.07539	.07306	.07085	.06873	.06671	.06479	.06295	.06119	.05952
43	.08308	.08052	.07808	.07576	.07355	.07143	.06941	.06748	.06564	.06387
44	.08861	.08594	.08340	.08097	.07865	.07644	.07432	.07230	.07036	.06851
45	.09445	.09167	.08901	.08648	.08406	.08174	.07953	.07741	.07538	.07343
46	.10060	.09770	.09494	.09230	.08977	.08735	.08503	.08281	.08068	.07865
47	.10707	.10406	.10119	.09843	.09579	.09327	.09085	.08853	.08630	.08417
48	.11386	.11073	.10774	.10487	.10213	.09949	.09697	.09455	.09222	.08999
49	.12094	.11769	.11458	.11160	.10874	.10600	.10337	.10084	.09842	.09609
50	.12831	.12494	.12172	.11862	.11565	.11280	.11006	.10743	.10490	.10247
51	.13600	.13251	.12917	.12596	.12288	.11991	.11706	.11432	.11169	.10915
52	.14405	.14044	.13698	.13366	.13046	.12738	.12442	.12157	.11883	.11619
53	.15247	.14875	.14517	.14172	.13841	.13522	.13215	.12919	.12635	.12360
54	.16124	.15740	.15370	.15014	.14671	.14341	.14023	.13717	.13421	.13136
55	.17039	.16642	.16261	.15893	.15539	.15198	.14868	.14551	.14244	.13948
56	.17991	.17583	.17190	.16811	.16445	.16092	.15752	.15423	.15106	.14799
57	.18984	.18564	.18160	.17769	.17392	.17029	.16677	.16338	.16010	.15692
58	.20018	.19587	.19172	.18770	.18382	.18007	.17645	.17295	.16956	.16628
59	.21093	.20652	.20225	.19812	.19414	.19028	.18655	.18294	.17945	.17606
60	.22206	.21753	.21316	.20893	.20483	.20087	.19703	.19332	.18972	.18624
61	.23353	.22890	.22442	.22009	.21589	.21182	.20788	.20407	.20037	.19678
62	.24532	.24059	.23601	.23158	.22728	.22311	.21907	.21515	.21135	.20767
63	.25742	.25260	.24793	.24339	.23900	.23473	.23060	.22658	.22268	.21890
64	.26987	.26495	.26019	.25556	.25107	.24671	.24248	.23837	.23438	.23050
65	.28271	.27771	.27286	.26815	.26357	.25912	.25480	.25059	.24651	.24254
66	.29601	.29093	.28600	.28120	.27654	.27200	.26760	.26331	.25913	.25507
67	.30978	.30462	.29961	.29474	.29000	.28539	.28090	.27653	.27227	.26813
68	.32401	.31879	.31371	.30877	.30396	.29927	.29471	.29027	.28593	.28171
69	.33863	.33336	.32822	.32322	.31835	.31359	.30896	.30445	.30005	.29576
70	.35361	.34829	.34310	.33804	.33311	.32830	.32361	.31903	.31457	.31021
71	.36886	.36349	.35826	.35316	.34818	.34332	.33858	.33394	.32942	.32500
72	.38439	.37899	.37373	.36858	.36356	.35866	.35387	.34919	.34461	.34015
73	.40021	.39479	.38950	.38432	.37927	.37433	.36950	.36478	.36016	.35565
74	.41639	.41096	.40565	.40046	.39538	.39042	.38556	.38081	.37616	.37161
75	.43301	.42758	.42226	.41706	.41198	.40699	.40212	.39734	.39267	.38809
76	.45009	.44467	.43937	.43417	.42908	.42410	.41921	.41443	.40974	.40514
77	.46761	.46221	.45693	.45175	.44667	.44170	.43682	.43203	.42734	.42274
78	.48548	.48013	.47488	.46973	.46468	.45972	.45486	.45009	.44541	.44082
79	.50356	.49826	.49306	.48795	.48294	.47802	.47319	.46845	.46379	.45922
80	.52171	.51647	.51133	.50628	.50132	.49644	.49166	.48695	.48233	.47779
81	.53974	.53457	.52950	.52451	.51961	.51479	.51006	.50541	.50083	.49633
82	.55753	.55245	.54745	.54254	.53771	.53296	.52828	.52369	.51917	.51472
83	.57500	.57001	.56510	.56026	.55551	.55083	.54623	.54170	.53724	.53285
84	.59216	.58726	.58245	.57770	.57304	.56844	.56391	.55945	.55506	.55074
85	.60906	.60428	.59956	.59492	.59034	.58583	.58139	.57702	.57270	.56845
86	.62555	.62088	.61627	.61173	.60725	.60284	.59849	.59420	.58997	.58580
87	.64139	.63683	.63233	.62790	.62352	.61921	.61495	.61076	.60661	.60253
88	.65666	.65221	.64783	.64350	.63923	.63502	.63086	.62675	.62270	.61871
89	.67163	.66730	.66304	.65882	.65466	.65055	.64650	.64249	.63854	.63463
90	.68646	.68226	.67812	.67402	.66998	.66599	.66204	.65814	.65430	.65049
91	.70093	.69686	.69285	.68888	.68496	.68108	.67725	.67347	.66973	.66604
92	.71466	.71073	.70684	.70300	.69920	.69545	.69173	.68806	.68444	.68085
93	.72750	.72370	.71994	.71622	.71254	.70890	.70530	.70174	.69822	.69474
94	.73931	.73562	.73198	.72838	.72481	.72129	.71780	.71434	.71093	.70755
95	.75001	.74644	.74291	.73941	.73595	.73253	.72914	.72579	.72247	.71919
96	.75953	.75606	.75262	.74923	.74586	.74253	.73924	.73598	.73275	.72955
97	.76819	.76481	.76147	.75816	.75489	.75165	.74844	.74526	.74211	.73899
98	.77599	.77270	.76944	.76621	.76302	.75986	.75672	.75362	.75054	.74750
99	.78319	.77998	.77680	.77365	.77053	.76744	.76437	.76134	.75833	.75535
100	.78987	.78673	.78362	.78054	.77748	.77446	.77146	.76849	.76555	.76263
101	.79622	.79315	.79010	.78708	.78409	.78113	.77819	.77528	.77239	.76953
102	.80233	.79983	.79685	.79390	.79097	.78807	.78519	.78234	.77951	.77671
103	.80983	.80690	.80399	.80111	.79825	.79541	.79260	.78981	.78705	.78430
104	.81760	.81475	.81192	.80912	.80633	.80357	.80083	.79810	.79541	.79273
105	.82726	.82451	.82178	.81907	.81638	.81371	.81106	.80843	.80582	.80322
106	.84137	.83879	.83623	.83368	.83115	.82863	.82614	.82366	.82119	.81874
107	.86211	.85981	.85751	.85523	.85297	.85071	.84847	.84624	.84403	.84182
108	.89660	.89481	.89304	.89127	.88950	.88775	.88601	.88427	.88254	.88081
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
0	.01683	.01669	.01655	.01642	.01630	.01618	.01607	.01596	.01586	.01576
1	.00559	.00544	.00531	.00518	.00506	.00494	.00484	.00473	.00464	.00454
2	.00528	.00513	.00499	.00485	.00473	.00461	.00449	.00439	.00428	.00419
3	.00524	.00508	.00493	.00479	.00465	.00453	.00441	.00429	.00419	.00408
4	.00536	.00519	.00503	.00488	.00473	.00460	.00447	.00435	.00423	.00412
5	.00558	.00540	.00523	.00507	.00492	.00477	.00464	.00451	.00439	.00427
6	.00588	.00569	.00550	.00533	.00517	.00502	.00487	.00473	.00460	.00448
7	.00624	.00604	.00584	.00566	.00549	.00532	.00517	.00502	.00488	.00475
8	.00668	.00646	.00626	.00606	.00588	.00570	.00554	.00538	.00523	.00509
9	.00722	.00699	.00677	.00656	.00636	.00617	.00600	.00583	.00587	.00552
10	.00785	.00761	.00737	.00715	.00694	.00674	.00655	.00637	.00620	.00604
11	.00861	.00835	.00810	.00786	.00764	.00743	.00723	.00704	.00686	.00668
12	.00946	.00918	.00891	.00866	.00843	.00820	.00799	.00779	.00760	.00741
13	.01035	.01006	.00978	.00951	.00927	.00903	.00880	.00859	.00839	.00819
14	.01122	.01091	.01061	.01034	.01007	.00982	.00958	.00936	.00914	.00894
15	.01203	.01171	.01140	.01110	.01082	.01056	.01031	.01007	.00985	.00963
16	.01279	.01244	.01211	.01181	.01151	.01123	.01097	.01072	.01048	.01025
17	.01347	.01311	.01276	.01244	.01213	.01184	.01156	.01130	.01104	.01081
18	.01411	.01373	.01336	.01302	.01270	.01239	.01210	.01182	.01155	.01130
19	.01474	.01434	.01396	.01359	.01325	.01293	.01262	.01233	.01205	.01178
20	.01537	.01494	.01454	.01415	.01379	.01345	.01313	.01282	.01252	.01224
21	.01598	.01553	.01510	.01470	.01432	.01396	.01361	.01329	.01298	.01268
22	.01660	.01613	.01568	.01525	.01485	.01446	.01410	.01375	.01343	.01312
23	.01725	.01674	.01627	.01581	.01539	.01498	.01460	.01423	.01388	.01355
24	.01796	.01742	.01692	.01644	.01599	.01556	.01515	.01476	.01439	.01404
25	.01876	.01819	.01765	.01714	.01666	.01621	.01577	.01536	.01497	.01460
26	.01967	.01907	.01850	.01796	.01745	.01696	.01650	.01606	.01565	.01525
27	.02072	.02008	.01948	.01890	.01836	.01784	.01735	.01688	.01644	.01601
28	.02190	.02122	.02057	.01998	.01938	.01883	.01831	.01781	.01734	.01689
29	.02322	.02249	.02181	.02116	.02054	.01996	.01940	.01887	.01836	.01788
30	.02469	.02392	.02319	.02250	.02184	.02122	.02062	.02006	.01952	.01900
31	.02634	.02552	.02475	.02401	.02331	.02264	.02201	.02140	.02083	.02028
32	.02818	.02729	.02647	.02568	.02494	.02423	.02355	.02291	.02229	.02170
33	.03018	.02926	.02838	.02755	.02675	.02600	.02528	.02459	.02393	.02331
34	.03239	.03142	.03048	.02960	.02875	.02795	.02718	.02645	.02575	.02508
35	.03482	.03378	.03279	.03185	.03095	.03009	.02928	.02850	.02776	.02704
36	.03743	.03633	.03528	.03428	.03333	.03242	.03155	.03072	.02992	.02916
37	.04026	.03909	.03798	.03692	.03591	.03494	.03401	.03313	.03228	.03147
38	.04330	.04207	.04089	.03977	.03869	.03767	.03668	.03574	.03484	.03398
39	.04658	.04528	.04403	.04284	.04170	.04061	.03957	.03857	.03762	.03670
40	.05011	.04873	.04741	.04615	.04495	.04379	.04269	.04163	.04061	.03964
41	.05389	.05244	.05104	.04971	.04844	.04721	.04604	.04492	.04384	.04281
42	.05791	.05638	.05491	.05350	.05216	.05086	.04962	.04844	.04729	.04620
43	.06219	.06057	.05902	.05754	.05612	.05475	.05344	.05218	.05098	.04981
44	.06673	.06503	.06340	.06184	.06034	.05890	.05752	.05619	.05491	.05368
45	.07157	.06978	.06806	.06642	.06484	.06332	.06186	.06046	.05911	.05781
46	.07669	.07481	.07301	.07128	.06962	.06802	.06649	.06501	.06358	.06221
47	.08212	.08015	.07826	.07645	.07470	.07302	.07140	.06984	.06834	.06690
48	.08784	.08578	.08380	.08190	.08006	.07830	.07660	.07496	.07338	.07186
49	.09384	.09169	.08961	.08762	.08570	.08384	.08206	.08034	.07868	.07708
50	.10013	.09787	.09570	.09361	.09160	.08966	.08779	.08598	.08424	.08256
51	.10671	.10436	.10209	.09991	.09780	.09577	.09381	.09192	.09009	.08832
52	.11365	.11120	.10883	.10655	.10435	.10222	.10017	.09819	.09628	.09442
53	.12095	.11840	.11593	.11355	.11128	.10904	.10689	.10482	.10282	.10088
54	.12860	.12595	.12338	.12090	.11851	.11619	.11396	.11179	.10970	.10767
55	.13663	.13388	.13120	.12862	.12613	.12372	.12138	.11912	.11694	.11482
56	.14503	.14217	.13940	.13672	.13413	.13162	.12919	.12683	.12456	.12235
57	.15385	.15089	.14801	.14523	.14254	.13994	.13741	.13498	.13259	.13029
58	.16311	.16004	.15706	.15418	.15139	.14868	.14606	.14352	.14105	.13866
59	.17279	.16961	.16654	.16355	.16066	.15786	.15514	.15250	.14994	.14745
60	.18286	.17958	.17640	.17332	.17033	.16743	.16462	.16188	.15922	.15664
61	.19330	.18992	.18665	.18347	.18038	.17738	.17447	.17164	.16889	.16622
62	.20409	.20061	.19724	.19396	.19078	.18768	.18467	.18175	.17891	.17614
63	.21522	.21165	.20818	.20480	.20152	.19833	.19523	.19221	.18928	.18642
64	.22672	.22306	.21949	.21602	.21265	.20937	.20617	.20306	.20003	.19708
65	.23867	.23491	.23125	.22769	.22423	.22085	.21757	.21437	.21125	.20821
66	.25112	.24727	.24353	.23988	.23632	.23286	.22948	.22619	.22299	.21986
67	.26409	.26016	.25633	.25260	.24896	.24541	.24195	.23857	.23528	.23206
68	.27760	.27359	.26968	.26586	.26214	.25851	.25497	.25151	.24814	.24484
69	.29157	.28748	.28350	.27961	.27581	.27211	.26849	.26495	.26150	.25812
70	.30596	.30181	.29775	.29379	.28992	.28614	.28245	.27884	.27532	.27187
71	.32069	.31648	.31236	.30833	.30440	.30055	.29679	.29312	.28952	.28600
72	.33578	.33151	.32733	.32325	.31925	.31535	.31152	.30778	.30412	.30054
73	.35123	.34691	.34269	.33855	.33450	.33054	.32666	.32286	.31914	.31550
74	.36715	.36279	.35852	.35434	.35024	.34623	.34230	.33845	.33468	.33098
75	.38360	.37921	.37491	.37069	.36656	.36250	.35853	.35464	.35082	.34708
76	.40064	.39623	.39190	.38765	.38349	.37941	.37540	.37148	.36762	.36384
77	.41823	.41381	.40947	.40521	.40103	.39692	.39290	.38895	.38507	.38126

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
78	.43632	.43189	.42755	.42329	.41910	.41499	.41095	.40698	.40309	.39926
79	.45473	.45032	.44599	.44173	.43755	.43344	.42940	.42543	.42153	.41770
80	.47333	.46894	.46463	.46040	.45623	.45213	.44811	.44414	.44025	.43642
81	.49191	.48755	.48328	.47907	.47493	.47085	.46684	.46290	.45902	.45520
82	.51034	.50603	.50179	.49762	.49351	.48947	.48549	.48157	.47772	.47392
83	.52852	.52427	.52008	.51595	.51189	.50788	.50394	.50006	.49623	.49246
84	.54648	.54228	.53815	.53407	.53006	.52610	.52221	.51836	.51458	.51084
85	.56426	.56013	.55606	.55205	.54810	.54420	.54035	.53656	.53282	.52913
86	.58169	.57764	.57364	.56970	.56581	.56197	.55818	.55445	.55076	.54713
87	.59850	.59452	.59060	.58673	.58291	.57913	.57541	.57174	.56811	.56453
88	.61476	.61086	.60702	.60322	.59947	.59577	.59212	.58851	.58494	.58142
89	.63078	.62697	.62321	.61950	.61583	.61220	.60862	.60508	.60159	.59813
90	.64674	.64302	.63935	.63573	.63215	.62861	.62511	.62165	.61823	.61485
91	.66238	.65877	.65520	.65167	.64819	.64474	.64133	.63795	.63462	.63132
92	.67730	.67379	.67032	.66689	.66350	.66014	.65682	.65354	.65029	.64708
93	.69130	.68789	.68452	.68119	.67789	.67463	.67140	.66820	.66504	.66191
94	.70421	.70090	.69762	.69438	.69116	.68800	.68486	.68175	.67867	.67563
95	.71594	.71272	.70954	.70639	.70326	.70017	.69712	.69409	.69109	.68812
96	.72638	.72325	.72014	.71707	.71403	.71101	.70803	.70507	.70215	.69925
97	.73590	.73285	.72982	.72682	.72385	.72090	.71799	.71510	.71224	.70941
98	.74448	.74149	.73853	.73560	.73269	.72981	.72696	.72414	.72134	.71856
99	.75240	.74948	.74658	.74371	.74086	.73805	.73525	.73248	.72974	.72702
100	.75974	.75687	.75403	.75121	.74842	.74566	.74292	.74020	.73751	.73484
101	.76669	.76388	.76109	.75833	.75559	.75287	.75018	.74751	.74486	.74223
102	.77393	.77117	.76844	.76573	.76304	.76037	.75773	.75511	.75251	.74993
103	.78158	.77888	.77620	.77355	.77091	.76830	.76571	.76313	.76058	.75805
104	.79007	.78743	.78482	.78222	.77964	.77709	.77455	.77203	.76953	.76705
105	.80065	.79809	.79556	.79304	.79054	.78805	.78559	.78314	.78071	.77829
106	.81631	.81389	.81149	.80911	.80674	.80438	.80204	.79972	.79741	.79511
107	.83963	.83745	.83529	.83313	.83099	.82886	.82674	.82463	.82254	.82045
108	.87910	.87739	.87569	.87400	.87232	.87064	.86897	.66731	.86566	.86401
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

Par. 6. Section 1.664–1 is amended as follows:

1. Paragraph (a)(5)(ii)(*b*) is revised.

2. Paragraphs (a)(5)(iv) (*a*) through (*c*) are revised, and paragraph (a)(5)(iv)(*d*) is added.

3. Paragraph (a)(6), the introductory text is revised.

4. The revised and added provisions read as follows:

§ 1.664–1 Charitable remainder trusts.

(a) * * *

(5) * * *

(ii) * * *

(*b*) (*1*) In the case of transfers made after November 30, 1983, for which the valuation date falls before May 1, 1989, a factor equal to 1.0 less the factor under the appropriate adjusted payout rate in column 2 of table D in § 1.664–4A(d)(6) opposite the number of years in column 1 between the date of death of the decedent and the date of the earlier of the death of the last recipient or the last day of such taxable year.

(*2*) In the case of transfers for which the valuation date falls after April 30, 1989, a factor equal to 1.0 less the factor under the appropriate adjusted payout rate in table D in § 1.664–4(e)(6) opposite the number of years in column 1 between the date of death of the decedent and the date of the earlier of the death of the last recipient or the last day of such taxable year. The appropriate adjusted payout rate is determined by using the appropriate Table F contained in § 1.664–4(e)(6) for the rate that is 120 percent of the applicable Federal mid-term rate under section 1274(d)(1) for the month that the valuation date falls (rounded to the nearest two-tenths of one percent).

(*3*) If the number of years between the date of death and the date of the earlier of the death of the last recipient or the last day of such taxable year is between periods for which factors are provided, a linear interpolation must be made.

* * * * *

(5) * * *

(iv) * * *

(*a*) A rate (rounded to the nearest two-tenths of one percent) that is 120 percent of the applicable Federal mid-term rate under section 1274(d)(1), as described in § 20.7520–1 of this chapter, for the month in which the valuation date with respect to the transfer falls (or one of the prior two months if elected under § 20.7520–2(b) of this chapter);

(*b*) 10 percent for instruments executed or amended (other than in the case of a reformation under section 2055(e)(3)) on or after August 9, 1984, and before May 1, 1989, and not subsequently amended;

(*c*) 6 percent or 10 percent for instruments executed or amended (other than in the case of a reformation under section 2055(e)(3)) after October 24, 1983, and before August 9, 1984; and

(*d*) 6 percent for instruments executed before October 25, 1983, and not subsequently amended (other than in the case of a reformation under section 2055(e)(3)).

(6) *Examples.* The application of the rules in paragraphs (a)(4) and (a)(5) of this section require the use of actuarial factors contained in § 1.664–4(e), § 1.664–4A(d), and former § 1.664–4(d) (as contained in CFR edition revised as of April 1, 1992) and may be illustrated by use of the following examples:

* * * * *

Par. 7. Paragraph 1.664–2(c) is revised to read as follows:

§ 1.664–2 Charitable remainder annuity trust.

* * * * *

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less than present value of the annuity. For

purposes of this section, "valuation date" means, in general, the date on which the property is transferred to the trust by the donor regardless of when the trust was created. For purposes of section 2055 or 2106, the valuation date is the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder, in which event the valuation date is the alternate valuation date. In the case of transfers to a charitable remainder annuity trust for which the valuation date (without regard to the election under section 7520) falls after April 30, 1989, if an election is made under section 7520 and § 20.7520–2 of this chapter (Estate Tax Regulations) to compute the present value of the interest transferred by use of the interest rate component for either of the 2 months preceding the month in which the valuation date falls, the month so elected is the month in which the valuation date falls. The present value of an annuity is computed under § 20.2031–7(e) of this chapter (Estate Tax Regulations) for transfers for which the valuation date falls after April 30, 1989, or under § 20.2031–7A(a) through (d) of this chapter, whichever is applicable, for transfers for which the valuation date falls before May 1, 1989. If the valuation date of a transfer to a charitable remainder annuity trust is after April 30, 1989, and before November 2, 1992, a transferor can rely on Notice 89–24, 1989–1 C.B. 660, or Notice 89–60, 1989–1 C.B. 700 (See § 601.601(d)(2)(ii)(*b*) of this chapter), in valuing the transferred interest.

Par. 8. Immediately following § 1.665(g)–2A an undesignated center heading and § 1.664–4A are added to read as follows:

Unitrust Actuarial Tables Applicable Before May 1, 1989

§ 1.664–4A Valuation of charitable remainder interests created before May 1, 1989.

(a) *Valuation of charitable remainder interests created before January 1, 1952.* There was no provision for the qualification of a charitable remainder unitrust under section 664 until 1969. See § 20.2031–7A(a) of this chapter (Estate Tax Regulations) for the determination of the present value of a charitable interest created before January 1, 1952.

(b) *Valuation of charitable remainder interests created after December 31, 1951, and before January 1, 1971.* No charitable deduction is allowable for a transfer to a unitrust after the effective dates of the Tax Reform Act of 1969 unless the unitrust meets the requirements of section 664. See § 20.2031–7A(b) of this chapter (Estate Tax Regulations) for the determination of the present value of a charitable remainder interest created after December 31, 1951, and before January 1, 1971.

(c) *Valuation of charitable remainder unitrusts having certain payout sequences; for transfers made after December 31, 1970, and before December 1, 1983.* For determination of the present value of a charitable remainder unitrust created after December 31, 1970, and before December 1, 1983, see § 20.2031–7A(c) of this chapter (Estate Tax Regulations) and former § 1.664–4(d) (as contained in CFR edition as of April 1, 1992).

(d) *Valuation of charitable remainder unitrusts having certain payout sequences; for transfers made after November 30, 1983, for which the valuation date falls before May 1, 1989*—(1) *In general.* Except as otherwise provided in paragraph (d)(2) of this section, in the case of transfers made after November 30, 1983, for which the valuation date falls before May 1, 1989, the present value of a remainder interest that is dependent on a term of years or the termination of the life of one individual is determined under paragraphs (d)(3) through (d)(6) of this section provided the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. The present value of the remainder interest in the trust is determined by computing the adjusted payout rate (as defined in paragraph (d)(3) of this section) and following the procedure outlined in paragraph (d)(4) or (d)(5) of this section, whichever is applicable. The present value of a remainder interest that is dependent on a term of years is computed under paragraph (d)(4) of this section. The present value of a remainder interest that is dependent on the termination of the life of one individual is computed under paragraph (d)(5) of this section. See paragraph (d)(2) of this section for testamentary transfers made after November 30, 1983, and before August 9, 1984.

(2) *Rules for determining the present value for testamentary transfers where the decedent dies after November 30, 1983, and before August 9, 1984.* For purposes of section 2055 or 2106, if—

(i) The decedent dies after November 30, 1983, and before August 9, 1984; or

(ii) On December 1, 1983, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after November 30, 1983, without regaining competency to dispose of the decedent's property, or died within 90 days of the date on which the decedent first regained competency, the present value determined under this section of a remainder interest is determined in accordance with paragraphs (d)(1) and (d)(3) through (d)(6) of this section, or § 1.664–4A(c), at the option of the taxpayer.

Par. 9. Section 1.664–4 is amended as follows:

1. The section heading is revised.
2. Paragraph (a) is revised.
3. Paragraph (b)(1) is redesignated as paragraph (b) and revised.
4. Paragraph (b)(2) is redesignated as § 1.664–4A(d)(3).
5. Paragraph (b)(3) is redesignated as § 1.664–4A(d)(4).
6. Paragraph (b)(4) is redesignated as § 1.664–4A(d)(5).
7. Paragraph (b)(5) is redesignated as § 1.664–4A(d)(6).
8. Paragraphs (c) and (d) are revised.
9. The authority citation immediately following paragraph (d) is removed.
10. New paragraph (e) is added.
11. The revised and added provisions read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) *Rules for determining present value.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers made after April 30, 1989, is its present value determined under paragraph (d) of this section. The present value determined under this section shall be computed on the basis of—

(1) Life contingencies determined as to each life involved, from the values of *lx* set forth in Table 80CNSMT contained in § 20.2031–7(e)(6) of this chapter (Estate Tax Regulations) in the case of transfers for which the valuation date falls after April 30, 1989, or column 2 of Table LN, of § 20.2031–7A(d)(6) of this chapter in the case of transfers made after November 30, 1983, for which the valuation date falls before May 1, 1989. See § 20.2031–7A(a) through (c) of this chapter, whichever is applicable, for transfers made before December 1, 1983;

(2) Interest at the rate (rounded to the nearest two-tenths of one percent) that is 120 percent of the applicable Federal mid-term rate under section 1274(d)(1), as described in § 20.7520–1 of this chapter (Estate Tax Regulations) (10 percent in the case of transfers to

charitable remainder unitrusts made after November 30, 1983, for which the valuation date falls before May 1, 1989; and 6 percent for transfers to charitable remainder unitrusts made after December 31, 1970, and before December 1, 1983; see § 20.2031–7A(a) and (b) of this chapter for transfers made before January 1, 1971); and

(3) The assumption that the amount described in § 1.664–3(a)(1)(*i*)(*a*) is distributed in accordance with the payout sequence described in the governing instrument. If the governing instrument does not prescribe when the distribution is made during the period for which the payment is made, for purposes of this section, the distribution is considered payable on the first day of the period for which the payment is made.

(b) *Actuarial Computations by the Internal Revenue Service.* The regulations in this and in related sections provide tables of actuarial factors and examples that illustrate the use of the tables in determining the value of remainder interests in property. Section 20.7520–1(a)(2) of this chapter (Estate Tax Regulations) refers to government publications that provide additional tables of factors and examples of computations for more complex situations. Some older publications are no longer available. If the computation requires the use of a factor that is not provided in this section, the Commissioner may supply the factor upon a request for a ruling. A request for a ruling must be accompanied by a recitation of the facts including the date of birth of each measuring life, and copies of the relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (See § 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee. If the Commissioner furnishes the factor, a copy of the letter supplying the factor should be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in this section. Any claim for a deduction on any return for the value of the remainder interest in property transferred to a pooled income fund must be supported by a statement attached to the return showing the computation of the present value of the interest.

(c) *Statement supporting deduction required.* Any claim for deduction on any return for the value of a remainder interest in a charitable remainder unitrust must be supported by a full statement attached to the return showing the computation of the present value of such interest.

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers made after April 30, 1989, is its present value determined under paragraph (e) of this section. The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers made before May 1, 1989, is its present value determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.664–4A(a)
12–31–51	01–01–71	1.664–4A(b)
12–31–70	12–01–83	1.664–4A(c)
11–30–83	05–01–89	1.664–4A(d)

(e) *Valuation of charitable remainder unitrusts having certain payout sequences; for transfers for which the valuation date falls after April 30, 1989*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date falls after April 30, 1989, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date.

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) If the valuation date of a transfer to a charitable remainder unitrust is after April 30, 1989, and before November 2, 1992, a transferor can rely upon Notice 89–24, 1989–1 C.B. 660, or Notice 89–60, 1989–1 C.B. 700 (See § 601.601(d)(2)(ii(*b*) of this chapter), in valuing the transferred interest.

(ii) For purposes of sections 2055, 2106, or 2624, if on May 1, 1989, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1989, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1989, the present value of a remainder interest determined under this section is determined as if the valuation date with respect to the decedent's gross estate falls either before May 1, 1989, or after April 30, 1989, at the option of the decedent's executor.

(3) *Adjusted payout rate.* For transfers for which the valuation date falls after April 30, 1989, the adjusted payout rate is determined by using the appropriate table F, contained in paragraph (e)(6) of this section, for the interest rate described in § 20.7520–1(b)(1) of this chapter (Estate Tax Regulations). If the interest rate is between 2.2 and 26 percent, see paragraph (e)(6) of this section. If the interest rate is below 2.2 percent or greater than 26 percent, see § 1.664–4(b). The adjusted payout rate is determined by multiplying the fixed percentage described in § 1.664–3(a)(1)(i)(*a*) by the factor describing the payout sequence of the trust and the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution or distributions shall be made during the taxable year of the trust, see § 1.664–4(a). In the case of a trust having a payout sequence for which no figures have been provided by the appropriate table and in the case of a trust that determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see § 1.664–4(b).

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date falls after April 30, 1989, is the factor under the appropriate adjusted payout rate in table D in paragraph (e)(6) of this section corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. For purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor. However, if one of the 2 prior months is elected as provided under § 20.7520–2 of this chapter (Estate Tax Regulations), the month so elected is the month in which the valuation date falls. In the case of a testamentary transfer under section 2055, 2106, or 2624, the valuation date is the date of

death, unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder. If the decedent's estate elects, under § 20.7520-2 of this chapter, to use the interest rate component for one of the 2 months preceding the date of death, the month so elected is the month in which the valuation date falls. If the alternate valuation date is elected in accordance with section 2032, the alternate valuation date is the valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under § 20.7520-2 of this chapter, to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected under § 20.7520-2 of this chapter is the month in which the valuation date falls. If the adjusted payout rate is between 2.2 and 26 percent, see paragraph (e)(6) of this section. If the adjusted payout rate is less than 2.2 percent or greater than 26 percent, see § 1.664-4(b). The application of this paragraph may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1, 1990. The trust instrument requires that the trust pay to D quarterly (on March 31, June 30, September 30, and December 31) 8 percent of the fair market value of the trust assets as of January 1st for a term of 12 years. The rate that is 120 percent of the applicable Federal mid-term rate for January 1990 is 9.57 percent. This rate is rounded to 9.6 percent. Under Table F(9.6), the appropriate adjustment factor is .944628 for quarterly payments payable at the end of each quarter. The adjusted payout rate is 7.557 (8% × .944628). Based on the remainder factors in Table D, the present value of the remainder interest is $38,950, computed as follows:

Factor at 7.4 percent for 12 years	.397495
Factor at 7.6 percent for 12 years	.387314
Difference	.010181

Interpolation adjustment:

$$\frac{7.557\% - 7.4\%}{0.2\%} = \frac{X}{.010181}$$

$$X = .007992$$

Factor at 7.4 percent for 12 years	.397495
Less: Interpolation adjustment	.007992
Interpolated factor	.389503
Present value of remainder interest: ($100,000 X .389503)	$38,950.

(5) *Period is the life of one individual.* If the period described in § 1.664-3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date falls after April 30, 1989, is the factor in table U(1) in paragraph (e)(6) under the appropriate adjusted payout. For purposes of the computations described in this paragraph, the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in paragraph (e)(4) of this section) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is between 2.2 and 26 percent, see paragraph (e)(6) of this section. If the adjusted payout rate is below 2.2 percent or greater than 26 percent, see § 1.664-4(b). The application of this paragraph may be illustrated by the following example:

Example. A, who will be 45 years old on February 19, 1990, transfers $100,000 to a charitable remainder unitrust on January 1, 1990. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 9 percent of the fair market value of the trust assets as of January 1st during A's life. The rate that is 120 percent of the applicable Federal mid-term rate for January 1990 is 9.57 percent. This rate is rounded to 9.6 percent. Under Table F(9.6), the appropriate adjustment factor is .933805 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 8.404 (9% × .933805). Based on the remainder factors in Table U(1), the present value of the remainder interest is $11,098, computed as follows:

Factor at 8.4 percent at age 45	.11106
Factor at 8.6 percent at age 45	.10683
Difference	.00423

Interpolation adjustment:

$$\frac{8.404\% - 8.4\%}{0.2\%} = \frac{X}{.00423}$$

$$X = .00008$$

Factor at 8.4 percent at age 45	.11106
Less: Interpolation adjustment	.00008
Interpolated Factor	.11098

Present value of remainder interest: ($100,000 × .11098) $11,098.

(6) *Actuarial tables for transfers for which the valuation date falls after April 30, 1989.* For transfers for which the valuation date falls after April 30, 1989, the present value of a charitable remainder unitrust interest that is dependent on a term for years or the termination of a life interest is determined by using a rate that is 120 percent of the applicable Federal mid-term rate described in § 20.7520-1(b)(1) of this chapter (Estate Tax Regulations) and the tables set forth below. Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, "Actuarial Values, Beta Volume," (8-89). A copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

TABLE D.—SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989

Years	Adjusted payout rate (In percentages)									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
1	.958000	.956000	.954000	.952000	.950000	.948000	.946000	.944000	.942000	.940000
2	.917764	.913936	.910116	.906304	.902500	.898704	.894916	.891136	.887364	.883600
3	.879218	.873723	.868251	.862801	.857375	.851971	.846591	.841232	.835897	.830584
4	.842291	.835279	.828311	.821387	.814506	.807669	.800875	.794123	.787415	.780749
5	.806915	.798527	.790209	.781960	.773781	.765670	.757627	.749652	.741745	.733904
6	.773024	.763392	.753859	.744426	.735092	.725855	.716716	.707672	.698724	.689870
7	.740557	.729802	.719182	.708694	.698337	.688111	.678013	.668042	.658198	.648478
8	.709454	.697691	.686099	.674677	.663420	.652329	.641400	.630632	.620022	.609569
9	.679657	.666993	.654539	.642292	.630249	.618408	.606765	.595317	.584061	.572995
10	.651111	.637645	.624430	.611462	.598737	.586251	.573999	.561979	.550185	.538615

TABLE D.—SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Adjusted payout rate (in percentages)									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
11	.623764	.609589	.595706	.582112	.568800	.555766	.543003	.530508	.518275	.506298
12	.597566	.582767	.568304	.554170	.540360	.526866	.513681	.500800	.488215	.475920
13	.572469	.557125	.542162	.527570	.513342	.499469	.485942	.472755	.459898	.447365
14	.548425	532611	.517222	.502247	.487675	.473496	.459701	.446281	.433224	.420523
15	.525391	.509177	.493430	.478139	.463291	.448875	.434878	.421289	.408097	.395292
16	.503325	.486773	.470732	.455188	.440127	.425533	.411394	.397697	.384427	.371574
17	.482185	.465355	.449079	.433339	.418120	.403405	.389179	.375426	.362131	.349280
18	.461933	.444879	.428421	.412539	.397214	.382428	.368163	.354402	.341127	.328323
19	.442532	.425304	.408714	.392737	.377354	.362542	.348282	.334555	.321342	.308624
20	.423946	.406591	.389913	.373886	.358486	.343690	.329475	.315820	.302704	.290106

TABLE D— SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989

Adjusted Payout Rate (in percentages)	Years									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
1	.938000	.936000	.934000	.932000	.930000	.928000	.926000	.924000	.922000	.920000
2	.879844	.876096	.872356	.868624	.864900	.861184	.857476	.853776	.850084	.846400
3	.825294	.820026	.814781	.809558	.804357	.799179	.794023	.788889	.783777	.778688
4	.774125	.767544	.761005	.754508	.748052	.741638	.735265	.728933	.722643	.716393
5	.726130	.718421	.710779	.703201	.695688	.688240	.680855	.673535	.666277	.659082
6	.681110	.672442	.663867	.655383	.646990	.638687	.630472	.622346	.614307	.606355
7	.638881	.629406	.620052	.610817	.601701	.592701	.583817	.575048	.586391	.557847
8	.599270	.589124	.579129	.569282	.559582	.550027	.540615	.531344	.522213	.513219
9	.562115	.551420	.540906	.530571	.520411	.510425	.500609	.490962	.481460	.472161
10	.527264	.516129	.505206	.494492	.483982	.473674	.463564	.453649	.443925	.434388
11	.494574	.483097	.471863	.460866	.450104	.439570	.429260	.419171	.409298	.399637
12	.463910	.452179	.440720	.429527	.418596	.407921	.397495	.387314	.377373	.367666
13	.435148	.423239	.411632	.400320	.389295	.378550	.368081	.357879	.347938	.338253
14	.408169	.396152	.384465	.373098	.362044	.351295	.340843	.330680	.320799	.311193
15	.382862	.370798	.359090	.347727	.336701	.326002	.315620	.305548	.295777	.286297
16	.359125	.347067	.335390	.324082	.313132	.302529	.292264	.282326	.272706	.263394
17	.336859	.324855	.313254	.302044	.291213	.280747	.270637	.260870	.251435	.242322
18	.315974	.304064	.292579	.281505	.270828	.260533	.250610	.241044	.231823	.222936
19	.296383	.284604	.273269	.262363	.251870	.241775	.232065	.222724	.213741	.205101
20	.278008	.266389	.255233	.244522	.234239	.224367	.214892	.205797	.197069	.188693

TABLE D—SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989

Years	Adjusted payout rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
1	.918000	.916000	.914000	.912000	.910000	.908000	.906000	.904000	.902000	.900000
2	.842724	.839056	.835396	.831744	.828100	.824464	.820836	.817216	.813604	.810000
3	.773621	.768575	.763552	.758551	.753571	.748613	.743677	.738763	.733871	.729000
4	.710184	.704015	.697886	.691798	.685750	.679741	.673772	.667842	.661951	.656100
5	.651949	.644878	.637868	.630920	.624032	.617205	.610437	.603729	.597080	.590490
6	.598489	.590708	.583012	.575399	.567869	.560422	.553056	.545771	.538566	.531441
7	.549413	.541089	.532673	.524764	.516761	.508863	.501069	.493377	.485787	.478297
8	.504361	.495637	.487046	.478585	.470253	.462048	.453968	.446013	.438180	.430467
9	.463003	.454004	.445160	.436469	.427930	.419539	.411295	.403196	.395238	.387420
10	.425037	.415867	.406876	.398060	.389416	.380942	.372634	.364489	.356505	.348678
11	.390184	.380934	.371885	.363031	.354369	.345895	.337606	.329498	.321567	.313811
12	.358189	.348936	.339902	.331084	.322475	.314073	.305871	.297866	.290054	.282430
13	.328817	.319625	.310671	.301949	.293453	.285178	.277119	.269271	.261628	.254187
14	.301854	.292777	.283953	.275377	.267042	.258942	.251070	.243421	.235989	.228768
15	.277102	.268184	.259533	.251144	.243008	.235119	.227469	.220053	.212862	.205891
16	.254380	.245656	.237213	.229043	.221137	.213488	.206087	.198928	.192001	.185302
17	.233521	.225021	.216813	.208887	.201235	.193847	.186715	.179830	.173185	.166772
18	.214372	.206119	.198167	.190505	.183124	.176013	.169164	.162567	.156213	.150095
19	.196794	.188805	.181125	.173741	.166643	.159820	.153262	.146960	.140904	.135085
20	.180857	.172946	.165548	.158452	.151645	.145117	.138856	.132852	.127096	.121577

TABLE D.—SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989

Years	Adjusted payout rate (in percentages)									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
1	.898000	.896000	.894000	.892000	.890000	.888000	.886000	.884000	.882000	.880000
2	.806404	.802816	.799236	.795664	.792100	.788544	.784996	.781456	.777924	.774400
3	.724151	.719323	.714517	.709732	.704969	.700227	.695506	.690807	.686129	.681472
4	.650287	.644514	.638778	.633081	.627422	.621802	.616219	.610673	.605166	.599695
5	.583958	.577484	.571068	.564708	.558406	.552160	.545970	.539835	.533756	.527732
6	.524394	.517426	.510535	.503720	.496981	.490318	.483729	.477214	.470773	.464404
7	.470906	.463613	.456418	.449318	.442313	.435402	.428584	.421858	.415222	.408676
8	.422874	.415398	.408038	.400792	.393659	.386637	.379726	.372922	.366226	.359635
9	.379741	.372196	.364786	.357506	.350356	.343334	.336437	.329663	.323011	.316478
10	.341007	.333488	.326118	.318898	.311817	.304881	.298083	.291422	.284896	.278501
11	.306224	.298805	.291550	.284455	.277517	.270734	.264102	.257617	.251278	.245081
12	.274989	.267729	.260645	.253734	.246990	.240412	.233994	.227734	.221627	.215671
13	.246941	.239886	.233017	.226331	.219821	.213486	.207319	.201317	.195475	.189791
14	.221753	.214937	.208317	.201887	.195641	.189575	.183684	.177964	.172409	.167016
15	.199134	.192584	.186236	.180083	.174121	.168343	.162744	.157320	.152065	.146974
16	.178822	.172555	.166495	.160634	.154967	.149488	.144191	.139071	.134121	.129337
17	.160582	.154609	.148846	.143286	.137921	.132746	.127754	.122939	.118295	.113817
18	.144203	.138530	.133069	.127811	.122750	.117878	.113190	.108678	.104336	.100159
19	.129494	.124123	.118963	.114007	.109247	.104676	.100286	.096071	.092024	.088140
20	.116286	.111214	.106353	.101694	.097230	.092952	.088853	.084927	.081166	.077563

TABLE D.—SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN IN A CHARITABLE REMAINDER UNITRUST APPLICABLE AFTER APRIL 30, 1989

Years	Adjusted payout rate (in percentages)									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
1	.878000	.876000	.874000	.872000	.870000	.868000	.866000	.864000	.862000	.860000
2	.770884	.767376	.763876	.760384	.756900	.753424	.749956	.746496	.743044	.739600
3	.676836	.672221	.667628	.663055	.658503	.653972	.649462	.644973	.640504	.636056
4	.594262	.588866	.583507	.578184	.572898	.567648	.562434	.557256	.552114	.547008
5	.521762	.515847	.509985	.504176	.498421	.492718	.487068	.481469	.475923	.470427
6	.458107	.451882	.445727	.439642	.433626	.427679	.421801	.415990	.410245	.404567
7	.402218	.395848	.389565	.383368	.377255	.371226	.365279	.359415	.353631	.347928
8	.353147	.346763	.340480	.334297	.328212	.322224	.316332	.310535	.304830	.299218
9	.310063	.303764	.297579	.291507	.285544	.279690	.273944	.268302	.262764	.257327
10	.272236	.266098	.260084	.254194	.248423	.242771	.237235	.231813	.226502	.221302
11	.239023	.233102	.227314	.221657	.216128	.210725	.205446	.200286	.195245	.190319
12	.209862	.204197	.198672	.193285	.188032	.182910	.177916	.173047	.168301	.163675
13	.184259	.178877	.173640	.168544	.163588	.158766	.154075	.149513	.145076	.140760
14	.161779	.156696	.151761	.146971	.142321	.137809	.133429	.129179	.125055	.121054
15	.142042	.137266	.132639	.128158	.123819	.119618	.115550	.111611	.107798	.104106
16	.124713	.120245	.115927	.111754	.107723	.103828	.100066	.096432	.092922	.089531
17	.109498	.105334	.101320	.097450	.093719	.090123	.086657	.083317	.080098	.076997
18	.096139	.092273	.088554	.084976	.081535	.078227	.075045	.071986	.069045	.066217
19	.084410	.080831	.077396	.074099	.070936	.067901	.064989	.062196	.059517	.056947
20	.074112	.070808	.067644	.064614	.061714	.058938	.056280	.053737	.051303	.048974

TABLE F(4.2), WITH INTEREST AT 4.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.989820	.984755	.981389
1	2	.996577	.986432	.981385	.978030
2	3	.993166	.983056	.978026	
3	4	.989767	.979691	.974679	
4	5	.986380	.976338		
5	6	.983004	.972996		
6	7	.979639	.969666		
7	8	.976286			
8	9	.972945			
9	10	.969615			
10	11	.966296			
11	12	.962989			
12		.959693			

TABLE F(4.4), WITH INTEREST AT 4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.989350	.984054	.980533
1	2	.996418	.985806	.980529	.977021
2	3	.992849	.982275	.977017	
3	4	.989293	.978757	.973517	
4	5	.985749	.975251		
5	6	.982219	.971758		
6	7	.978700	.968277		
7	8	.975195			
8	9	.971702			
9	10	.968221			
10	11	.964753			
11	12	.961298			
12		.957854			

TABLE F(4.6), WITH INTEREST AT 4.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.988882	.983354	.979680
1	2	.996259	.985183	.979676	.976015
2	3	.992532	.981498	.976011	
3	4	.988820	.977826	.972360	
4	5	.985121	.974168		
5	6	.981436	.970524		
6	7	.977764	.966894		
7	8	.974107			
8	9	.970463			
9	10	.966832			
10	11	.963216			
11	12	.959613			
12		.956023			

TABLE F(4.8), WITH INTEREST AT 4.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.988415	.982657	.978830
1	2	.996101	.984561	.978825	.975013
2	3	.992217	.980722	.975008	
3	4	.988348	.976898	.971206	
4	5	.984494	.973089		
5	6	.980655	.969294		
6	7	.976831	.965515		
7	8	.973022			
8	9	.969228			
9	10	.965448			
10	11	.961684			
11	12	.957934			
12		.954198			

TABLE F(5.0), WITH INTEREST AT 5.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.987950	.981961	.977982
1	2	.995942	.983941	.977977	.974014
2	3	.991901	.979949	.974009	

TABLE F(5.0), WITH INTEREST AT 5.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
3	4	.987877	.975973	.970057	
4	5	.983868	.972013		
5	6	.979876	.968069		
6	7	.975900	.964141		
7	8	.971940			
8	9	.967997			
9	10	.964069			
10	11	.960157			
11	12	.956261			
12		.952381			

TABLE F(5.2), WITH INTEREST AT 5.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.987486	.981268	.977137
1	2	.995784	.983323	.977132	.973018
2	3	.991587	.979178	.973012	
3	4	.987407	.975050	.968911	
4	5	.983244	.970940		
5	6	.979099	.966847		
6	7	.974972	.962771		
7	8	.970862			
8	9	.966769			
9	10	.962694			
10	11	.958636			
11	12	.954594			
12		.950570			

TABLE F (5.4), WITH INTEREST AT 5.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1 Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.987023	.980577	.976295
1	2	.995627	.982707	.976289	.972026
2	3	.991273	.978409	.972019	
3	4	.986938	.974131	.967769	
4	5	.982622	.969871		
5	6	.978325	.965629		
6	7	.974047	.961407		
7	8	.969787			
8	9	.965546			
9	10	.961323			
10	11	.957119			
11	12	.952934			
12		.948767			

TABLE F(5.6), WITH INTEREST AT 5.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1 Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.986562	.979888	975455
1	2	.995470	.982092	.975449	.971036
2	3	.990960	.977643	.971029	
3	4	.986470	.973214	.966630	
4	5	.982001	.968805		
5	6	.977552	.964416		

TABLE F(5.6), WITH INTEREST AT 5.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
6	7	.973124	.980047		
7	8	.968715			
8	9	.964326			
9	10	.959958			
10	11	.955609			
11	12	.951279			
12		.946970			

TABLE F(5.8), WITH INTEREST AT 5.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.986102	.979201	.974618
1	2	.995313	.981480	.974611	.970050
2	3	.990647	.976879	.970043	
3	4	.986004	.972300	.965496	
4	5	.981382	.967743		
5	6	.976782	.963206		
6	7	.972203	.958692		
7	8	.967646			
8	9	.963111			
9	10	.958596			
10	11	.954103			
11	12	.949631			
12		.945180			

TABLE F(6.0), WITH INTEREST AT 6.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.985643	.978516	.973784
1	2	.995156	.980869	.973776	.969067
2	3	.990336	.976117	.969059	
3	4	.985538	.971389	.964365	
4	5	.980764	.966684		
5	6	.976014	.962001		
6	7	.971286	.957341		
7	8	.966581			
8	9	.961899			
9	10	.957239			
10	11	.952603			
11	12	.947988			
12		.943396			

TABLE F(6.2), WITH INTEREST AT 6.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1.000000	.985185	.977833	.972952	
1	2	.995000	.980259	.972944	.968087
2	3	.990024	.975358	.968079	
3	4	.985074	.970481	.963238	
4	5	.980148	.965628		
5	6	.975247	.960799		
6	7	.970371	.955995		
7	8	.965519			
8	9	.960691			

TABLE F(6.2), WITH INTEREST AT 6.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
9	10	.955887			
10	11	.951107			
11	12	.946352			
12		.941620			

TABLE F(6.4), WITH INTEREST AT 6.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.984729	.977152	.97212
1	2	.994844	.979652	.972114	.96711
2	3	.989714	.974600	.967101	
3	4	.984611	.969575	.962115	
4	5	.979534	.964576		
5	6	.974483	.959602		
6	7	.969458	.954654		
7	8	.964460			
8	9	.959487			
9	10	.954539			
10	11	.949617			
11	12	.944721			
12		.939850			

TABLE F(6.6), WITH INTEREST AT 6.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.984274	.976473	.971295
1	2	.994688	.979046	.971266	.966136
2	3	.989404	.973845	.966127	
3	4	.984149	.968672	.960995	
4	5	.978921	.963527		
5	6	.973721	.958408		
6	7	.968549	.953317		
7	8	.963404			
8	9	.958286			
9	10	.953196			
10	11	.948132			
11	12	.943096			
12		.938086			

TABLE F(6.8), WITH INTEREST AT 6.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.983821	.975796	.970471
1	2	.994533	.978442	.970461	.965165
2	3	.989095	.973092	.965156	
3	4	.983688	.967772	.959879	
4	5	.978309	.962481		
5	6	.972961	.957219		
6	7	.967641	.951985		
7	8	.962351			
8	9	.957089			
9	10	.951857			
10	11	.946653			
11	12	.941477			

TABLE F(6.8), WITH INTEREST AT 6.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
12		.936330			

TABLE F(7.0), WITH INTEREST AT 7.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.983368	.975122	.969649
1	2	.994378	.977839	.969639	.964198
2	3	.988787	.972342	.964187	
3	4	.983228	.966875	.958766	
4	5	.977700	.961439		
5	6	.972203	.956033		
6	7	.966736	.950658		
7	8	.961301			
8	9	.955896			
9	10	.950522			
10	11	.945178			
11	12	.939864			
12		.934579			

TABLE F(7.2), WITH INTEREST AT 7.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.982917	.974449	.968830
1	2	.994223	.977239	.968819	.963233
2	3	.988479	.971593	.963222	
3	4	.982769	.965980	.957658	
4	5	.977091	.960400		
5	6	.971446	.954851		
6	7	.965834	.949335		
7	8	.960255			
8	9	.954707			
9	10	.949192			
10	11	.943708			
11	12	.938256			
12		.932836			

TABLE F(7.4), WITH INTEREST AT 7.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.982467	.973778	.968013
1	2	.994068	.976640	.968002	.962271
2	3	.988172	.970847	.962260	
3	4	.982311	.965088	.956552	
4	5	.976484	.959364		
5	6	.970692	.953673		
6	7	.964935	.948017		
7	8	.959211			
8	9	.953521			
9	10	.947866			
10	11	.942243			
11	12	.936654			
12		.931099			

TABLE F(7.6), WITH INTEREST AT 7.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER April 30, 1989

Number of months by which the valuation date precede the first payout		2. Factors for payout at end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.982019	.973109	.967199
1	2	.993914	.976042	.967187	.961313
2	3	.987866	.970103	.961301	
3	4	.981854	.964199	.955451	
4	5	.975879	.958331		
5	6	.969940	.952499		
6	7	.964037	.946703		
7	8	.958171			
8	9	.952340			
9	10	.946544			
10	11	.940784			
11	12	.935058			
12		.929368			

TABLE F(7.8), WITH INTEREST AT 7.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.981571	.972442	.966387
1	2	.993761	.975447	.966374	.960357
2	3	.987560	.969361	.960345	
3	4	.981398	.963312	.954353	
4	5	.975275	.957302		
5	6	.969190	.951329		
6	7	.963143	.945393		
7	8	.957133			
8	9	.951161			
9	10	.945227			
10	11	.939329			
11	12	.933468			
12		.927644			

TABLE F(8.0), WITH INTEREST AT 8.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.981125	.971777	.965578
1	2	.993607	.974853	.965564	.959405
2	3	.987255	.968621	.959392	
3	4	.980944	.962429	.953258	
4	5	.974673	.956276		
5	6	.968442	.950162		
6	7	.962250	.944088		
7	8	.956099			
8	9	.949987			
9	10	.943913			
10	11	.937879			
11	12	.931883			
12		.925926			

TABLE F(8.2), WITH INTEREST AT 8.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.980680	.971114	.964771
1	2	.993454	.974261	.964757	.958455
2	3	.986951	.967883	.958441	

TABLE F(8.2), WITH INTEREST AT 8.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
3	4	.980490	.961547	.952167	
4	5	.974072	.955253		
5	6	.967695	.949000		
6	7	.961361	.942788		
7	8	.955068			
8	9	.948816			
9	10	.942605			
10	11	.936434			
11	12	.930304			
12		.924214			

TABLE F(8.4), WITH INTEREST AT 8.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.980237	.970453	.963966
1	2	.993301	.973670	.963952	.957509
2	3	.986647	.967146	.957494	
3	4	.980037	.960669	.951080	
4	5	.973472	.954233		
5	6	.966951	.947841		
6	7	.960473	.941491		
7	8	.954039			
8	9	.947648			
9	10	.941300			
10	11	.934994			
11	12	.928731			
12		.922509			

TABLE F(8.6), WITH INTEREST AT 8.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.979794	.989794	.963164
1	2	.993148	.973081	.963149	.956565
2	3	.986344	.966414	.956550	
3	4	.979586	.959793	.949996	
4	5	.972874	.953217		
5	6	.966209	.946686		
6	7	.959589	.940199		
7	8	.953014			
8	9	.946484			
9	10	.940000			
10	11	.933559			
11	12	.927163			
12		.920810			

TABLE F(8.8), WITH INTEREST AT 8.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.979353	.969136	.962364
1	2	.992996	.972494	.962349	.955624
2	3	.986041	.965683	.955609	
3	4	.979135	.958919	.948916	
4	5	.972278	.952203		
5	6	.965468	.945534		

TABLE F(8.8), WITH INTEREST AT 8.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
6	7	.958706	.938912		
7	8	.951992			
8	9	.945324			
9	10	.938703			
10	11	.932129			
11	12	.925600			
12		.919118			

TABLE F(9.0), WITH INTEREST AT 9.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.978913	.968481	.961567
1	2	.992844	.971908	.961551	.954686
2	3	.985740	.964954	.954670	
3	4	.978686	.958049	.947839	
4	5	.971683	.951193		
5	6	.964730	.944387		
6	7	.957826	.937629		
7	8	.950972			
8	9	.944167			
9	10	.937411			
10	11	.930703			
11	12	.924043			
12		.917431			

TABLE F(9.2), WITH INTEREST AT 9.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payment		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.978474	.967827	.960772
1	2	.992693	.971324	.960755	.953752
2	3	.985439	.964226	.953734	
3	4	.978238	.957180	.946765	
4	5	.971089	.950186		
5	6	.963993	.943242		
6	7	.956949	.936350		
7	8	.949956			
8	9	.943014			
9	10	.936123			
10	11	.929283			
11	12	.922492			
12		.915751			

TABLE F(9.4), WITH INTEREST AT 9.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.978037	.967176	.959980
1	2	.992541	.970742	.959962	.952820
2	3	.985138	.963501	.952802	
3	4	.977790	.956315	.945695	
4	5	.970497	.949182		
5	6	.963258	.942102		
6	7	.956074	.935075		
7	8	.948942			
8	9	.941865			

TABLE F(9.4), WITH INTEREST AT 9.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
9	10	.934839			
10	11	.927867			
11	12	.920946			
12		.914077			

TABLE F(9.6), WITH INTEREST AT 9.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.977600	.966526	.959190
1	2	.992390	.970161	.959171	.951890
2	3	.984838	.962778	.951872	
3	4	.977344	.955452	.944628	
4	5	.969906	.948181		
5	6	.962526	.940965		
6	7	.955201	.933805		
7	8	.947932			
8	9	.940718			
9	10	.933560			
10	11	.926455			
11	12	.919405			
12		.912409			

TABLE F(9.8), WITH INTEREST AT 9.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each—			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.977165	.965878	.958402
1	2	.992239	.969582	.958382	.950964
2	3	.984539	.962057	.950945	
3	4	.976898	.954591	.943565	
4	5	.969317	.947183		
5	6	.961795	.939832		
6	7	.954331	.932539		
7	8	.946924			
8	9	.939576			
9	10	.932284			
10	11	.925049			
11	12	.917870			
12		.910747			

TABLE F(10.0), WITH INTEREST AT 10.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payment		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.976731	.965232	.957616
1	2	.992089	.969004	.957596	.950041
2	3	.984240	.961338	.950021	
3	4	.976454	.953733	.942505	
4	5	.968729	.946188		
5	6	.961066	.938703		
6	7	.953463	.931277		
7	8	.945920			
8	9	.938436			
9	10	.931012			
10	11	.923647			
11	12	.916340			

TABLE F(10.0), WITH INTEREST AT 10.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payment		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
12		.909091			

TABLE F(10.2), WITH INTEREST AT 10.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.976298	.964588	.956833
1	2	.991939	.968428	.956812	.949120
2	3	.983943	.960622	.949099	
3	4	.976011	.952878	.941448	
4	5	.968143	.945196		
5	6	.960338	.937577		
6	7	.952597	.930019		
7	8	.944918			
8	9	.937301			
9	10	.929745			
10	11	.922250			
11	12	.914816			
12		.907441			

TABLE F(10.4), WITH INTEREST AT 10.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.975867	.963946	.956052
1	2	.991789	.967854	.956031	.948202
2	3	.983645	.959907	.948181	
3	4	.975568	.952025	.940395	
4	5	.967558	.944208		
5	6	.959613	.936455		
6	7	.951734	.928765		
7	8	.943919			
8	9	.936168			
9	10	.928481			
10	11	.920858			
11	12	.913296			
12		.905797			

TABLE F(10.6), WITH INTEREST AT 10.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.975436	.963305	.955274
1	2	.991639	.967281	.955252	.947287
2	3	.983349	.959194	.947265	
3	4	.975127	.951174	.939345	
4	5	.966974	.943222		
5	6	.958890	.935336		
6	7	.950873	.927516		
7	8	.942923			
8	9	.935039			
9	10	.927222			
10	11	.919470			
11	12	.911782			
12		.904159			

TABLE F(10.8), WITH INTEREST AT 10.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.975007	.962667	.954498
1	2	.991490	.966710	.954475	.946375
2	3	.983052	.958483	.946352	
3	4	.974687	.950327	.938299	
4	5	.966392	.942239		
5	6	.958168	.934221		
6	7	.950014	.926271		
7	8	.941930			
8	9	.933914			
9	10	.925966			
10	11	.918086			
11	12	.910273			
12		.902527			

TABLE F(11.0), WITH INTEREST AT 11.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.974579	.962030	.953724
1	2	.991341	.966140	.953700	.945466
2	3	.982757	.957774	.945442	
3	4	.974247	.949481	.937255	
4	5	.965811	.941260		
5	6	.957449	.933109		
6	7	.949158	.925029		
7	8	.940939			
8	9	.932792			
9	10	.924715			
10	11	.916708			
11	12	.908770			
12		.9[illegible]901			

TABLE F(11.2), WITH INTEREST AT 11.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.974152	.961395	.952952
1	2	.991192	.965572	.952927	.944559
2	3	.982462	.957068	.944534	
3	4	.973809	.948638	.936215	
4	5	.965232	.940283		
5	6	.956731	.932001		
6	7	.948304	.923792		
7	8	.939952			
8	9	.931673			
9	10	.923467			
10	11	.915333			
11	12	.907272			
12		.899281			

TABLE F(11.4), WITH INTEREST AT 11.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.973726	.960762	.952183
1	2	.991044	.965005	.952157	.943655
2	3	.982168	.956363	.943630	

TABLE F(11.4), WITH INTEREST AT 11.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
3	4	.973372	.947798	.935178	
4	5	.964654	939309		
5	6	.956015	.930898		
6	7	.947452	.922559		
7	8	.938967			
8	9	.930557			
9	10	.922223			
10	11	.913964			
11	12	.905778			
12		.897666			

TABLE F(11.6), WITH INTEREST AT 11.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.973302	.960130	.951416
1	2	.990896	.964440	.951389	.942754
2	3	.981874	.955660	.942728	
3	4	.972935	.946959	.934145	
4	5	.964077	.938338		
5	6	.955300	.929795		
6	7	.946603	.921330		
7	8	.937985			
8	9	.929445			
9	10	.920984			
10	11	.912599			
11	12	.904290			
12		.896057			

TABLE F(11.8), WITH INTEREST AT 11.8 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.972878	.959501	.950651
1	2	.990748	.963877	.950624	.941855
2	3	.981582	.954959	.941828	
3	4	.972500	.946124	.933114	
4	5	.963502	.937370		
5	6	.954588	.928698		
6	7	.945756	.920105		
7	8	.937006			
8	9	.928337			
9	10	.919748			
10	11	.911238			
11	12	.902807			
12		.894454			

TABLE F(12.0), WITH INTEREST AT 12.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.972456	.958873	.949888
1	2	.990600	.963315	.949860	.940960
2	3	.981289	.954260	.940932	
3	4	.972065	.945290	.932087	
4	5	.962928	.936405		
5	6	.953877	.927603		

TABLE F(12.0), WITH INTEREST AT 12.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
6	7	.944911	.918884		
7	8	.936029			
8	9	.927231			
9	10	.918515			
10	11	.909882			
11	12	.901329			
12		.892857			

TABLE F(12.2), WITH INTEREST AT 12.2 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.972034	.958247	.949128
1	2	.990453	.962754	.949099	.940067
2	3	.980997	.953563	.940038	
3	4	.971632	.944460	.931063	
4	5	.962356	.935443		
5	6	.953168	.926512		
6	7	.944069	.917667		
7	8	.935056			
8	9	.926129			
9	10	.917287			
10	11	.908530			
11	12	.899856			
12		.891266			

TABLE F(12.4), WITH INTEREST AT 12.4 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.971614	.957623	.948370
1	2	.990306	.962195	.948340	.939176
2	3	.980706	.952868	.939147	
3	4	.971199	.943631	.930043	
4	5	.961785	.934484		
5	6	.952461	.925425		
6	7	.943228	.916454		
7	8	.934085			
8	9	.925030			
9	10	.916063			
10	11	.907183			
11	12	.898389			
12		.889680			

TABLE F(12.6), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	.000000	.971195	.957000	.947614
1	2	.990159	.961638	.947583	.938289
2	3	.980416	.952175	.938258	
3	4	.970768	.942805	.929025	
4	5	.961215	.933527		
5	6	.951756	.924341		
6	7	.942390	.915245		
7	8	.933117			
8	9	.923934			

TABLE F(12.6), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
9	10	.914842			
10	11	.905840			
11	12	.896926			
12		.888099			

TABLE F(12.8), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.970777	.956379	.946860
1	2	.990013	.961082	.946828	.937403
2	3	.980126	.951484	.937372	
3	4	.970337	.941981	.928011	
4	5	.960647	.932574		
5	6	.951053	.923260		
6	7	.941554	.914040		
7	8	.932151			
8	9	.922842			
9	10	.913625			
10	11	.904501			
11	12	.895468			
12		.886525			

TABLE F(13.0), WITH INTEREST AT 13.0 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.970360	.955760	.946108
1	2	.989667	.960528	.946075	.936521
2	3	.979836	.950795	.936489	
3	4	.969908	.941160	.926999	
4	5	.960079	.931623		
5	6	.950351	.922183		
6	7	.940721	.912838		
7	8	.931188			
8	9	.921753			
9	10	.912412			
10	11	.903167			
11	12	.894015			
12		.884956			

TABLE F(13.2), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.969945	.955143	.945359
1	2	.989721	.959975	.945325	.935641
2	3	.979548	.950107	.935608	
3	4	.969479	.940341	.925991	
4	5	.959514	.930675		
5	6	.949651	.921109		
6	7	.939889	.911641		
7	8	.930228			
8	9	.920667			
9	10	.911203			
10	11	.901837			
11	12	.892567			

TABLE F(13.2), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989—Continued

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
12		.883392			

TABLE F(13.4), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.969530	.954527	.944611
1	2	.989575	.959423	.944577	.934764
2	3	.979260	.949422	.934730	
3	4	.969051	.939524	.924986	
4	5	.958949	.929730		
5	6	.948953	.920038		
6	7	.939060	.910447		
7	8	.929271			
8	9	.919584			
9	10	.909998			
10	11	.900511			
11	12	.891124			
12		.881834			

TABLE F(13.6), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.969117	.953913	.943866
1	2	.989430	.958873	.943831	.933890
2	3	.978972	.948738	.933854	
3	4	.968624	.938710	.923984	
4	5	.958386	.928788		
5	6	.948256	.918971		
6	7	.938233	.909257		
7	8	.928316			
8	9	.918504			
9	10	.908796			
10	11	.899190			
11	12	.889686			
12		.880282			

TABLE F(13.8), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1	1.000000	.968704	.953301	.943123
1	2	.989285	.958325	.943087	.933018
2	3	.978685	.948056	.932982	
3	4	.968199	.937898	.922985	
4	5	.957824	.927849		
5	6	.847561	.917907		
6	7	.937408	.908072		
7	8	.927364			
8	9	.917428			
9	10	.907598			
10	11	.897873			
11	12	.888252			
12		.878735			

TABLE F(14.0), WITH INTEREST AT 12.6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS APPLICABLE AFTER APRIL 30, 1989

1. Number of Months by which the valuation date precedes the first payout		2. Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
....	1	1.000000	.968293	.952691	.942382
1........................	2	.989140	.957778	.942345	.932148
2........................	3	.978399	.947377	.932111	
3........................	4	.967774	.937088	.921989	
4........................	5	.957264	.926912		
5........................	6	.946868	.916846		
6........................	7	.936586	.906889		
7........................	8	.926415			
8........................	9	.916354			
9........................	10	.906403			
10........................	11	.896560			
11........................	12	.886824			
12........................	....	.877193			

TABLE U(1).—BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Adjusted payout rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
0........................	.06797	.06181	.05645	.05177	.04768	.04410	.04096	.03820	.03578	.03364
1........................	.05881	.05243	.04686	.04199	.03773	.03400	.03072	.02784	.02531	.02308
2........................	.06049	.05394	.04821	.04319	.03880	.03494	.03155	.02856	.02593	.02361
3........................	.06252	.05579	.04990	.04473	.04020	.03621	.03270	.02961	.02688	.02446
4........................	.06479	.05788	.05182	.04650	.04183	.03771	.03408	.03087	.02804	.02553
5........................	.06724	.06016	.05393	.04845	.04363	.03937	.03562	.03230	.02936	.02675
6........................	.06984	.06257	.05618	.05054	.04557	.04117	.03729	.03385	.03080	.02809
7........................	.07259	.06513	.05856	.05276	.04764	.04310	.03909	.03552	.03236	.02954
8........................	.07548	.06784	.06109	.05513	.04985	.04517	.04102	.03733	.03405	.03113
9........................	.07854	.07071	.06378	.05765	.05221	.04738	.04310	.03928	.03588	.03285
10........................	.08176	.07374	.06663	.06033	.05473	.04976	.04533	.04138	.03786	.03471
11........................	.08517	.07695	.06966	.06319	.05743	.05230	.04772	.04364	.04000	.03673
12........................	.08872	.08031	.07284	.06619	.06026	.05498	.05026	.04604	.04227	.03889
13........................	.09238	.08378	.07612	.06929	.06320	.05776	.05289	.04853	.04463	.04113
14........................	.09608	.08728	.07943	.07243	.06616	.06056	.05554	.05104	.04701	.04338
15........................	.09981	.09081	.08276	.07557	.06914	.06337	.05820	.05356	.04938	.04563
16........................	.10356	.09435	.08612	.07874	.07213	.06619	.06086	.05607	.05176	.04787
17........................	.10733	.09792	.08949	.08192	.07513	.06902	.06353	.05858	.05413	.05010
18........................	.11117	.10155	.09291	.08515	.07817	.07189	.06623	.06113	.05652	.05236
19........................	.11509	.10526	.09642	.08847	.08130	.07484	.06901	.06375	.05899	.05469
20........................	.11913	.10908	.10003	.09188	.08452	.07788	.07188	.06645	.06154	.05708
21........................	.12326	.11300	.10375	.09539	.08784	.08101	.07483	.06923	.06416	.05955
22........................	.12753	.11705	.10758	.09902	.09127	.08426	.07789	.07212	.06688	.06212
23........................	.13195	.12125	.11156	.10279	.09484	.08763	.08109	.07514	.06973	.06481
24........................	.13655	.12563	.11573	.10675	.09860	.09119	.08446	.07833	.07274	.06766
25........................	.14136	.13022	.12010	.11091	.10255	.09495	.08802	.08171	.07595	.07069
26........................	.14640	.13504	.12471	.11530	.10674	.09893	.09181	.08531	.07937	.07394
27........................	.15169	.14011	.12956	.11994	.11117	.10316	.09584	.08915	.08302	.07742
28........................	.15721	.14542	.13465	.12482	.11583	.10762	.10010	.09322	.08691	.08112
29........................	.16299	.15097	.13999	.12994	.12075	.11233	.10461	.09753	.09104	.08507
30........................	.16901	.15678	.14559	.13533	.12592	.11729	.10937	.10210	.09541	.08926
31........................	.17531	.16287	.15146	.14099	.13137	.12254	.11441	.10694	.10006	.09372
32........................	.18186	.16921	.15759	.14691	.13709	.12804	.11972	.11205	.10497	.09844
33........................	.18869	.17584	.16401	.15312	.14309	.13384	.12531	.11744	.11017	.10345
34........................	.19578	.18273	.17070	.15961	.14937	.13992	.13119	.12312	.11565	.10874
35........................	.20315	.18990	.17767	.16637	.15593	.14628	.13735	.12908	.12142	.11431
36........................	.21076	.19732	.18490	.17340	.16276	.15291	.14377	.13531	.12745	.12016
37........................	.21863	.20501	.19239	.18071	.16987	.15982	.15049	.14182	.13377	.12628
38........................	.22676	.21296	.20016	.18828	.17725	.16701	.15748	.14862	.14037	.13269
39........................	.23515	.22118	.20820	.19614	.18492	.17448	.16476	.15571	.14727	.13940
40........................	.24379	.22967	.21652	.20428	.19288	.18225	.17234	.16310	.15447	.14641
41........................	.25270	.23842	.22511	.21270	.20112	.19031	.18021	.17078	.16197	.15372
42........................	.26184	.24742	.23395	.22137	.20962	.19864	.18836	.17875	.16975	.16132
43........................	.27123	.25666	.24305	.23031	.21840	.20724	.19679	.18700	.17782	.16921
44........................	.28085	.26616	.25241	.23952	.22745	.21613	.20551	.19554	.18618	.17739
45........................	.29072	.27591	.26203	.24901	.23678	.22530	.21452	.20438	.19485	.18589
46........................	.30082	.28591	.27191	.25875	.24639	.23476	.22381	.21352	.20382	.19468
47........................	.31116	.29616	.28204	.26877	.25626	.24449	.23340	.22295	.21309	.20379
48........................	.32171	.30663	.29241	.27902	.26640	.25449	.24326	.23265	.22264	.21318
49........................	.33245	.31730	.30300	.28950	.27676	.26473	.25336	.24262	.23246	.22285
50........................	.34338	.32816	.31379	.30020	.28735	.27521	.26371	.25283	.24253	.23277
51........................	.35449	.33923	.32479	.31112	.29818	.28593	.27431	.26331	.25287	.24297
52........................	.36582	.35053	.33603	.32230	.30927	.29692	.28520	.27408	.26352	.25349
53........................	.37736	.36205	.34751	.33372	.32063	.30819	.29637	28514	.27446	.26431

TABLE U(1).—BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted payout rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
54	.38909	.37376	.35921	.34537	.33221	.31970	.30780	.29647	.28569	.27542
55	.40099	.38568	.37111	.35724	.34404	.33146	.31949	.30807	.29719	.28681
56	.41308	.39779	.38322	.36934	.35610	.34348	.33143	.31994	.30898	.29851
57	.42536	.41011	.39555	.38167	.36841	.35575	.34366	.33210	.32106	.31051
58	.43781	.42262	.40810	.39422	.38096	.36828	.35615	.34454	.33344	.32281
59	.45043	.43530	.42083	.40698	.39373	.38104	.36888	.35724	.34609	.33540
60	.46318	.44813	.43372	.41992	.40668	.39400	.38183	.37017	.35898	.34824
61	.47602	.46107	.44874	.43299	.41979	.40713	.39497	.38329	.37207	.36129
62	.48893	.47410	.45986	.44817	.43303	.42039	.40825	.39657	.38534	.37454
63	.50190	.48720	.47306	.45946	.44638	.43379	.42168	.41001	.39878	.38796
64	.51494	.50038	.48636	.47286	.45988	.44733	.43526	.42362	.41240	.40158
65	.52808	.51368	.49980	.48641	.47350	.46104	.44903	.43743	.42624	.41544
66	.54134	.52711	.51338	.50013	.48733	.47496	.46302	.45148	.44033	.42956
67	.55471	.54068	.52712	.51401	.50134	.48908	.47723	.46577	.45467	.44394
68	.56820	.55437	.54100	.52805	.51552	.50339	.49165	.48027	.46925	.45858
69	.58172	.56812	.55495	.54219	.52982	.51783	.50620	.49494	.48401	.47341
70	.59526	.58190	.56894	.55637	.54417	.53234	.52088	.50971	.49889	.48838
71	.60874	.59564	.58291	.57055	.55854	.54687	.53554	.52453	.51382	.50342
72	.62218	.60934	.59685	.58471	.57291	.56143	.55026	.53939	.52882	.51854
73	.63557	.62301	.61078	.59887	.58728	.57600	.56501	.55431	.54389	.53373
74	.64896	.63669	.62472	.61307	.60171	.59064	.57985	.56932	.55906	.54906
75	.66237	.65040	.63872	.62733	.61622	.60538	.59480	.58447	.57439	.56455
76	.67581	.66416	.85279	.64168	.63083	.62023	.80988	.59977	.58989	.58023
77	.68925	.67793	.66688	.65606	.64550	.63516	.62506	.61517	.60551	.59605
78	.70263	.69166	.68093	.67044	.66016	.65010	.64026	.63062	.62119	.61195
79	.71585	.70525	.69486	.68468	.67471	.66495	.65538	.64600	.63681	.62780
80	.72885	.71860	.70856	.89372	.68906	.67959	.67031	.66120	.65227	.64350
81	.74150	.73162	.72193	.71242	.70308	.69392	.68492	.67609	.66742	.65890
82	.75376	.74425	.73490	.72572	.71671	.70785	.69915	.69059	.68219	.67393
83	.76559	.75643	.74744	.73859	.72989	.72134	.71293	.70466	.69852	.68852
84	.77700	.76821	.75955	.75104	.74266	.73441	.72629	.71831	.71044	.70270
85	.78805	.77961	.77130	.76311	.75505	.74711	.73929	.73158	.72399	.71652
86	.79866	.79056	.78258	.77472	.76697	.75933	.75180	.74438	.73707	.72985
87	.80870	.80094	.79329	.78574	.77829	.77095	.76370	.75656	.74951	.74255
88	.81825	.81081	.80348	.79623	.78908	.78202	.77506	.76818	.76139	.75469
89	.82746	.82035	.81332	.80638	.79952	.79275	.78606	.77945	.77292	.76647
90	.83643	.82963	.82291	.81627	.80971	.80322	.79681	.79047	.78420	.77801
91	.84503	.83854	.83212	.82578	.81950	.81330	.80716	.80109	.79509	.78915
92	.85308	.84689	.84076	.83470	.82870	.82276	.81689	.81107	.80532	.79963
93	.86052	.85460	.84875	.84295	.83721	.83152	.82590	.82033	.81481	.80935
94	.86729	.86163	.85602	.85046	.84496	.83951	.83412	.82877	.82348	.81823
95	.87338	.86795	.86257	.85723	.85195	.84672	.84153	.83639	.83129	.82624
96	.87877	.87354	.86836	.86323	.85814	.85309	.84809	.84313	.83822	.83334
97	.88365	.87861	.87362	.86867	.86375	.85888	.85405	.84926	.84450	.83979
98	.88805	.88318	.87835	.87356	.86880	.86409	.85941	.85477	.85016	.84559
99	.89210	.88739	.88271	.87807	.87347	.86890	.86436	.85986	.85539	.85095
100	.89588	.89131	.88678	.88227	.87780	.87337	.86896	.86459	.86024	.85593
101	.89949	.89506	.89066	.88629	.88195	.87764	.87336	.86911	.86488	.86069
102	.90325	.89897	.89471	.89047	.88627	.88209	.87794	.87381	.86971	.86564
103	.90724	.90311	.89900	.89491	.89085	.88681	.88279	.87880	.87484	.87089
104	.91167	.90770	.90376	.89983	.89593	.89205	.88819	.88435	.88053	.87673
105	.91708	.91333	.90959	.90587	.90217	.89848	.89481	.89116	.88752	.88391
106	.92470	.92126	.91782	.91440	.91100	.90760	.90422	.90065	.89749	.89414
107	.93545	.93246	.92948	.92650	.92353	.92057	.91762	.91467	.91173	.90880
108	.95239	.95016	.94792	.94569	.94346	.94123	.93900	.93678	.93456	.93234
109	.97900	.97800	.97700	.97600	.97500	.97400	.97300	.97200	.97100	.97000

TABLE U(1)—.BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Adjusted Payout Rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
0	.03176	.03009	.02861	.02730	.02613	.02509	.02416	.02333	.02258	.02191
1	.02110	.01936	.01781	.01644	.01522	.01413	.01318	.01229	.01150	.01080
2	.02156	.01974	.01812	.01669	.01541	.01427	.01325	.01234	.01152	.01078
3	.02233	.02043	.01875	.01725	.01591	.01471	.01364	.01268	.01182	.01105
4	.02330	.02132	.01956	.01800	.01660	.01535	.01422	.01322	.01231	.01149
5	.02443	.02237	.02054	.01890	.01743	.01612	.01494	.01389	.01293	.01208
6	.02568	.02353	.02162	.01990	.01837	.01700	.01576	.01465	.01365	.01275
7	.02704	.02480	.02280	.02102	.01941	.01798	.01668	.01552	.01446	.01351
8	.02852	.02619	.02411	.02224	.02057	.01906	.01770	.01648	.01537	.01437
9	.03014	.02772	.02554	.02360	.02184	.02027	.01885	.01756	.01640	.01535
10	.03190	.02938	.02711	.02508	.02325	.02180	.02012	.01877	.01755	.01645
11	.03381	.03119	.02883	.02672	.02481	.02308	.02153	.02012	.01884	.01769

TABLE U(1)—BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted Payout Rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
12	.03585	.03313	.03068	.02847	.02648	.02468	.02305	.02157	.02023	.01902
13	.03798	.03515	.03260	.03030	.02822	.02635	.02464	.02310	.02170	.02042
14	.04012	.03718	.03453	.03213	.02997	.02801	.02623	.02462	.02315	.02181
15	.04225	.03919	.03644	.03395	.03169	.02965	.02779	.02611	.02457	.02317
16	.04436	.04120	.03833	.03574	.03339	.03126	.02932	.02756	.02595	.02449
17	.04647	.04319	.04021	.03752	.03507	.03285	.03082	.02898	.02730	.02577
18	.04860	.04519	.04210	.03930	.03675	.03443	.03232	.03040	.02864	.02703
19	.05079	.04725	.04404	.04113	.03847	.03606	.03386	.03185	.03001	.02833
20	.05304	.04938	.04604	.04301	.04025	.03773	.03543	.03333	.03141	.02965
21	.05537	.05157	.04811	.04495	.04208	.03945	.03705	.03486	.03285	.03101
22	.05779	.05385	.05025	.04698	.04398	.04125	.03874	.03646	.03435	.03242
23	.06032	.05623	.05250	.04910	.04598	.04313	.04052	.03812	.03592	.03390
24	.06302	.05878	.05491	.05136	.04812	.04515	.04242	.03992	03762	.03550
25	.06589	.06150	.05748	.05380	.05042	.04733	.04448	.04187	.03946	.03725
26	.06897	.06442	.06025	.05643	.05292	.04969	.04673	.04400	.04148	.03916
27	.07228	.06757	.06325	.05928	.05563	.05227	.04917	.04632	.04369	.04126
28	.07582	.07094	.06646	.06234	.05854	.05504	.05182	.04884	.04609	.04355
29	.07958	.07454	.06990	.06562	.06167	.05804	.05468	.05157	.04870	.04604
30	.08360	.07838	.07357	.06913	.06504	.06125	.05775	.05452	.05152	04874
31	.08788	.08249	.07751	.07291	.06866	.06472	.06108	.05771	.05457	.05167
32	.09242	.08685	.08170	.07694	.07252	.06844	.06465	.06113	.05786	.05483
33	.09724	.09149	.08617	.08124	.07666	.07242	.06848	.06482	.06141	.05824
34	.10234	.09641	.09091	.08581	.08107	.07667	.07257	.06876	.06521	.06191
35	.10773	.10161	.09594	.09066	.08575	.08119	.07694	.07298	.06928	.06583
36	.11338	.10708	.10122	.09577	.09070	.06597	.08156	.07744	.07360	.07001
37	.11932	.11283	.10680	.10117	.09592	.09102	.08645	.08217	.07818	.07444
38	.12554	.11887	.11265	.10685	.10142	.09636	.09162	.08719	.08304	.07915
39	.13206	.12521	.11880	.11282	.10722	.10198	.09708	.09249	.08818	.08414
40	.13888	.13184	.12526	.11909	.11332	10791	.10284	.09808	.09361	.08942
41	.14601	.13878	.13201	.12567	.11972	.11414	10890	.10398	.09935	.09499
42	.15342	.14601	.13906	.13254	12641	.12066	.11525	.11016	10537	10086
43	.16112	.15353	.14640	.13970	13340	.12747	12189	.11663	.11168	.10701
44	.16913	.16136	.15406	.14718	14070	.13460	.12885	.12342	11830	.11347
45	.17745	.16951	.16202	.15497	.14832	.14204	.13612	.13053	12525	.12025
46	.18608	.17796	.17030	.16308	.15625	.14981	.14372	.13796	13251	.12735
47	.19501	.18673	.17890	.17150	16451	.15790	.15164	.14571	14010	.13478
48	.20425	.19579	.18760	18024	.17308	.16630	15987	.15378	.14800	.14252
49	.21375	.20514	.19698	.18926	18193	.17499	16840	.16214	.15620	.15056
50	.22352	.21476	.20644	.19856	19107	.18396	.17721	.17080	.16470	.15890
51	.23358	.22467	.21620	.20816	.20051	.19325	.18634	.17976	.17350	.16755
52	.24396	.23490	.22628	.21809	.21030	.20288	.19581	.18908	.18267	17655
53	.25465	.24545	.23670	.22836	.22042	.21285	.20563	.19875	.19218	18592
54	.26563	.25631	.24742	.23895	.23086	.22315	.21579	.20876	.20204	.19562
55	.27692	.26747	.25846	.24986	.24164	.23379	.22628	.21911	.21225	.20568
56	.28850	.27895	.26982	.26109	25275	.24476	.23712	.22981	.22281	.21611
57	.30041	.29076	.28152	27267	.26421	.25610	.24833	.24089	.23376	.22691
58	.31263	.30288	.29355	.28460	.27602	.26780	.25991	.25234	.24508	.23811
59	.32515	.31532	.30590	.29685	.28817	.27984	.27184	.26416	.25677	.24968
60	.33793	.32803	.31853	.30940	.30062	.29219	.28409	.27630	.26880	.26159
61	.35093	.34098	.33141	.32220	.31335	.30483	.29663	.28873	.28113	.27381
62	.36414	.35414	.34451	.33524	.32631	.31771	.30942	.30144	.29374	.28631
63	.37754	.36750	.35783	.34850	.33951	.33084	32247	.31440	.30661	.29910
64	.39115	.38108	.37137	.36200	.35296	.34422	.33579	.32765	.31978	.31217
65	.40500	.39493	.38519	.37579	.36670	.35792	.34943	34122	.33328	.32560
66	.41914	.40906	.39932	.38990	38079	.37197	.36343	.35517	.34717	.33943
67	.43355	.42350	.41376	.40434	.39521	.38636	.37780	.36950	.36145	.35365
68	.44824	.43822	.42851	.41909	.40996	.40111	.39252	.38419	.37611	.36827
69	.46313	.45316	.44348	.43409	.42498	.41613	.40754	.39919	.39109	.38322
70	.47818	.46827	.45864	.44929	.44020	.43137	.42279	41445	.40634	.39845
71	.49331	.48348	.47391	.46461	.45557	.44677	.43821	.42988	.42177	.41388
72	.50853	.49879	.48930	.48007	.47108	.46233	.45380	.44550	.43741	.42952
73	.52384	.51421	.50482	.49566	.48674	.47805	.46957	.46130	.45324	44538
74	.53930	.52979	.52050	.51145	.50261	.49399	.48557	.47736	.46934	.46152
75	.55495	.54557	.53641	.52747	.51873	.51020	.50187	.49372	.48577	.47799
76	.57079	.56157	.55256	.54374	.53513	.52670	.51847	.51041	50253	.49483
77	.58680	.57775	.56890	.56024	.55176	.54346	.53534	.52739	.51960	.51198
78	.60291	.59405	.58537	.57687	.56855	.56040	.55241	.54458	.53691	.52940
79	.61898	.61032	.60184	.59353	.58537	.57738	.56954	.56185	.55431	.54691
80	.63491	.62647	.61819	.61007	.60210	.59428	.58660	.57907	.57167	.56441
81	.65054	.64234	.63427	.62636	.61858	.61094	.60344	.59606	.58882	.58170
82	.66582	.65784	.65000	.64229	.63472	.62727	.61994	.61274	.60566	.59870
83	.68065	.67291	.66530	.65781	.65044	.64319	63605	.62903	.62212	.61532
84	.69508	.68758	.68020	.67293	.66577	.65872	.65178	.64495	.63821	.63158
85	.70915	.70190	.69475	.68770	.68076	.67392	.66718	.66054	.65399	.64754
86	.72274	.71573	.70882	.70200	.69528	.68865	.68212	.67567	.66931	.66304
87	.73569	.72892	.72224	.71565	.70915	.70273	.69639	.69014	.68397	.67788
88	.74807	74154	.73509	72872	.72243	71622	.71009	.70403	69805	.69214

TABLE U(1)—.BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted Payout Rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
89	.76010	.75381	.74759	.74144	.73537	.72937	.72344	.71758	.71179	.70607
90	.77189	.76584	.75985	.75394	.74809	.74230	.73659	.73093	.72534	.71981
91	.78327	.77746	.77171	.76603	.76040	.75484	.74933	.74388	.73850	.73316
92	.79399	.78841	.78289	.77743	.77202	.76667	.76137	.75613	.75093	.74579
93	.80394	.79858	.79328	.78803	.78283	.77768	.77258	.76753	.76252	.75757
94	.81303	.80788	.80278	.79773	.79272	.78776	.78284	.77797	.77315	.76837
95	.82124	.81628	.81136	.80649	.80166	.79687	.79213	.78742	.78276	.77814
96	.82851	.82372	.81897	.81426	.80959	.80496	.80036	.79581	.79129	.78682
97	.83512	.83048	.82588	.82132	.81679	.81230	.80765	.80343	.79905	.79471
98	.84106	.83656	.83210	.82767	.82328	.81892	.81459	.81030	.80604	.80181
99	.84655	.84218	.83785	.83354	.82927	.82503	.82082	.81664	.81249	.80837
100	.85165	.84740	.84318	.83899	.83483	.83070	.82660	.82252	.81848	.81446
101	.85652	.85238	.84827	.84419	.84013	.83611	.83210	.82813	.82418	.82026
102	.86159	.85757	.85358	.84960	.84566	.84174	.83784	.83397	.83012	.82630
103	.86697	.86307	.85920	.85535	.85152	.84771	.84392	.84016	.83642	.83270
104	.87295	.86919	.86544	.86172	.85802	.85434	.85068	.84704	.84341	.83981
105	.88030	.87672	.87315	.86959	.86605	.86253	.85903	.85554	.85207	.84861
106	.89081	.88749	.88418	.88088	.87760	.87433	.87106	.86782	.86458	.86135
107	.90588	.90296	.90005	.89715	.89425	.89137	.88849	.88561	.88275	.87989
108	.93013	.92791	.92570	.92350	.92129	.91909	.91689	.91469	.91250	.91031
109	.96900	.96800	.96700	.96600	.96500	.96400	.96300	.96200	.96100	.96000

TABLE U(1).—BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Adjusted payout rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
0	.02130	.02075	.02025	.01980	.01939	.01901	.01867	.01835	.01806	.01779
1	.01017	.00960	.00908	.00861	.00819	.00780	.00745	.00712	.00683	.00655
2	.01011	.00951	.00897	.00848	.00803	.00762	.00725	.00690	.00659	.00630
3	.01035	.00971	.00914	.00862	.00815	.00771	.00732	.00696	.00663	.00632
4	.01076	.01009	.00948	.00894	.00843	.00798	.00756	.00718	.00683	.00650
5	.01130	.01059	.00996	.00938	.00885	.00836	.00792	.00752	.00714	.00680
6	.01193	.01119	.01051	.00990	.00934	.00883	.00836	.00793	.00754	.00717
7	.01265	.01187	.01116	.01051	.00992	.00938	.00888	.00842	.00800	.00762
8	.01347	.01264	.01189	.01121	.01058	.01001	.00948	.00900	.00856	.00815
9	.01440	.01353	.01274	.01201	.01135	.01075	.01019	.00968	.00921	.00877
10	.01544	.01453	.01369	.01293	.01223	.01159	.01101	.01046	.00997	.00950
11	.01662	.01566	.01478	.01398	.01324	.01257	.01195	.01137	.01085	.01036
12	.01791	.01690	.01597	.01513	.01435	.01364	.01298	.01238	.01182	.01131
13	.01926	.01820	.01722	.01634	.01552	.01477	.01408	.01344	.01285	.01231
14	.02059	.01948	.01846	.01752	.01667	.01588	.01515	.01448	.01386	.01328
15	.02189	.02072	.01965	.01867	.01777	.01694	.01617	.01547	.01481	.01421
16	.02315	.02192	.02080	.01977	.01882	.01795	.01714	.01640	.01572	.01508
17	.02436	.02308	.02190	.02082	.01982	.01891	.01806	.01728	.01656	.01589
18	.02556	.02422	.02298	.02184	.02080	.01983	.01894	.01812	.01736	.01665
19	.02679	.02537	.02408	.02288	.02178	.02077	.01983	.01897	.01817	.01742
20	.02804	.02656	.02519	.02394	.02278	.02172	.02073	.01982	.01898	.01819
21	.02932	.02776	.02633	.02501	.02380	.02268	.02164	.02068	.01979	.01896
22	.03065	.02902	.02751	.02613	.02485	.02367	.02258	.02157	.02063	.01976
23	.03204	.03033	.02876	.02730	.02595	.02471	.02356	.02249	.02150	.02058
24	.03356	.03176	.03010	.02857	.02716	.02585	.02463	.02351	.02246	.02149
25	.03520	.03332	.03158	.02997	.02848	.02710	.02582	.02463	.02352	.02249
26	.03702	.03504	.03321	.03152	.02995	.02850	.02714	.02589	.02472	.02363
27	.03902	.03695	.03502	.03324	.03159	.03006	.02863	.02730	.02607	.02492
28	.04120	.03902	.03700	.03513	.03339	.03178	.03027	.02887	.02757	.02635
29	.04358	.04129	.03917	.03720	.03537	.03367	.03208	.03061	.02923	.02794
30	.04616	.04376	.04154	.03947	.03754	.03575	.03408	.03251	.03106	.02969
31	.04897	.04646	.04413	.04195	.03993	.03804	.03627	.03463	.03309	.03165
32	.05200	.04938	.04693	.04465	.04252	.04053	.03867	.03693	.03531	.03378
33	.05529	.05254	.04998	.04758	.04534	.04325	.04130	.03946	.03775	.03614
34	.05883	.05595	.05326	.05075	.04840	.04620	.04414	.04221	.04040	.03870
35	.06262	.05961	.05680	.05417	.05170	.04939	.04723	.04520	.04329	.04149
36	.06665	.06351	.06057	.05781	.05523	05260	.05053	.04839	.04638	.04449
37	.07094	.06766	.06459	.06171	.05900	.05646	.05407	.05182	.04971	.04771
38	.07550	.07208	.06888	.06586	.06303	.06037	.05786	.05550	.05327	.05118
39	.08034	.07678	.07344	.07029	.06733	.06454	.06191	.05943	.05709	.05489
40	.08547	.08177	.07828	.07499	.07190	.06898	.06623	.06363	.06118	.05886
41	.09090	.08704	.08341	.07998	.07675	.07371	.07083	.06811	.06553	.06310
42	.09661	.09260	.08882	.08525	.08188	.07870	.07569	07284	.07015	.06760
43	.10260	.09844	.09451	.09080	.08729	.08397	.08083	07785	.07503	.07236
44	.10891	.10459	.10051	.09666	.09300	.08954	.08626	.08316	.08021	.07741
45	.11553	.11106	.10683	.10282	.09902	.09542	09201	.08876	.08568	.08276
46	.12247	.11784	11348	.10930	.10536	10161	.09806	.09468	09146	.08841

TABLE U(1).—BASED ON LIFE TABLE 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted payout rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
47	.12974	.12496	.12042	.11611	.11202	.10813	.10443	.10091	.09756	.09438
48	.13732	.13238	.12769	.12323	.11899	.11495	.11111	.10745	.10397	.10065
49	.14520	.14011	.13526	.13064	.12625	.12207	.11809	.11429	11066	.10721
50	.15338	.14812	.14312	.13836	.13381	.12948	.12535	.12141	.11765	.11405
51	.16187	.15646	.15130	.14639	.14169	.13721	.13294	.12885	.12495	.12121
52	.17072	.16516	.15985	.15478	.14993	.14531	.14088	13665	.13261	.12873
53	.17993	.17422	.16876	.16353	.15854	.15377	.14920	.14482	.14064	.13662
54	.18949	.18362	.17801	.17264	.16750	.16258	.15787	15335	.14902	14486
55	.19940	.19339	.18763	.18212	.17683	.17176	.16690	.16224	.15777	15348
56	.20968	.20353	.19762	.19196	.18654	.18132	.17632	.17152	.16691	16247
57	.22035	.21406	.20802	.20222	.19665	.19129	.18615	.18121	17646	17189
58	.23142	.22499	.21881	.21287	.20717	.20168	.19640	.19132	.18643	18172
59	.24286	.23630	.23000	.22393	.21809	.21247	.20705	.20184	.19682	19198
60	.25465	.24797	.24154	.23534	.22938	.22363	.21808	.21274	.20759	20262
61	.26676	.25996	.25341	.24710	.24101	.23513	.22946	.22399	.21871	2*361
62	.27916	.27225	.26559	.25916	.25295	.24695	.24117	.23557	.23017	22495
63	.29184	.28463	.27806	.27152	.26520	.25909	.25319	.24748	.24196	23661
64	.30483	.29772	.29085	.28421	.27779	.27157	.26555	.25973	.25409	24863
65	.31817	.31098	.30402	.29729	.29076	.28444	.27832	.27240	.26665	26108
66	.33192	.32466	.31762	.31079	.30418	.29777	.29155	.28552	.27968	.27400
67	.34609	.33876	.33164	.32474	.31805	.31156	.30525	.29913	.29319	.28742
68	.36066	.35328	.34610	.33914	.33238	.32581	.31943	.31323	.30720	.30134
69	.37558	.36815	.36093	.35391	.34709	.34045	.33400	.32773	.32163	.31569
70	.39078	.38332	.37606	.36900	.36213	.35545	.34894	.34260	.33643	.33042
71	.40620	.39872	.39144	.38435	.37744	.37071	.36415	.35776	.35153	.34547
72	.42184	.41435	.40706	.39994	.39301	.38625	.37965	.37322	.36694	.36082
73	.43771	.43023	.42293	.41581	.40886	.40207	.39545	.38899	.38267	.37651
74	.45387	.44641	.43912	.43201	.42505	.41826	.41163	.40514	.39881	.39261
75	.47039	.46296	.45570	.44861	.44167	.43488	.42824	.42175	.41541	.40920
76	.48729	.47991	.47269	.46563	.45872	.45196	.44534	.43886	.43251	.42630
77	.50452	.49722	.49006	.48305	.47619	.46946	.46287	.45642	.45009	.44389
78	.52203	.51481	.50773	.50079	.49399	.48732	.48078	.47437	46808	46191
79	.53966	.53254	.52556	.51870	.51198	.50538	.49891	.49255	.48632	.48019
80	.55728	.55028	.54340	.53665	.53002	.52351	.51712	.51083	.50466	.49860
81	.57471	.56784	.56109	.55445	.54792	.54151	.53521	.52901	.52292	.51692
82	.59186	.58512	.57850	.57199	.56558	.55927	.55307	.54697	.54097	.53506
83	.60863	.60204	.59556	.58918	.58289	.57671	.57062	.56462	.55872	.55290
84	.62505	.61862	.61228	.60604	.59989	.59383	.58786	.58198	.57618	.57047
85	.64118	.63491	.62873	.62263	.61663	.61070	.60486	.59911	.59343	.58783
86	.65685	.65075	.64473	.63879	.63294	.62716	.62145	.61583	.61027	.60479
87	.67187	.66594	.66008	.65430	.64859	.64296	.63739	.63190	.62647	.62112
88	.68631	.68054	.67485	.66923	.66367	.65818	.65276	.64740	.64211	.63688
89	.70042	.69483	.68930	.68384	.67845	.67311	.66784	.66262	.65747	.65237
90	.71434	.70894	.70359	.69830	.69307	.68790	.68278	.67772	.67271	.66775
91	.72769	.72266	.71750	.71239	.70733	.70232	.69736	.69246	.68760	68280
92	.74070	.73567	.73068	.72574	.72085	.71601	.71121	.70647	.70176	69711
93	.75266	.74780	.74298	.73821	.73348	.72880	.72417	.71957	.71502	.71051
94	.76363	.75893	.75428	.74967	.74510	.74057	.73608	.73163	.72722	.72285
95	.77356	.76901	.76451	.76005	.75562	.75123	.74688	.74257	.73829	.73405
96	.78237	.77797	.77360	.76927	.76497	.76071	.75648	.75229	.74813	.74401
97	.79039	.78612	.78187	.77766	.77348	.76934	.76523	.76115	.75710	.75308
98	.79762	.79345	.78932	.78522	.78115	.77711	.77310	.76913	.76518	.76126
99	.80429	.80023	.79620	.79220	.78823	.78429	.78038	.77649	.77264	.76881
100	.81047	.80651	.80258	.79867	.79479	.79094	.78712	.78332	.77955	.77580
101	.81636	.81249	.80865	.80483	.80104	.79727	.79352	.78981	.78611	.78244
102	.82250	.81872	.81497	.81124	.80754	.80386	.80020	.79656	.79295	78936
103	.82900	.82532	.82167	.81604	.81442	.81083	.80726	.80371	.808	.79667
104	.83622	.83266	.82911	.82558	.82207	.81858	.81510	.81165	.80821	.80479
105	.84517	.84174	.83833	.83494	.83156	.82819	.82485	.82151	.81820	.81489
106	.85814	.85494	.85175	.84857	.84540	.84225	.83911	.83598	.83286	.82975
107	.87704	.87420	.87136	.86853	.86571	.86290	.86009	.85729	.85450	.85171
108	.90812	.90593	.90375	.90156	.89939	.89721	.89504	.89286	.89070	.88853
109	.95900	.95800	.95700	.95600	.95500	.95400	.95300	.95200	.95100	95000

TABLE U(1).—BASED ON LIFE TABLE 80 CONSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Adjusted payout rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
0	.01754	.01731	.01710	.01690	.01671	.01654	.01638	.01622	.01608	.01594
1	.00630	.00607	.00585	.00565	.00547	.00530	.00514	.00499	.00485	.00472
2	.00604	.00579	.00557	.00536	.00516	.00498	.00481	.00465	.00451	.00437
3	.00604	.00578	.00554	.00532	.00511	.00492	.00474	.00458	.00442	.00427
4	.00621	.00593	.00568	.00544	.00522	.00502	.00483	.00465	.00448	.00433

TABLE U(1).—BASED ON LIFE TABLE 80 CONSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted payout rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
5	.00648	.00619	.00592	.00567	.00544	.00522	.00502	.00483	.00465	.00449
6	.00684	.00653	.00624	.00597	.00572	.00549	.00528	.00507	.00489	.00471
7	.00726	.00693	.00663	.00634	.00608	.00583	.00560	.00539	.00518	.00499
8	.00777	.00742	.00709	.00679	.00651	.00624	.00600	.00577	.00555	.00535
9	.00837	.00800	.00765	.00733	.00703	.00675	.00649	.00625	.00602	.00580
10	.00908	.00868	.00832	.00797	.00765	.00736	.00708	.00682	.00657	.00634
11	.00991	.00949	.00910	.00874	.00840	.00808	.00779	.00751	.00725	.00700
12	.01083	.01039	.00997	.00959	.00923	.00890	.00858	.00829	.00801	.00775
13	.01181	.01134	.01090	.01049	.01012	.00976	.00943	.00912	.00883	.00855
14	.01275	.01226	.01180	.01137	.01097	.01060	.01025	.00992	.00961	.00932
15	.01365	.01313	.01264	.01219	.01177	.01138	.01101	.01066	.01034	.01003
16	.01449	.01394	.01343	.01295	.01251	.01209	.01171	.01134	.01100	.01068
17	.01526	.01469	.01415	.01365	.01318	.01274	.01233	.01195	.01159	.01125
18	.01600	.01539	.01482	.01430	.01380	.01334	.01291	.01251	.01213	.01177
19	.01673	.01609	.01550	.01494	.01442	.01393	.01348	.01305	.01265	.01227
20	.01747	.01679	.01616	.01557	.01502	.01451	.01403	.01358	.01316	.01276
21	.01820	.01748	.01682	.01620	.01562	.01508	.01457	.01409	.01365	.01323
22	.01895	.01819	.01749	.01683	.01622	.01565	.01511	.01461	.01414	.01369
23	.01972	.01893	.01818	.01749	.01684	.01624	.01567	.01514	.01464	.01417
24	.02058	.01974	.01895	.01822	.01753	.01689	.01629	.01572	.01519	.01469
25	.02154	.02064	.01981	.01903	.01830	.01762	.01698	.01638	.01582	.01529
26	.02262	.02167	.02079	.01996	.01919	.01847	.01779	.01715	.01655	.01599
27	.02385	.02284	.02191	.02103	.02021	.01944	.01872	.01804	.01740	.01680
28	.02521	.02415	.02316	.02222	.02135	.02053	.01977	.01904	.01836	.01772
29	.02673	.02561	.02455	.02357	.02264	.02177	.02095	.02018	.01946	.01877
30	.02842	.02723	.02611	.02506	.02407	.02315	.02227	.02146	.02068	.01996
31	.03030	.02903	.02784	.02673	.02568	.02470	.02377	.02290	.02207	.02130
32	.03235	.03101	.02976	.02857	.02746	.02641	.02543	.02450	.02362	.02279
33	.03463	.03321	.03188	.03062	.02944	.02833	.02728	.02629	02535	.02447
34	.03711	.03561	.03419	.03286	.03161	.03043	.02931	.02826	.02726	.02632
35	.03981	.03822	.03672	.03531	.03398	.03273	.03154	.03042	.02936	.02836
36	.04271	.04103	.03945	.03796	.03655	.03522	.03396	.03277	.03164	.03057
37	.04584	.04407	.04239	.04081	.03932	.03791	.03657	.03531	.03411	.03297
38	.04920	.04733	.04556	.04389	.04231	.04082	.03940	.03806	.03679	.03558
39	.05280	.05083	.04897	.04721	.04554	.04396	.04246	.04103	.03968	.03840
40	.05667	.05459	.05263	.05077	.04901	.04733	.04575	.04424	.04280	.04144
41	.06080	.05861	.05655	.05459	.05272	.05096	.04928	.04768	.04617	.04472
42	.06518	.06289	.06071	.05864	.05668	.05482	.05305	.05136	.04975	.04822
43	.06982	.06742	.06513	.06296	.06089	.05893	.05706	.05528	.05358	.05196
44	.07475	.07223	.06983	.06754	.06537	.06330	.06133	.05945	.05766	.05595
45	.07998	.07733	.07481	.07242	.07014	.06796	.06588	.06390	.06202	.06021
46	.08550	.08273	.08010	.07758	.07519	.07290	.07072	.06864	.06665	.06474
47	.09134	.08845	.08569	.08306	.08055	.07815	.07586	.07367	.07157	.06957
48	.09748	.09446	.09158	.08882	.08619	.08368	.08128	.07898	.07678	.07467
49	.10391	.10076	.09775	.09487	.09212	.08949	.08697	.08456	.08225	.08003
50	.11062	.10734	.10420	.10120	.09832	.09557	.09293	.09041	.08798	.08566
51	.11764	.11423	.11096	.10783	.10483	.10195	.09919	.09655	.09401	.09158
52	.12503	.12148	.11807	.11481	.11168	.10868	.10581	.10304	.10039	.09784
53	.13278	.12909	.12556	.12216	.11891	.11578	.11278	.10989	.10712	.10445
54	.14088	.13706	.13339	.12986	.12648	.12322	.12009	.11709	.11419	.11141
55	.14936	.14540	.14159	.13793	.13442	.13103	.12778	.12464	.12163	.11872
56	.15821	.15412	.15018	.14639	.14274	.13923	.13584	.13258	.12944	.12642
57	.16749	.16326	.15918	.15526	.15148	.14784	.14433	.14094	.13768	.13453
58	.17719	.17282	.16862	.16456	.16065	.15688	.15324	.14973	.14634	.14306
59	.18731	.18281	.17847	.17429	.17025	.16634	.16258	.15894	.15543	.15203
60	.19782	.19319	.18872	.18440	.18023	.17621	.17231	.16855	.16491	.16139
61	.20869	.20393	.19934	.19489	.19060	.18644	.18242	.17854	.17477	.17113
62	.21990	.21502	.21029	.20573	.20131	.19703	.19289	.18887	.18499	.18123
63	.23144	.22644	.22159	.21690	.21236	.20796	.20370	.19956	.19556	.19167
64	.24335	.23823	.23326	.22845	.22379	.21927	.21489	.21063	.20651	.20250
65	.25568	.25045	.24537	.24044	.23566	.23103	.22653	.22216	.21791	.21379
66	.26850	.26316	.25797	.25293	.24804	.24329	.23868	.23420	.22984	.22560
67	.28182	.27637	.27108	.26594	.26095	.25609	.25137	.24678	.24231	.23797
68	.29565	.29011	.28472	.27949	.27439	.26943	.26461	.25991	.25534	.25089
69	.30991	.30429	.29882	.29349	.28830	.28325	.27833	.27354	.26887	.26432
70	.32457	.31887	.31332	.30791	.30264	.29750	.29249	.28760	.28284	.27820
71	.33955	.33378	.32816	.32267	.31732	.31210	.30701	.30204	.29719	.29246
72	.35485	.34902	.34333	.33778	.33236	.32707	.32190	.31686	.31193	.30711
73	.37049	.36461	.35887	.35326	.34778	.34242	.33719	.33207	.32707	.32218
74	.38656	.38064	.37485	.36920	.36366	.35825	.35296	.34778	.34272	.33776
75	.40312	.39717	.39136	.38566	.38009	.37464	.36930	.36407	.35895	.35394
76	.42022	.41426	.40842	.40271	.39711	.39163	.38625	.38099	.37583	.37077
77	.43782	.43187	.42603	.42031	.41470	.40920	.40380	.39851	.39332	.38823
78	.45586	.44992	.44410	.43839	.43278	.42728	.42188	.41658	.41138	.40627
79	.47418	.46828	.46248	.45679	.45120	.44572	.44033	.43503	.42983	.42472
80	.49264	.48679	.48103	.47538	.46982	.46436	.45900	.45372	.44853	.44343
81	.51103	.50524	.49954	.49394	.48843	.48301	.47768	.47243	.46727	.46219

TABLE U(1).—BASED ON LIFE TABLE 80 CONSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Adjusted payout rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
82	.52925	.52352	.51789	.51235	.50690	.50153	.49624	.49104	.48591	.48087
83	.54718	.54154	.53598	.53051	.52512	.51981	.51459	.50943	.50436	.49936
84	.56484	.55930	.55383	.54844	.54313	.53789	.53273	.52764	.52262	.51767
85	.58231	.57686	.57149	.56619	.56096	.55581	.55072	.54571	.54076	.53588
86	.59939	.59405	.58878	.58358	.57845	.57339	.56839	.56346	.55858	.55377
87	.61583	.61061	.60545	.60035	.59532	.59035	.58545	.58060	.57581	.57108
88	.63171	.62661	.62156	.61658	.61165	.60678	.60196	.59721	.59251	.58786
89	.64733	.64235	.63742	.63255	.62774	.62298	.61827	.61361	.60900	.60444
90	.66285	.65801	.65321	.64847	.64377	.63913	.63453	.62998	.62548	.62103
91	.67804	.67334	.66868	.66407	.65950	.65498	.65050	.64607	.64169	.63735
92	.69250	.68793	.68341	.67893	.67450	.67011	.66575	.66144	.65718	.65295
93	.70604	.70162	.69723	.69288	.68858	.68431	.68008	.67589	.67174	.66762
94	.71852	.71422	.70997	.70575	.70156	.69742	.69331	.68923	.68519	.68119
95	.72984	.72567	.72154	.71744	.71337	.70934	.70534	.70137	.69744	.69354
96	.73992	.73586	.73183	.72784	.72388	.71995	.71805	.71218	.70835	.70454
97	.74910	.74514	.74122	.73733	.73346	.72963	.72582	.72205	.71830	.71458
98	.75737	.75351	.74967	.74587	.74209	.73835	.73463	.73093	.72727	.72363
99	.76501	.76123	.75748	.75376	.75007	.74640	.74276	.73914	.73555	.73198
100	.77208	.76838	.76471	.76107	.75745	.75385	.75028	.74673	.74321	.73971
101	.77879	.77517	.77157	.76800	.76444	.76092	.75741	.75392	.75046	.74702
102	.78579	.78224	.77871	.77521	.77173	.76827	.76483	.76141	.75801	.75463
103	.79318	.78971	.78626	.78283	.77942	.77604	.77266	.76931	.76598	.76267
104	.80139	.79801	.79464	.79129	.78796	.78465	.78136	.77808	.77482	.77157
105	.81161	.80834	.80508	.80184	.79861	.79540	.79220	.78902	.78585	.78270
106	.82665	.82357	.82049	.81743	.81438	.81134	.80831	.80530	.80229	.79930
107	.84893	.84616	.84340	.84064	.83789	.83515	.83241	.82969	.82696	.82425
108	.88637	.88421	.88205	.87989	.87774	.87559	.87344	.87129	.86915	.86701
109	.94900	.94800	.94700	.94600	.94500	.94400	.94300	.94200	.94100	.94000

TABLE U(1).—Based on Life Table 80CNSMT UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Adjusted payout rate, in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
0	.01581	.01569	.01557	.01546	.01536	.01526	.01516	.01507	.01499	.01490
1	.00459	.00448	.00437	.00426	.00417	.00407	.00399	.00390	.00382	.00375
2	.00424	.00412	.00400	.00389	.00379	.00369	.00360	.00352	.00343	.00335
3	.00414	.00401	.00389	.00377	.00366	.00356	.00346	.00337	.00328	.00320
4	.00418	.00404	.00391	.00379	.00368	.00357	.00347	.00337	.00327	.00319
5	.00433	.00418	.00405	.00391	.00379	.00368	.00357	.00346	.00336	.00327
6	.00454	.00439	.00424	.00410	.00397	.00384	.00372	.00361	.00351	.00341
7	.00482	.00465	.00449	.00434	.00420	.00407	.00394	.00382	.00371	.00360
8	.00516	.00498	.00481	.00465	.00450	.00436	.00422	.00410	.00397	.00386
9	.00560	.00541	.00523	.00505	.00489	.00474	.00459	.00446	.00433	.00420
10	.00613	.00592	.00573	.00555	.00537	.00521	.00505	.00491	.00477	.00463
11	.00877	.00655	.00635	.00615	.00597	.00580	.00563	.00547	.00532	.00518
12	.00751	.00728	.00706	.00685	.00866	.00647	.00629	.00613	.00597	.00581
13	.00829	.00805	.00782	.00760	.00739	.00719	.00701	.00683	.00666	.00650
14	.00905	.00879	.00854	.00831	.00809	.00789	.00769	.00750	.00732	.00715
15	.00974	.00947	.00921	.00897	.00874	.00852	.00831	.00811	.00793	.00775
16	.01037	.01009	.00982	.00958	.00932	.00909	.00887	.00866	.00846	.00827
17	.01093	.01063	.01034	.01007	.00982	.00958	.00935	.00913	.00892	.00873
18	.01143	.01112	.01082	.01053	.01027	.01001	.00977	.00954	.00933	.00912
19	.01192	.01159	.01127	.01097	.01069	.01043	.01017	.00993	.00970	.00949
20	.01239	.01204	.01170	.01139	.01109	.01081	.01055	.01029	.01005	.00983
21	.01283	.01246	.01211	.01178	.01147	.01117	.01089	.01063	.01037	.01013
22	.01328	.01288	.01251	.01216	.01183	.01152	.01122	.01094	.01067	.01042
23	.01372	.01331	.01292	.01254	.01219	.01186	.01155	.01125	.01097	.01070
24	.01422	.01378	.01336	.01297	.01260	.01225	.01191	.01160	.01130	.01101
25	.01479	.01432	.01388	.01346	.01306	.01269	.01233	.01200	.01168	.01138
26	.01545	.01495	.01448	.01404	.01362	.01322	.01284	.01248	.01214	.01182
27	.01623	.01570	.01520	.01472	.01427	.01385	.01344	.01306	.01270	.01235
28	.01712	.01655	.01601	.01551	.01503	.01457	.01414	.01373	.01334	.01298
29	.01813	.01752	.01695	.01641	.01589	.01541	.01494	.01451	.01409	.01370
30	.01927	.01862	.01801	.01743	.01688	.01635	.01586	.01539	.01495	.01452
31	.02056	.01987	.01922	.01859	.01801	.01745	.01692	.01642	.01594	.01548
32	.02201	.02127	.02057	.01990	.01927	.01868	.01811	.01757	.01708	.01657
33	.02363	.02284	.02209	.02138	.02071	.02007	.01946	.01888	.01833	.01781
34	.02543	.02458	.02378	.02302	.02230	.02162	.02096	.02034	.01975	.01919
35	.02741	.02651	.02565	.02484	.02407	.02333	.02264	.02197	.02134	.02073
36	.02958	.02859	.02768	.02681	.02599	.02520	.02448	.02374	.02307	.02242
37	.03189	.03087	.02990	.02897	.02809	.02725	.02645	.02569	.02496	.02427
38	.03443	.03334	.03230	.03131	.03037	.02948	.02662	.02781	.02703	.02828
39	.03718	.03602	.03491	.03386	.03285	.03190	.03099	.03011	.02928	.02849

TABLE U(1).—Based on Life Table 80CNSMT Unitrust Single Life Remainder Factors Applicable After April 30, 1989—Continued

Age	Adjusted payout rate, in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
40	.04015	.03891	.03774	.03662	.03555	.03453	.03355	.03262	.03173	.03088
41	.04335	.04204	.04079	.03959	.03846	.03737	.03633	.03534	.03439	.03348
42	.04677	.04538	.04405	.04278	.04157	.04042	.03931	.03825	.03724	.03627
43	.05042	.04894	.04754	.04619	.04491	.04368	.04250	.04138	.04030	.03926
44	.05432	.05276	.05127	.04984	.04848	.04718	.04593	.04473	.04358	.04248
45	.05849	.05684	.05526	.05375	.05231	.05092	.04960	.04832	.04710	.04593
46	.06292	.06118	.05952	.05792	.05639	.05492	.05352	.05217	.05087	.04963
47	.06765	.06581	.06405	.06237	.06075	.05920	.05771	.05628	.05491	.05359
48	.07265	.07071	.06886	.06708	.06537	.06373	.06216	.06064	.05919	.05779
49	.07791	.07587	.07392	.07204	.07024	.06851	.06685	.06525	.06371	.06223
50	.08343	.08129	.07923	.07726	.07536	.07354	.07178	.07009	.06847	.06690
51	.08924	.08699	.08483	.08276	.08076	.07884	.07699	.07520	.07349	.07183
52	.09539	.09303	.09076	.08658	.08648	.08446	.08251	.08064	.07883	.07708
53	.10189	.09942	.09704	.09475	.09255	.09043	.08838	.08640	.08450	.08266
54	.10872	.10614	.10365	.10126	.09894	.09672	.09456	.09249	.09049	.08855
55	.11592	.11322	.11062	.10811	.10569	.10335	.10110	.09892	.09662	.09478
56	.12350	.12068	.11796	.11534	.11281	.11036	.10800	.10571	.10350	.10137
57	.13148	.12855	.12572	.12298	.12033	.11777	.11530	.11291	.11060	.10836
58	.13990	.13685	.13389	.13104	.12828	.12561	.12303	.12053	.11811	.11576
59	.14875	.14557	.14250	.13953	.13665	.13387	.13118	.12856	.12604	.12359
60	.15799	.15469	.15150	.14841	.14542	.14253	.13972	.13700	.13436	.13180
61	.16761	.16419	.16088	.15768	.15457	.15156	.14864	.14580	.14305	.14039
62	.17758	.17404	.17062	.16729	.16407	.16094	.15791	.15496	.15210	.14932
63	.18791	.18425	.18071	.17726	.17392	.17068	.16753	.16447	.16150	.15861
64	.19862	.19484	.19118	.18762	.18417	.18081	.17754	.17437	.17129	.16829
65	.20979	.20590	.20212	.19845	.19487	.19140	.18802	.18474	.18154	.17843
66	.22149	.21748	.21359	.20980	.20612	.20253	.19904	.19564	.19233	.18911
67	.23374	.22962	.22562	.22172	.21792	.21423	.21062	.20712	.20370	.20037
68	.24656	.24234	.23822	.23422	.23031	.22651	.22280	.21919	.21566	.21222
69	.25988	.25556	.25134	.24724	.24323	.23932	.23551	.23179	.22816	.22461
70	.27367	.26925	.26493	.26073	.25662	.25261	.24870	.24488	.24115	.23750
71	.28784	.28333	.27892	.27462	.27042	.26631	.26230	.25839	.25456	.25082
72	.30241	.29781	.29332	.28893	.28464	.28044	.27634	.27233	.26841	.26457
73	.31740	.31272	.30815	.30368	.29930	.29502	.29084	.28674	.28273	.27880
74	.33291	.32817	.32352	.31897	.31452	.31016	.30589	.30171	.29762	.29361
75	.34903	.34422	.33951	.33490	.33038	.32595	.32161	.31735	.31318	.30909
76	.36581	.36095	.35619	.35152	.34694	.34245	.33805	.33373	.32949	.32533
77	.38324	.37835	.37354	.36883	.36420	.35966	.35520	.35083	.34654	.34232
78	.40126	.39634	.39150	.38676	.38210	.37752	.37302	.36861	.36427	.36001
79	.41970	.41476	.40992	.40515	.40047	.39587	.39135	.38690	.38253	.37823
80	.43842	.43348	.42864	.42387	.41918	.41456	.41002	.40556	.40117	.39685
81	.45719	.45228	.44744	.44267	.43799	.43337	.42883	.42436	.41996	.41562
82	.47590	.47101	.46619	.46145	.45677	.45217	.44764	.44317	.43877	.43443
83	.49443	.48957	.48478	.48007	.47542	.47084	.46632	.46187	.45748	.45315
84	.51279	.50798	.50324	.49856	.49394	.48939	.48490	.48048	.47611	.47180
85	.53106	.52630	.52161	.51698	.51241	.50790	.50345	.49906	.49473	.49045
86	.54902	.54434	.53971	.53514	.53062	.52616	.52176	.51741	.51312	.50888
87	.56640	.56178	.55722	.55271	.54826	.54386	.53951	.53521	.53097	.52677
88	.58326	.57872	.57423	.56979	.56541	.56107	.55678	.55254	.54834	.54420
89	.59994	.59548	.59107	.58671	.58240	.57813	.57391	.56973	.56560	.56152
90	.61662	.61226	.60794	.60367	.59944	.59526	.59112	.58702	.58296	.57894
91	.63305	.62879	.62457	.62040	.61627	.61217	.60812	.60411	.60013	.59619
92	.64876	.64461	.64050	.63643	.63239	.62839	.62443	.62051	.61662	.61277
93	.66355	.65950	.65550	.65153	.64759	.64369	.63983	.63600	.63220	.62843
94	.67722	.67328	.66938	.66551	.66167	.65786	.65409	.65035	.64664	.64296
95	.68967	.68583	.68203	.67825	.67451	.67079	.66711	.66345	.65983	.65623
96	.70076	.69701	.69330	.68961	.68595	.68231	.67871	.67513	.67158	.66806
97	.71089	.70722	.70359	.69998	.69640	.69284	.68931	.68581	.68234	.67888
98	.72001	.71642	.71286	.70933	.70582	.70233	.69887	.69544	.69203	.68864
99	.72844	.72492	.72143	.71796	.71452	.71110	.70770	.70433	.70098	.69765
100	.73623	.73278	.72935	.72594	.72256	.71920	.71586	.71254	.70924	.70597
101	.74361	.74021	.73684	.73349	.73016	.72685	.72356	.72029	.71704	.71382
102	.75128	.74794	.74463	.74133	.73806	.73480	.73157	.72835	.72515	.72198
103	.75938	.75610	.75284	.74961	.74639	.74319	.74000	.73684	.73369	.73056
104	.76835	.76514	.76194	.75877	.75561	.75246	.74934	.74623	.74313	.74005
105	.77956	.77643	.77332	.77023	.76714	.76408	.76102	.75798	.75496	.75195
106	.79632	.79334	.79038	.78743	.78449	.78157	.77865	.77575	.77285	.76997
107	.82154	.81884	.81615	.81346	.81079	.80811	.80545	.80279	.80014	.79750
108	.86487	.86274	.86061	.85848	.85635	.85423	.85210	.84998	.84787	.84575
109	.93900	.93800	.93700	.93600	.93500	.93400	.93300	.93200	.93100	.93000

Par. 10. In § 1.664–4A, newly designated paragraphs (d)(4) through (d)(6) are amended as follows:

1. Paragraph (d)(4) is amended by revising the fifth sentence.

2. Paragraph (d)(5) is amended by revising the first and fifth sentences.

3. In paragraph (d)(5), the language "(b)(4)" is removed in both places it appears and the language "(d)(5)" is added in both places.

4. Paragraph (d)(6) is amended by revising the paragraph heading.

5. The revised provisions read as follows:

§ 1.664-4A Valuation of charitable remainder interests created before May 1, 1989

* * * * *

(d) * * *

(4) *Period is a term of years.* * * * If the adjusted payout rate is greater than 14 percent, see § 1.664-4(b).

* * * * *

(5) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664-3 is the life of one individual, the factor that is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of table E in paragraph (d)(6) of this section opposite the number in column (1) that corresponds to the age of the individual whose life measures the period. * * * If the adjusted payout rate is greater than 14 percent, see § 1.664-4(b). * * *

(6) *Actuarial tables for transfers made after November 30, 1983, for which the valuation date falls before May 1, 1989.*

* * * * *

Par. 11. Section 1.7520-1 is added to read as follows:

§ 1.7520-1 Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions

See § 20.7520-1 of this chapter (Estate Tax Regulations) for rules for determining the present value of annuities, interests for life or for a term of years, remainders, and reversions for estates of decedents with respect to which property included in the gross estate is valued for Federal estate tax purposes as of a date after April 30, 1989, gifts made after April 30, 1989, and certain transactions occurring after April 30, 1989, subject to income tax.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 12. The general authority citation for part 20 is revised to read as follows:

Authority: 26 U.S.C. 7805.

Par. 13. In § 20.2013-4, the second sentence in paragraph (a) and the third sentence in paragraph (a) *Example (2)* are revised to read as follows:

§ 20.2013-4 Valuation of property transferred

(a) * * * If the decedent received a life estate or a remainder or other limited interest in property included in the transferor's gross estate, the value of the interest is determined as of the date of the transferor's death on the basis of recognized valuation principles (see § 20.2031-7). * * *

* * * * *

Example (2). * * * The part of that value attributable to the life estate is $44,688 and the part of that value attributable to the remainder is $55,312 (see § 20.2031-7). * * *

* * * * *

Par. 14. Section 20.2031-0 is added to read as follows:

§ 20.2031-0 Table of contents.

This section lists the section headings that appear in the regulations under section 2031.

§ 20.2031-1 Definition of gross estate; valuation of property.
§ 20.2031-2 Valuation of stocks and bonds.
§ 20.2031-3 Valuation of interests in businesses.
§ 20.2031-4 Valuation of notes.
§ 20.2031-5 Valuation of cash on hand or on deposit.
§ 20.2031-6 Valuation of household and personal effects.
§ 20.2031-7 Valuation of annuities, life estates, terms for years, remainders, and reversions after April 30, 1989.
§ 20.2031-8 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
§ 20.2031-9 Valuation of other property.
§ 20.2031-7A Valuation of annuities, life estates, terms for years, remainders, and reversions before May 1, 1989.

Par. 15. Immediately following § 20.2046-1 an undesignated center heading and § 20.2031-7A are added to read as follows:

Actuarial Tables Applicable Before May 1, 1989

§ 20.2031-7A Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died before May 1, 1989

(a) *Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died before January 1, 1952.* Except as otherwise provided in § 20.2031-7(c), if the decedent died before January 1, 1952, the present value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation or termination of one or more lives or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 4 percent a year, compounded annually, and life contingencies as to each life involved from values that are based on the Actuaries' or Combined Experience Table of Mortality, as extended. This table and related factors are described in former § 81.10 (as contained in CFR edition revised as of April 1, 1958). The present value of an interest measured by a term for years is computed on the basis of interest at the rate of 4 percent a year.

(b) *Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died after December 31, 1951, and before January 1, 1971.* Except as otherwise provided in § 20.2031-7(c), if the decedent died after December 31, 1951, and before January 1, 1971, the present value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation or termination of one or more lives, or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 3½ percent a year, compounded annually, and life contingencies as to each life involved are taken from U.S. Life Table 38. This table and related factors are set forth in former § 20.2031-7 (as contained in CFR edition revised as of April 1, 1984). Special factors involving one and two lives may be found in or computed with the use of tables contained in the publication entitled "Actuarial Values for Estate and Gift Tax," Publication Number 11 (Rev. 5-59). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, D.C. 20402. The present value of an interest measured by a term for years is computed on the basis of interest at the rate of 3½ percent a year.

(c) *Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died after December 31, 1970, and before December 1, 1983.* Except as otherwise provided in § 20.2031-7(c), if the decedent died after December 31, 1970, and before December 1, 1983, the present value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation of or termination of one or more lives or upon a term certain concurrent with one or

more lives, the factor for the present value is computed on the basis of interest at the rate of 6 percent a year, compounded annually, and life contingencies are determined as to each male and female life involved, from values that are set forth in Table LN. Table LN contains values that are taken from the life table for total males and the life table for total females appearing as Tables 2 and 3, respectively in United States Life Tables: 1959–1960, published by the Department of Health and Human Services, Public Health Service. Table LN and related factors are set forth in former § 20.2031–10 (as contained in CFR edition revised as of April 1, 1992). Special factors involving one and two lives may be found in or computed with the use of tables contained in Internal Revenue Service Publication 723E, "Actuarial Values I: Valuation of Last Survivor Charitable Remainders," (12–70), and Publication 723A, "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives," (12–70). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, D.C. 20402.

§ 20.2031–7 [Redesignated]

Par. 16. Section 20.2031–7 is redesignated as § 20.2031–7A paragraph (d) and amended as follows:

1. The following redesignation table indicates the old CFR unit numbers for § 20.2031–7 and the corresponding new CFR unit numbers for § 20.2031–7A(d):

Old CFR unit No. in § 20.2031–7	Corresponding new No. in § 20.2031–7A
§ 20.2031–7 heading	Paragraph (d) heading
(a)	(d)(1)
(a)(1)	(d)(1)(i)
(a)(2)	(d)(1)(ii)
(a)(3)	(d)(1)(iii)
(b)	(d)(2)
(b)(1)	(d)(2)(i)
(b)(2)	(d)(2)(ii)
(b)(3)(i)	(d)(2)(iii)(A)
(b)(3)(ii)	(d)(2)(iii)(B)
(c) through (f)	(d)(3) through (d)(6)

2. The paragraph heading for (d) is revised.

3. Paragraph (d)(1)(i) is revised.

4. Paragraph (d)(1)(iii) is revised.

5. Paragraph (d)(5), third and fourth sentences are revised.

6. The revised provisions read as follows:

§ 20.2031–7A Valuation of annuities, life estates, terms for years, remainders, and reversions before May 1, 1989

* * * * *

(d) *Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died after November 30, 1983, if the valuation date for the gross estate is before May 1, 1989*—(1) *In general.* (i) Except as otherwise provided in § 20.2031–7(c), if the decedent died after November 30, 1983, and the valuation date for the gross estate is before May 1, 1989, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. If a decedent died after November 30, 1983, and before August 9, 1984, or, in cases where the valuation date of the decedent's gross estate is before May 1, 1989, if, on December 1, 1983, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent died on or after December 1, 1983, without having regained competency to dispose of the decedent's property, or if the decedent died within 90 days of the date on which the decedent first regained competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the estate of such decedent is their present value determined under either this section or § 20.2031–7A(c), at the option of the taxpayer. The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent is determined under § 20.2031–8. The fair market value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 is its present value determined under § 1.664–4. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on such date determined under § 1.664–4. The fair market value of the interests in a pooled income fund, as defined in § 1.642(c)–5, is their value determined under § 1.642(c)–6.

* * * * *

(iii) In all examples set forth in this section, the decedent is assumed to have died on or after August 9, 1984, with the valuation date of the decedent's gross estate falling before May 1, 1989, and to have been competent to change the disposition of the property on December 1, 1983.

* * * * *

(5) *Actuarial computations by the Internal Revenue Service.* * * * Table LN contains values of *lx* taken from the life table for the total population appearing as Table 1 of United States Life Tables: 1969–71, published by the Department of Health and Human Services, Public Health Service. Many special factors involving one and two lives may be found in or computed with the use of tables contained in Internal Revenue Service Publication 723E, "Actuarial Values II: Factors at 10 Percent Involving One and Two Lives," (12–83). A copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402 * * *

* * * * *

Par. 17. New § 20.2031–7 is added to read as follows:

§ 20.2031–7 Valuation of annuities, life estates, terms for years, remainders, and reversions after April 30, 1989

(a) *In general.* Except as otherwise provided in paragraph (c) of this section, the fair market value of annuities, life estates, terms for years, remainders, and reversions for estates of decedents is the present value of such interests determined under paragraph (d) of this section.

(b) *Actuarial computations by the Internal Revenue Service.* The regulations in this and in related sections provide tables with actuarial factors and examples that illustrate how to use the tables to compute the value of annuity, life, and remainder interests in property. These sections also refer to government publications that provide additional tables of factors and examples of computations for more complex situations. Some older publications are no longer available. If the executor of a decedent's estate requires a special factor or computation, the executor may request a ruling on the matter. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(c) *Commercial annuities and insurance contracts.* The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent is determined under § 20.2031–8. See § 20.2042–1 with respect to insurance policies on the decedent's life.

(d) *Valuation.* The present value of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died after April 30, 1989, is determined under paragraph (e) of this section. The present value of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died before May 1,

1989, is determined under the following sections:

Decedent's date of death (or alternate valuation date)		
After	Before	Applicable section
	01-01-52	20.2031-7A(a)
12-31-51	01-01-71	20.2031-7A(b)
12-31-70	12-01-83	20.2031-7A(c)
11-30-83	05-01-89	20.2031-7A(d)

(e) *Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents who died after April 30, 1989.* (1) *In general.* Except as otherwise provided in paragraph (c) of this section and § 20.7520-3, if the valuation date for the gross estate of the decedent is after April 30, 1989, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined by use of the tables in paragraph (e)(6) of this section and the interest rate component described in § 20.7520-1(b)(1). The tables are also contained in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8-89). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, DC 20402. If the valuation date is after April 30, 1989, and before November 2, 1992, a taxpayer can rely on Notice 89-24, 1989-1 C.B. 660, or Notice 89-60, 1989-1 C.B. 700 (See § 601.601(d)(2)(ii)*(b)* of this chapter).

(2) *Certain Interests.* (i) *Charitable Interests.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)-5, is its value determined under § 1.642(c)-6(e). The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664-2(a), is its present value determined under § 1.664-2(c). The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664-3, is its present value determined under § 1.664-4(e). The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664-4(e).

(ii) *Annuities.* (A) The present value of an annuity may be determined by use of the appropriate table containing remainder factors. If an annuity is payable annually at the end of each year for the life of an individual, the aggregate amount payable annually is multiplied by an annuity factor derived from Table S (remainder factors for one life) in paragraph (e)(6) of this section based on the interest rate component on the valuation date. If an annuity is payable until the death of the survivor of two individuals, the aggregate amount payable annually is multiplied by an annuity factor derived from table R(2) (remainder factors for two lives) in Publication 1457. A copy of this publication may be purchased from the superintendent of Documents, United States Government Printing Office, Washington, DC 20402. In the case of an annuity that is payable at the end of each year for a term of years, the aggregate amount payable annually is multiplied by an annuity factor derived from table B (remainder factors for a term of years) in paragraph (e)(6) of this section based on the interest rate component on the valuation date. The annuity factor is obtained by subtracting the remainder factor in table S, table R(2), or table B, whichever is appropriate, under the appropriate interest rate component opposite the number of years nearest the age of the individual or individuals (or the term of years representing the duration of the annuity), from 1.00 and then dividing the result by the appropriate interest rate component expressed as a decimal number. Alternatively, annuity factors for the life of one individual have been published and are contained in column (2) of the appropriate table S in Publication 1457. Annuity factors for a term of years have been published and are contained in column (2) of the appropriate table B in Publication 1457. If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in table K for payments made at the end of the specified periods. The provisions of this paragraph (e) are illustrated by the following example:

Example. At the time of the decedent's death in January 1990, the annuitant, age 72, is entitled to receive an annuity of $15,000 a year payable in equal monthly installments at the end of each period. The rate that is 120 percent of the applicable Federal mid-term rate for January 1990 is 9.57 percent. This rate is rounded to 9.6 percent. Under Table S, the remainder factor at 9.6 percent for an individual aged 72 is .40138. By converting the remainder factor to an annuity factor, as described above, the annuity factor at 9.6 percent for an individual aged 72 is 6.2356 (1.00 minus .40138, divided by .096). Under Table K, the adjustment factor under the column for payments made at the end of each monthly period at the rate of 9.6 percent is 1.0433. The aggregate annual amount, $15,000, is multiplied by the factor 6.2356 and the product multiplied by 1.0433. The present value of the annuity at the date of the decedent's death is, therefore, $97,584 ($15,000 x 6.2356 x 1.0433).

(B) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or two lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (e)(2)(ii)(A) of this section. If the first payment of an annuity for a definite number of years is due at the beginning of the payment period, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor derived from the appropriate Table B, as described in paragraph (e)(2)(ii)(A) of this section, opposite the number of years representing the duration of the annuity. The product so obtained is then multiplied by the adjustment factor in Table J at the appropriate interest rate component for payments made at the beginning of specified periods.

(iii) *Life estates, terms for years, remainders, and reversions.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain property for the life of one or two individuals, or for a term for years, the present value of the interest is computed by multiplying the value of the property by the applicable factor representing the income interest. The applicable factor is obtained by subtracting the appropriate remainder factor in table S (for the life of one individual), table R(2) (for the lives of two individuals), or table B (for a term of years), whichever is appropriate, from 1.00. If the interest to be valued is to take effect after the death of one or two individuals, or after a definite number of years, the present value of the interest is computed by multiplying the value of the property by the applicable actuarial factor in table S, table R(2), or table B, whichever is appropriate, corresponding to the applicable Federal mid-term rate (rounded) opposite either the number of years nearest the age of the individual or individuals whose lives measure the interest or the number of years representing the duration of the interest. See § 20.7520-1(c) with respect to the valuation of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2).

(iv) *Other Interests.* See § 20.7520-1(c) with respect to the valuation of a

qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2). See § 20.2031–7A(d) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after November 30, 1983, where the valuation date for the gross estate falls before May 1, 1989. See § 20.2031–7A(c) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after December 31, 1970, and before December 1, 1983. See § 20.2031–7A(b) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after December 31, 1951, and before January 1, 1971. See § 20.2031–7A(a) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died before January 1, 1952.

(3) *Transitional rule.* If a decedent died after April 30, 1989, and if on May 1, 1989, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent died without having regained competency to dispose of the decedent's property or died within 90 days of the date on which the decedent first regained competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see § 20.2031–7A(d).

(4) *Publications.* Many actuarial factors not contained in paragraph (e)(6) of this section are contained in Internal Revenue Service Publication 1457, "Actuarial Values, Alpha Volume," (8–89). A copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. If a special factor is required in the case of an actual decedent, the Service will furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(5) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Annuity payable for an individual's life. Under the terms of A's father's will an annuity of $10,000 a year payable in equal semiannual installments made at the end of each interval to A and, after A's death, to A's estate for the life of B, A's brother. A died in September 1989. For September 1989, the rate that was 120 percent of the applicable Federal mid-term rate was 9.68. This rate is rounded to 9.6 percent. At A's death, B was 45 years seven months old. Under Table S in paragraph (e)(6) of this section, the factor at 9.6 percent for determining the present value of the remainder interest at the death of a person age 46, the number of years nearest B's actual age, is .11013. By converting the factor to an annuity factor, as described in paragraph (e)(2)(ii) of this section, the factor for the present value of an annuity payable until the death of a person age 46 is 9.2695 (1.00 minus .11013, divided by .096). The adjustment factor from Table K in paragraph (e)(6) at an interest rate of 9.6 percent for semiannual annuity payments made at the end of the period is 1.0235. The present value of the annuity at the date of A's death is, therefore, $94,873 ($10,000 × 9.2695 × 1.0235).

Example 2. Annuity payable for a term of years. The decedent, or decedent's estate, was entitled to receive an annuity of $10,000 a year payable in equal quarterly installments at the end of each quarter throughout a term certain. The decedent died in February 1990. For February 1990, the rate that was 120 percent of the applicable Federal mid-term rate was 9.70. This rate is rounded to 9.8. A quarterly payment had just been made prior to the decedent's death and payments were to continue for 5 more years. Under Table B in paragraph (e)(6) of this section for the interest rate of 9.8 percent, the factor for the present value of a remainder interest due after a term of 5 years is .626597. Converting the factor to an annuity factor, as described in paragraph (e)(2)(ii) of this section, the factor for the present value of an annuity for a term of 5 years is 3.8102. The adjustment factor from Table K in paragraph (e)(6) at an interest rate of 9.8 percent for quarterly annuity payments made at the end of the period is 1.0360. The present value of the annuity is, therefore, $39,474 ($10,000 × 3.8102 × 1.0360).

Example 3. Income payable for an individual's life. The decedent or the decedent's estate was entitled to receive the income from a fund of $50,000 during the life of the decedent's elder brother. Upon the brother's death, the remainder is to pass to B. The brother was 31 years old at the time of the decedent's death in October 1989. The rate that was 120 percent of the applicable Federal mid-term rate in October 1989 was 10.10 percent. That rate is rounded to 10.2 percent. Under Table S in paragraph (e)(6) of this section, the remainder factor at 10.2 percent for determining the present value of the remainder interest due at the death of a person aged 31, the number of years closest to the brother's age at the decedent's death, is .03753. Converting this remainder factor to an income factor, as described in paragraph (e)(2)(iii) of this section, the factor for determining the present value of an income interest for the life of a person aged 31 is .96247. The present value of the decedent's interest at the time of the decedent's death is, therefore, $48,124 ($50,000 × .96247).

Example 4. Remainder payable at an individual's death. The decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of the decedent's elder sister, to whom the income was bequeathed for life. The decedent died in February 1990. At the time of the decedent's death, the elder sister was 47 years 5 months old. In February 1990, the rate that was 120 percent of the applicable Federal mid-term rate was 9.70. This rate is rounded to 9.8 percent. Under Table S in paragraph (e)(6) of this section, the remainder factor at 9.8 percent for determining the present value of the remainder interest due at the death of a person aged 47, the number of years nearest the elder sister's actual age at the decedent's death, is .11352. The present value of the remainder interest at the date of the decedent's death is, therefore, $5,676 ($50,000 × .11352).

(6) *Tables.* The following tables must be used in the application of the provisions of this section when the interest rate component, as described in § 20.7520–1(b)(1), is between 4.2 and 14 percent.

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Years	Interest Rate (in percentages)									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
1	.959693	.957854	.956023	.954198	.952381	.950570	.948767	.946970	.945180	.943396
2	.921010	.917485	.913980	.910495	.907029	.903584	.900158	.896752	.893364	.889998
3	.883887	.878817	.873786	.868793	.863838	.858920	.854040	.849197	.844390	.839619
4	.848260	.841779	.835359	.829001	.822702	.816464	.810285	.804163	.798100	.792094

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Interest Rate (in percentages)									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
5	.814069	.806302	.798623	.791031	.783526	.776106	.768771	.761518	.754348	.747258
6	.781257	.772320	.763501	.754801	.746215	.737744	.729384	.721135	.712994	.704961
7	.749766	.739770	.729925	.720230	.710681	.701277	.692015	.682893	.673908	.665057
8	.719545	.708592	.697825	.687242	.676839	.666613	.656561	.646679	.636964	.627412
9	.690543	.678728	.667137	.655765	.644609	.633663	.622923	.612385	.602045	.591898
10	.662709	.650122	.637798	.625730	.613913	.602341	.591009	.579910	.569041	.558395
11	.635997	.622722	.609750	.597071	.584679	.572568	.560729	.549157	.537846	.526788
12	.610362	.596477	.582935	.569724	.556837	.544266	.532001	.520035	.508361	.496969
13	.585760	.571339	.557299	.543630	.530321	.517363	.504745	.492458	.480492	.468839
14	.562150	.547259	.532790	.518731	.505068	.491790	.478885	.466343	.454151	.442301
15	.539491	.524195	.509360	.494972	.481017	.467481	.454350	.441612	.429255	.417265
16	.517746	.502102	.486960	.472302	.458112	.444374	.431072	.418194	.405723	.393646
17	.496877	.480941	.465545	.450670	.436297	.422408	.408987	.396017	.383481	.371364
18	.476849	.460671	.445071	.430028	.415521	.401529	.388033	.375016	.362458	.350344
19	.457629	.441256	.425498	.410332	.395734	.381681	.368153	.355129	.342588	.330513
20	.439183	.422659	.406786	.391538	.376889	.362815	.349291	.336296	.323807	.311805
21	.421481	.404846	.388897	.373605	.358942	.344881	.331396	.318462	.306056	.294155
22	.404492	.387783	.371794	.356494	.341850	.327834	.314417	.301574	.289278	.277505
23	.388188	.371440	.355444	.340166	.325571	.311629	.298309	.285581	.273420	.261797
24	.372542	.355785	.339813	.324586	.310068	.296225	.283025	.270437	.258431	.246979
25	.357526	.340791	.324869	.309719	.295303	.281583	.268525	.256096	.244263	.232999
26	.343115	.326428	.310582	.295533	.281241	.267664	.254768	.242515	.230873	.219810
27	.329285	.312670	.296923	.281998	.267848	.254434	.241715	.229654	.218216	.207368
28	.316012	.299493	.283866	.269082	.255094	.241857	.229331	.217475	.206253	.195630
29	.303275	.286870	.271382	.256757	.242946	.229902	.217582	.205943	.194947	.184557
30	.291051	.274780	.259447	.244997	.231377	.218538	.206434	.195021	.184260	.174110
31	.279319	.263199	.248038	.233776	.220359	.207736	.195858	.184679	.174158	.164255
32	.268061	.252106	.237130	.223069	.209866	.197468	.185823	.174886	.164611	.154957
33	.257256	.241481	.226702	.212852	.199873	.187707	.176303	.165612	.155587	.146186
34	.246887	.231304	.216732	.203103	.190355	.178429	.167270	.156829	.147058	.137912
35	.236935	.221556	.207201	.193801	.181290	.169609	.158701	.148512	.138996	.130105
36	.227385	.212218	.198089	.184924	.172657	.161225	.150570	.140637	.131376	.122741
37	.218220	.203274	.189377	.176454	.164436	.153256	.142856	.133179	.124174	.115793
38	.209424	.194707	.181049	.168373	.156605	.145681	.135537	.126116	.117367	.109239
39	.200983	.186501	.173087	.160661	.149148	.138480	.128593	.119428	.110933	.103056
40	.192882	.178641	.165475	.153302	.142046	.131635	.122004	.113095	.104851	.097222
41	.185107	.171112	.158198	.146281	.135282	.125128	.115754	.107098	.099103	.091719
42	.177646	.163900	.151241	.139581	.128840	.118943	.109823	.101418	.093670	.086527
43	.170486	.156992	.144590	.133188	.122704	.113064	.104197	.096040	.088535	.081630
44	.163614	.150376	.138231	.127088	.116861	.107475	.098858	.090947	.083682	.077009
45	.157019	.144038	.132152	.121267	.111297	.102163	.093793	.086124	.079094	.072650
46	.150690	.137968	.126340	.115713	.105997	.097113	.088988	.081557	.074758	.068538
47	.144616	.132153	.120784	.110413	.100949	.092312	.084429	.077232	.070660	.064658
48	.138787	.126583	.115473	.105356	.096142	.087749	.080103	.073136	.066786	.060998
49	.133193	.121248	.110395	.100530	.091564	.083412	.075999	.069258	.063125	.057546
50	.127824	.116138	.105540	.095926	.087204	.079289	.072106	.065585	.059665	.054288
51	.122672	.111243	.100898	.091532	.083051	.075370	.068411	.062107	.056394	.051215
52	.117728	.106555	.096461	.087340	.079096	.071644	.064907	.058813	.053302	.048316
53	.112982	.102064	.092219	.083340	.075330	.068103	.061581	.055695	.050380	.045582
54	.108428	.097763	.088164	.079523	.071743	.064737	.058426	.052741	.047618	.043001
55	.104058	.093642	.084286	.075880	.068326	.061537	.055433	.049944	.045008	.040567
56	.099864	.089696	.080580	.072405	.065073	.058495	.052593	.047296	.042541	.038271
57	.095839	.085916	.077036	.069089	.061974	.055604	.049898	.044787	.040208	.036105
58	.091976	.082295	.073648	.065924	.059023	.052855	.047342	.042412	.038004	.034061
59	.088268	.078826	.070409	.062905	.056212	.050243	.044916	.040163	.035921	.032133
60	.084710	.075504	.067313	.060024	.053536	.047759	.042615	.038033	.033952	.030314

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Years	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
1	.941620	.939850	.938086	.936330	.934579	.932836	.931099	.929368	.927644	.925926
2	.886647	.883317	.880006	.876713	.873439	.870183	.866945	.863725	.860523	.857339
3	.834885	.830185	.825521	.820892	.816298	.811738	.807211	.802718	.798259	.793832
4	.786144	.780249	.774410	.768626	.762895	.757218	.751593	.746021	.740500	.735030
5	.740248	.733317	.726464	.719687	.712986	.706360	.699808	.693328	.686920	.680583
6	.697032	.689208	.681486	.673864	.666342	.658918	.651590	.644357	.637217	.630170
7	.656339	.647752	.639292	.630959	.622750	.614662	.606694	.598845	.591111	.583490
8	.618022	.608789	.599711	.590786	.582009	.573379	.564892	.556547	.548340	.540269
9	.581942	.572170	.562581	.553170	.543934	.534868	.525971	.517237	.508664	.500249
10	.547968	.537754	.527750	.517950	.508349	.498944	.489731	.480704	.471859	.463193
11	.515977	.505408	.495075	.484972	.475093	.465433	.455987	.446750	.437717	.428883
12	.485854	.475007	.464423	.454093	.444012	.434173	.424569	.415196	.406046	.397114
13	.457490	.446436	.435669	.425181	.414964	.405012	.395316	.385870	.376666	.367698

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
14	.430781	.419582	.408695	.398109	.387817	.377810	.368078	.358615	.349412	.340461
15	.405632	.394344	.383391	.372762	.362446	.352434	.342717	.333285	.324130	.315242
16	.381951	.370624	.359654	.349028	.338735	.328763	.319103	.309745	.300677	.291890
17	.359653	.348331	.337386	.326805	.316574	.306682	.297117	.287867	.278921	.270269
18	.338656	.327379	.316498	.305997	.295864	.286084	.276645	.267534	.258739	.250249
19	.318885	.307687	.296902	.286514	.276508	.266870	.257584	.248638	.240018	.231712
20	.300268	.289179	.278520	.268272	.258419	.248946	.239836	.231076	.222651	.214548
21	.282739	.271785	.261276	.251191	.241513	.232225	.223311	.214755	.206541	.198656
22	.266232	.255437	.245099	.235197	.225713	.216628	.207925	.199586	.191596	.183941
23	.250689	.240073	.229924	.220222	.210947	.202078	.193598	.185489	.177733	.170315
24	.236054	.225632	.215669	.206201	.197147	.188506	.180259	.172387	.164873	.157699
25	.222273	.212060	.202334	.193072	.184249	.175845	.167839	.160211	.152943	.146018
26	.209297	.199305	.189807	.180779	.172195	.164035	.156275	.148895	.141877	.135202
27	.197078	.187317	.178056	.169269	.160930	.153017	.145507	.138379	.131611	.125187
28	.185572	.176049	.167031	.158491	.150402	.142740	.135482	.128605	.122088	.115914
29	.174739	.165460	.156690	.148400	.140563	.133153	.126147	.119521	.113255	.107328
30	.164537	.155507	.146989	.138951	.131367	.124210	.117455	.111079	.105060	.099377
31	.154932	.146154	.137886	.130104	.122773	.115868	.109362	.103233	.097458	.092016
32	.145887	.137362	.129351	.121820	.114741	.108085	.101827	.095942	.090406	.085200
33	.137370	.129100	.121342	.114064	.107235	.100826	.094811	.089165	.083865	.078889
34	.129350	.121335	.113830	.106802	.100219	.094054	.088278	.082867	.077797	.073045
35	.121798	.114036	.106782	.100001	.093663	.087737	.082196	.077014	.072168	.067635
36	.114688	.107177	.100171	.093634	.087535	.081844	.076532	.071574	.066946	.062625
37	.107992	.100730	.093969	.087673	.081809	.076347	.071259	.066519	.062102	.057986
38	.101688	.094671	.088151	.082090	.076457	.071219	.066349	.061821	.057609	.053690
39	.095751	.088977	.082693	.076864	.071455	.066436	.061778	.057454	.053440	.049713
40	.090161	.083625	.077573	.071970	.066780	.061974	.057521	.053396	.049573	.046031
41	.084897	.078595	.072770	.067387	.062412	.057811	.053558	.049625	.045987	.042621
42	.079941	.073867	.068265	.063097	.058329	.053929	.049868	.046120	.042659	.039464
43	.075274	.069424	.064038	.059079	.054513	.050307	.046432	.042862	.039572	.036541
44	.070880	.065248	.060074	.055318	.050946	.046928	.043233	.039835	.036709	.033834
45	.066742	.061323	.056354	.051796	.047613	.043776	.040254	.037021	.034053	.031328
46	.062845	.057635	.052865	.048498	.044499	.040836	.037480	.034406	.031589	.029007
47	.059176	.054168	.049592	.045410	.041587	.038093	.034898	.031976	.029303	.026859
48	.055722	.050910	.046522	.042519	.038867	.035535	.032493	.029717	.027183	.024869
49	.052469	.047848	.043641	.039812	.036324	.033148	.030255	.027618	.025216	.023027
50	.049405	.044970	.040939	.037277	.033948	.030922	.028170	.025668	.023392	.021321
51	.046521	.042265	.038405	.034903	.031727	.028845	.026229	.023855	.021699	.019742
52	.043805	.039722	.036027	.032681	.029651	.026907	.024422	.022170	.020129	.018280
53	.041248	.037333	.033796	.030600	.027711	.025100	.022739	.020604	.018673	.016925
54	.038840	.035087	.031704	.028652	.025899	.023414	.021172	.019149	.017322	.015672
55	.036572	.032977	.029741	.026828	.024204	.021842	.019714	.017796	.016068	.014511
56	.034437	.030993	.027900	.025119	.022621	.020375	.018355	.016539	.014906	.013436
57	.032427	.029129	.026172	.023520	.021141	.019006	.017091	.015371	.013827	.012441
58	.030534	.027377	.024552	.022023	.019758	.017730	.015913	.014285	.012827	.011519
59	.028751	.025730	.023032	.020620	.018465	.016539	.014817	.013276	.011899	.010666
60	.027073	.024183	.021606	.019307	.017257	.015428	.013796	.012339	.011038	.009876

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Years	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
1	.924214	.922509	.920810	.919118	.917431	.915751	.914077	.912409	.910747	.909091
2	.854172	.651023	.847892	.844777	.841680	.838600	.835538	.832490	.829460	.826446
3	.789438	.785077	.780747	.776450	.772183	.767948	.763744	.759571	.755428	.751315
4	.729610	.724241	.718920	.713649	.708425	.703250	.698121	.693039	.688003	.683013
5	.674316	.668119	.661989	.655927	.649931	.644001	.638136	.632335	.626597	.620921
6	.623213	.616346	.609566	.602874	.596267	.589745	.583305	.576948	.570671	.564474
7	.575982	.568585	.561295	.554112	.547034	.540059	.533186	.526412	.519737	.513158
8	.532331	.524524	.516846	.509294	.501866	.494560	.487373	.480303	.473349	.466507
9	.491988	.483879	.475917	.468101	.460428	.452894	.445496	.438233	.431101	.424098
10	.454703	.446383	.438230	.430240	.422411	.414738	.407218	.399848	.392624	.385543
11	.420243	.411792	.403526	.395441	.387533	.379797	.372228	.364824	.357581	.350494
12	.388394	.379882	.371571	.363457	.355535	.347799	.340245	.332869	.325666	.318631
13	.358960	.350445	.342147	.334060	.326179	.318497	.311010	.303713	.296599	.289664
14	.331756	.323288	.315052	.307040	.299246	.291664	.284287	.277110	.270127	.263331
15	.306613	.298236	.290103	.282206	.274538	.267092	.259860	.252838	.246017	.239392
16	.283376	.275126	.267130	.259381	.251870	.244589	.237532	.230691	.224059	.217629
17	.261901	.253806	.245976	.238401	.231073	.223983	.217123	.210485	.204061	.197845
18	.242052	.234139	.226497	.219119	.211994	.205113	.198467	.192048	.185848	.179859
19	.223708	.215995	.208561	.201396	.194490	.187832	.181414	.175226	.169260	.163508
20	.206754	.199257	.192045	.185107	.178431	.172007	.165826	.159878	.154153	.148644
21	.191085	.183817	.176837	.170135	.163698	.157516	.151578	.145874	.140395	.135131
22	.176604	.169573	.162834	.156374	.150182	.144245	.138554	.133097	.127864	.122846

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
23	.163220	.156432	.149939	.143726	.137781	.132093	.126649	.121439	.116452	.111678
24	.150850	.144310	.138065	.132101	.126405	.120964	.115767	.110802	.106058	.101526
25	.139418	.133128	.127132	.121416	.115968	.110773	.105820	.101097	.096592	.092296
26	.128852	.122811	.117064	.111596	.106393	.101441	.096727	.092241	.087971	.083905
27	.119087	.113295	.107794	.102570	.097608	.092894	.088416	.084162	.080119	.076278
28	.110062	.104515	.099258	.094274	.089548	.085068	.080819	.076790	.072968	.069343
29	.101721	.096416	.091398	.086649	.082155	.077901	.073875	.070064	.066456	.063039
30	.094012	.088945	.084160	.079640	.075371	.071338	.067527	.063927	.060524	.057309
31	.086887	.082053	.077495	.073199	.069148	.065328	.061725	.058327	.055122	.052099
32	.080302	.075694	.071358	.067278	.063438	.059824	.056422	.053218	.050202	.047362
33	.074216	.069829	.065708	.061837	.058200	.054784	.051574	.048557	.045722	.043057
34	.068592	.064418	.060504	.056835	.053395	.050168	.047142	.044304	.041641	.039143
35	.063394	.059426	.055713	.052238	.048986	.045942	.043092	.040423	.037924	.035584
36	.058589	.054821	.051301	.048013	.044941	.042071	.039389	.036882	.034539	.032349
37	.054149	.050573	.047239	.044130	.041231	.038527	.036005	.033652	.031457	.029408
38	.050045	.046654	.043498	.040560	.037826	.035281	.032911	.030704	.028649	.026735
39	.046253	.043039	.040053	.037280	.034703	.032309	.030083	.028015	.026092	.024304
40	.042747	.039703	.036881	.034264	.031838	.029587	.027498	.025561	.023763	.022095
41	.039508	.036627	.033961	.031493	.029209	.027094	.025136	.023322	.021642	.020086
42	.036514	.033789	.031271	.028946	.026797	.024811	.022976	.021279	.019711	.018260
43	.033746	.031170	.028795	.026605	.024584	.022721	.021002	.019415	.017951	.016600
44	.031189	.028755	.026515	.024453	.022555	.020807	.019197	.017715	.016349	.015091
45	.028825	.026527	.024415	.022475	.020692	.019054	.017548	.016163	.014890	.013719
46	.026641	.024471	.022482	.020657	.018984	.017449	.016040	.014747	.013561	.012472
47	.024622	.022575	.020701	.018986	.017416	.015978	.014662	.013456	.012351	.011338
48	.022756	.020825	.019062	.017451	.015978	.014632	.013402	.012277	.011248	.010307
49	.021031	.019212	.017552	.016039	.014659	.013400	.012250	.011202	.010244	.009370
50	.019437	.017723	.016163	.014742	.013449	.012271	.011198	.010221	.009330	.008519
51	.017964	.016350	.014883	.013550	.012338	.011237	.010236	.009325	.008497	.007744
52	.016603	.015083	.013704	.012454	.011319	.010290	.009356	.008508	.007739	.007040
53	.015345	.013914	.012619	.011446	.010385	.009423	.008552	.007763	.007048	.006400
54	.014182	.012836	.011620	.010521	.009527	.008629	.007817	.007083	.006419	.005818
55	.013107	.011841	.010699	.009670	.008741	.007902	.007146	.006463	.005846	.005289
56	.012114	.010923	.009852	.008888	.008019	.007237	.006532	.005897	.005324	.004809
57	.011196	.010077	.009072	.008169	.007357	.006627	.005971	.005380	.004849	.004371
58	.010347	.009296	.008354	.007508	.006749	.006069	.005458	.004909	.004416	.003974
59	.009563	.008576	.007692	.006901	.006192	.005557	.004989	.004479	.004022	.003613
60	.008838	.007911	.007083	.006343	.005681	.005089	.004560	.004087	.003663	.003284

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Years	Interest rate (in percentages)									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
1	.907441	.905797	.904159	.902527	.900901	.899281	.897666	.896057	.894454	.892857
2	.823449	.820468	.817504	.814555	.811622	.808706	.805804	.802919	.800049	.797194
3	.747232	.743178	.739153	.735158	.731191	.727253	.723343	.719461	.715607	.711780
4	.678069	.673168	.668312	.663500	.658731	.654005	.649321	.644679	.640078	.635518
5	.615307	.609754	.604261	.598827	.593451	.588134	.582873	.577669	.572520	.567427
6	.558355	.552313	.546348	.540457	.534641	.528897	.523225	.517625	.512093	.506631
7	.506674	.500284	.493985	.487777	.481658	.475627	.469682	.463821	.458044	.452349
8	.459777	.453156	.446641	.440232	.433926	.427722	.421617	.415610	.409700	.403883
9	.417221	.410467	.403835	.397322	.390925	.384642	.378472	.372411	.366458	.360610
10	.378603	.371800	.365131	.358593	.352184	.345901	.339741	.333701	.327780	.321973
11	.343560	.336775	.330137	.323640	.317283	.311062	.304974	.299016	.293184	.287476
12	.311760	.305050	.298496	.292094	.285841	.279732	.273765	.267935	.262240	.256675
13	.282904	.276313	.269888	.263623	.257514	.251558	.245749	.240085	.234561	.229174
14	.256719	.250284	.244022	.237927	.231995	.226221	.220601	.215130	.209804	.204620
15	.232957	.226706	.220634	.214735	.209004	.203436	.198026	.192769	.187661	.182696
16	.211395	.205350	.199489	.193804	.188292	.182946	.177761	.172732	.167854	.163122
17	.191828	.186005	.180369	.174914	.169633	.164520	.159570	.154778	.150138	.145644
18	.174073	.168483	.163083	.157864	.152822	.147950	.143241	.138690	.134291	.130040
19	.157961	.152612	.147453	.142477	.137678	.133048	.128582	.124274	.120117	.116107
20	.143340	.138235	.133321	.128589	.124034	.119648	.115424	.111357	.107439	.103667
21	.130073	.125213	.120543	.116055	.111742	.107597	.103612	.099782	.096100	.092560
22	.118033	.113418	.108990	.104743	.100669	.096760	.093009	.089410	.085957	.082643
23	.107108	.102733	.098544	.094533	.090693	.087014	.083491	.080117	.076884	.073788
24	.097195	.093056	.089100	.085319	.081705	.078250	.074947	.071789	.068770	.065882
25	.088198	.084289	.080560	.077003	.073608	.070369	.067278	.064327	.061511	.058823
26	.080035	.076349	.072839	.069497	.066314	.063281	.060393	.057641	.055019	.052521
27	.072627	.069157	.065858	.062723	.059742	.056908	.054213	.051650	.049212	.046894
28	.065905	.062642	.059547	.056609	.053822	.051176	.048665	.046281	.044018	.041869
29	.059804	.056741	.053840	.051091	.048488	.046022	.043685	.041470	.039372	.037383
30	.054269	.051396	.048680	.046111	.043683	.041386	.039214	.037160	.035215	.033378
31	.049246	.046554	.044014	.041617	.039354	.037218	.035201	.033297	.031500	.029802

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Interest rate (in percentages)									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.8	11.8	12.0
32	.044688	.042169	.039796	.037560	.035454	.033469	.031599	.029836	.028175	.026609
33	.040552	.038196	.035982	.033899	.031940	.030098	.028365	.026735	.025201	.023758
34	.036798	.034598	.032533	.030595	.028775	.027067	.025463	.023956	.022541	.021212
35	.033392	.031339	.029415	.027613	.025924	.024341	.022857	.021466	.020162	.018940
36	.030301	.028387	.026596	.024921	.023355	.021889	.020518	.019235	.018034	.016910
37	.027497	.025712	.024047	.022492	.021040	.019684	.018418	.017236	.016131	.015098
38	.024952	.023290	.021742	.020300	.018955	.017702	.016533	.015444	.014428	.013481
39	.022642	.021096	.019658	.018321	.017077	.015919	.014841	.013839	.012905	.012036
40	.020546	.019109	.017774	.016535	.015384	.014316	.013323	.012400	.011543	.010747
41	.018645	.017309	.016071	.014923	.013860	.012874	.011959	.011111	.010325	.009595
42	.018919	.015878	.014531	.013469	.012486	.011577	.010735	.009956	.009235	.008567
43	.015353	.014201	.013138	.012156	.011249	.010411	.009637	.008922	.008260	.007649
44	.013932	.012864	.011879	.010971	.010134	.009362	.008651	.007994	.007389	.006830
45	.012642	.011652	.010740	.009902	.009130	.008419	.007765	.007163	.006609	.006098
46	.011472	.010554	.009711	.008937	.008225	.007571	.006971	.006419	.005911	.005445
47	.010410	.009560	.008780	.008065	.007410	.006809	.006257	.005752	.005287	.004861
48	.009447	.008659	.007939	.007279	.006676	.006123	.005617	.005154	.004729	.004340
49	.008572	.007844	.007178	.006570	.006014	.005506	.005042	.004818	.004230	.003875
50	.007779	.007105	.006490	.005929	.005418	.004952	.004526	.004138	.003784	.003460
51	.007059	.006435	.005868	.005351	.004881	.004453	.004063	.003708	.003384	.003089
52	.006406	.005829	.005306	.004830	.004397	.004005	.003647	.003322	.003027	.002758
53	.005813	.005280	.004797	.004359	.003962	.003601	.003274	.002977	.002708	.002463
54	.005275	.004783	.004337	.003934	.003569	.003238	.002939	.002668	.002422	.002199
55	.004786	.004332	.003922	.003551	.003215	.002912	.002638	.002390	.002166	.001963
56	.004343	.003924	.003546	.003205	.002897	.002619	.002368	.002142	.001938	.001753
57	.003941	.003554	.003206	.002892	.002610	.002355	.002126	.001919	.001733	.001565
58	.003577	.003220	.002899	.002610	.002351	.002118	.001908	.001720	.001550	.001398
59	.003246	.002918	.002621	.002356	.002118	.001905	.001713	.001541	.001387	.001248
60	.002945	.002642	.002370	.002126	.001908	.001713	.001538	.001381	.001240	.001114

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Years	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
1	.891266	.889880	.888099	.886525	.884956	.883392	.881834	.880282	.878735	.877193
2	.794354	.791530	.788721	.785926	.783147	.780382	.777632	.774896	.772175	.769468
3	.707981	.704208	.700462	.896743	.693050	.689383	.685742	.682127	.678536	.674972
4	.630999	.626520	.622080	.817680	.813319	.608996	.804711	.800464	.596254	.592080
5	.562388	.557402	.552469	.547589	.542760	.537982	.533255	.528577	.523949	.519369
6	.501237	.495909	.490648	.485451	.480319	.475249	.470242	.465297	.460412	.455587
7	.446735	.441200	.435744	.430364	.425061	.419831	.414676	.409592	.404580	.399637
8	.398160	.392527	.386984	.381529	.376160	.370876	.365675	.360557	.355518	.350559
9	.354866	.349223	.343680	.338235	.332885	.327629	.322465	.317391	.312406	.307508
10	.316280	.310697	.305222	.299853	.294588	.289425	.284361	.279394	.274522	.269744
11	.281889	.276421	.271068	.265827	.260698	.255676	.250759	.245945	.241232	.236617
12	.251238	.245926	.240735	.235663	.230706	.225862	.221128	.216501	.211979	.207559
13	.223920	.218795	.213797	.208921	.204165	.199525	.194998	.190582	.186273	.182069
14	.199572	.194658	.189873	.185213	.180677	.176258	.171956	.167766	.163685	.159710
15	.177872	.173183	.168626	.164196	.159891	.155705	.151637	.147681	.143835	.140096
16	.158531	.154077	.149757	.145564	.141496	.137549	.133718	.130001	.126393	.122892
17	.141293	.137080	.132999	.129048	.125218	.121510	.117917	.114438	.111066	.107800
18	.125930	.121957	.118116	.114403	.110812	.107341	.103984	.100737	.097598	.094561
19	.112237	.108503	.104899	.101421	.098064	.094824	.091696	.088677	.085762	.082948
20	.100033	.096533	.093161	.089912	.086782	.083767	.080861	.078061	.075362	.072762
21	.089156	.085883	.082736	.079709	.076798	.073999	.071306	.068716	.066224	.063826
22	.079462	.076408	.073478	.070664	.067963	.065370	.062880	.060489	.058193	.055988
23	.070821	.067979	.065255	.062648	.060144	.057747	.055450	.053247	.051136	.049112
24	.063121	.060480	.057953	.055537	.053225	.051014	.048898	.046873	.044935	.043081
25	.056257	.053807	.051468	.049235	.047102	.045065	.043119	.041261	.039486	.037790
26	.050140	.047871	.045709	.043648	.041683	.039810	.038024	.036321	.034698	.033149
27	.044688	.042590	.040594	.038695	.036888	.035168	.033531	.031973	.030490	.029078
28	.039829	.037892	.036052	.034304	.032644	.031067	.029569	.028145	.026793	.025507
29	.035498	.033711	.032017	.030411	.028889	.027444	.026075	.024776	.023544	.022375
30	.031638	.029992	.028435	.026960	.025565	.024244	.022994	.021810	.020689	.019627
31	.028198	.026684	.025253	.023901	.022624	.021417	.020277	.019199	.018180	.017217
32	.025132	.023740	.022427	.021189	.020021	.018920	.017881	.016900	.015975	.015102
33	.022399	.021121	.019917	.018785	.017718	.016714	.015768	.014877	.014038	.013248
34	.019964	.018791	.017689	.016653	.015680	.014765	.013905	.013096	.012336	.011621
35	.017793	.016718	.015709	.014763	.013876	.013043	.012261	.011528	.010840	.010194
36	.015858	.014873	.013951	.013088	.012279	.011522	.010813	.010148	.009525	.008942
37	.014134	.013233	.012390	.011603	.010867	.010178	.009535	.008933	.008370	.007844
38	.012597	.011773	.011004	.010286	.009617	.008992	.008408	.007864	.007355	.006880
39	.011227	.010474	.009772	.009119	.008510	.007943	.007415	.006922	.006463	.006035
40	.010007	.009319	.008679	.008084	.007531	.007017	.006538	.006093	.005679	.005294

TABLE B.—TERM CERTAIN REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Years	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
41	.008919	.008291	.007708	.007167	.006665	.006199	.005766	.005364	.004991	.004644
42	.007949	.007376	.006845	.006354	.005898	.005476	.005085	.004722	.004386	.004074
43	.007084	.006562	.006079	.005633	.005219	.004837	.004484	.004157	.003854	.003573
44	.006314	.005838	.005399	.004993	.004619	.004273	.003954	.003659	.003386	.003135
45	.005628	.005194	.004795	.004427	.004088	.003775	.003487	.003221	.002976	.002750
46	.005016	.004621	.004258	.003924	.003617	.003335	.003075	.002835	.002615	.002412
47	.004470	.004111	.003782	.003479	.003201	.002946	.002711	.002496	.002298	.002116
48	.003984	.003658	.003359	.003084	.002833	.002602	.002391	.002197	.002019	.001856
49	.003551	.003254	.002983	.002734	.002507	.002299	.002108	.001934	.001774	.001628
50	.003165	.002895	.002649	.002424	.002219	.002031	.001859	.001702	.001559	.001428
51	.002821	.002576	.002353	.002149	.001963	.001794	.001640	.001499	.001370	.001253
52	.002514	.002292	.002089	.001905	.001737	.001585	.001446	.001319	.001204	.001099
53	.002241	.002039	.001856	.001689	.001538	.001400	.001275	.001161	.001058	.000964
54	.001997	.001814	.001648	.001497	.001361	.001237	.001124	.001022	.000930	.000845
55	.001780	.001614	.001463	.001327	.001204	.001093	.000991	.000900	.000817	.000742
56	.001586	.001436	.001300	.001177	.001066	.000965	.000874	.000792	.000718	.000651
57	.001414	.001277	.001154	.001043	.000943	.000853	.000771	.000697	.000631	.000571
58	.001260	.001136	.001025	.000925	.000835	.000753	.000680	.000614	.000554	.000501
59	.001123	.001011	.000910	.000820	.000739	.000665	.000600	.000540	.000487	.000439
60	.001001	.000900	.000809	.000727	.000654	.000588	.000529	.000476	.000428	.000385

Table J.—Adjustment Factors for Term Certain Annuities Payable at the Beginning of Each Interval Applicable After April 30, 1989

Interest rate	Frequency of payments—				
	Annually	Semi-annually	Quarterly	Monthly	Weekly
4.2	1.0420	1.0314	1.0261	1.0226	1.0213
4.4	1.0440	1.0329	1.0274	1.0237	1.0223
4.6	1.0460	1.0344	1.0286	1.0247	1.0233
4.8	1.0480	1.0359	1.0298	1.0258	1.0243
5.0	1.0500	1.0373	1.0311	1.0269	1.0253
5.2	1.0520	1.0388	1.0323	1.0279	1.0263
5.4	1.0540	1.0403	1.0335	1.0290	1.0273
5.6	1.0560	1.0418	1.0348	1.0301	1.0283
5.8	1.0580	1.0433	1.0360	1.0311	1.0293
6.0	1.0600	1.0448	1.0372	1.0322	1.0303
6.2	1.0620	1.0463	1.0385	1.0333	1.0313
6.4	1.0640	1.0478	1.0397	1.0343	1.0323
6.6	1.0660	1.0492	1.0409	1.0354	1.0333
6.8	1.0680	1.0507	1.0422	1.0365	1.0343
7.0	1.0700	1.0522	1.0434	1.0375	1.0353
7.2	1.0720	1.0537	1.0446	1.0385	1.0363
7.4	1.0740	1.0552	1.0458	1.0396	1.0373
7.6	1.0760	1.0567	1.0471	1.0407	1.0383
7.8	1.0780	1.0581	1.0483	1.0418	1.0393
8.0	1.0800	1.0596	1.0495	1.0428	1.0403
8.2	1.0820	1.0611	1.0507	1.0439	1.0413
8.4	1.0840	1.0626	1.0520	1.0449	1.0422
8.6	1.0860	1.0641	1.0532	1.0460	1.0432
8.8	1.0880	1.0655	1.0544	1.0471	1.0442
9.0	1.0900	1.0670	1.0556	1.0481	1.0452
9.2	1.0920	1.0685	1.0569	1.0492	1.0462
9.4	1.0940	1.0700	1.0581	1.0502	1.0472
9.6	1.0960	1.0715	1.0593	1.0513	1.0482
9.8	1.0980	1.0729	1.0605	1.0523	1.0492
10.0	1.1000	1.0744	1.0618	1.0534	1.0502
10.2	1.1020	1.0759	1.0630	1.0544	1.0512
10.4	1.1040	1.0774	1.0642	1.0555	1.0521
10.6	1.1060	1.0788	1.0654	1.0565	1.0531
10.8	1.1080	1.0803	1.0666	1.0576	1.0541
11.0	1.1100	1.0818	1.0679	1.0586	1.0551
11.2	1.1120	1.0833	1.0691	1.0597	1.0561
11.4	1.1140	1.0847	1.0703	1.0607	1.0571
11.6	1.1160	1.0862	1.0715	1.0618	1.0581
11.8	1.1180	1.0877	1.0727	1.0628	1.0590
12.0	1.1200	1.0892	1.0739	1.0639	1.0600
12.2	1.1220	1.0906	1.0752	1.0649	1.0610
12.4	1.1240	1.0921	1.0764	1.0660	1.0620
12.6	1.1260	1.0936	1.0776	1.0670	1.0630
12.8	1.1280	1.0950	1.0788	1.0681	1.0639
13.0	1.1300	1.0965	1.0800	1.0691	1.0649
13.2	1.1320	1.0980	1.0812	1.0701	1.0659
13.4	1.1340	1.0994	1.0824	1.0712	1.0669
13.6	1.1360	1.1009	1.0836	1.0722	1.0679

Table J.—Adjustment Factors for Term Certain Annuities Payable at the Beginning of Each Interval Applicable After April 30, 1989—Continued

Interest rate	Frequency of payments—				
	Annually	Semi-annually	Quarterly	Monthly	Weekly
13.8	1.1380	1.1024	1.0849	1.0733	1.0688
14.0	1.1400	1.1039	1.0861	1.0743	1.0698

TABLE K.—ADJUSTMENT FACTORS FOR ANNUITIES PAYABLE AT THE END OF EACH INTERVAL APPLICABLE AFTER APRIL 30, 1989

Interest rate	Frequency of payments				
	Annually	Semi-Annually	Quarterly	Monthly	Weekly
4.2	1.0000	1.0104	1.0156	1.0191	1.0205
4.4	1.0000	1.0109	1.0164	1.0200	1.0214
4.6	1.0000	1.0114	1.0171	1.0209	1.0224
4.8	1.0000	1.0119	1.0178	1.0218	1.0234
5.0	1.0000	1.0123	1.0186	1.0227	1.0243
5.2	1.0000	1.0128	1.0193	1.0236	1.0253
5.4	1.0000	1.0133	1.0200	1.0245	1.0262
5.6	1.0000	1.0138	1.0208	1.0254	1.0272
5.8	1.0000	1.0143	1.0215	1.0263	1.0282
6.0	1.0000	1.0148	1.0222	1.0272	1.0291
6.2	1.0000	1.0153	1.0230	1.0281	1.0301
6.4	1.0000	1.0158	1.0237	1.0290	1.0311
6.6	1.0000	1.0162	1.0244	1.0299	1.0320
6.8	1.0000	1.0167	1.0252	1.0308	1.0330
7.0	1.0000	1.0172	1.0259	1.0317	1.0339
7.2	1.0000	1.0177	1.0266	1.0326	1.0349
7.4	1.0000	1.0182	1.0273	1.0335	1.0358
7.6	1.0000	1.0187	1.0281	1.0344	1.0368
7.8	1.0000	1.0191	1.0288	1.0353	1.0378
8.0	1.0000	1.0196	1.0295	1.0362	1.0387
8.2	1.0000	1.0201	1.0302	1.0370	1.0397
8.4	1.0000	1.0206	1.0310	1.0379	1.0406
8.6	1.0000	1.0211	1.0317	1.0388	1.0416
8.8	1.0000	1.0215	1.0324	1.0397	1.0425
9.0	1.0000	1.0220	1.0331	1.0406	1.0435
9.2	1.0000	1.0225	1.0339	1.0415	1.0444
9.4	1.0000	1.0230	1.0346	1.0424	1.0454
9.6	1.0000	1.0235	1.0353	1.0433	1.0463
9.8	1.0000	1.0239	1.0360	1.0442	1.0473
10.0	1.0000	1.0244	1.0368	1.0450	1.0482
10.2	1.0000	1.0249	1.0375	1.0459	1.0492
10.4	1.0000	1.0254	1.0382	1.0468	1.0501
10.6	1.0000	1.0258	1.0389	1.0477	1.0511
10.8	1.0000	1.0263	1.0396	1.0486	1.0520
11.0	1.0000	1.0268	1.0404	1.0495	1.0530
11.2	1.0000	1.0273	1.0411	1.0503	1.0539
11.4	1.0000	1.0277	1.0418	1.0512	1.0549
11.6	1.0000	1.0282	1.0425	1.0521	1.0558
11.8	1.0000	1.0287	1.0432	1.0530	1.0568
12.0	1.0000	1.0292	1.0439	1.0539	1.0577
12.2	1.0000	1.0296	1.0447	1.0548	1.0587
12.4	1.0000	1.0301	1.0454	1.0556	1.0596
12.6	1.0000	1.0306	1.0461	1.0565	1.0605
12.8	1.0000	1.0310	1.0468	1.0574	1.0615
13.0	1.0000	1.0315	1.0475	1.0583	1.0624
13.2	1.0000	1.0320	1.0482	1.0591	1.0634
13.4	1.0000	1.0324	1.0489	1.0600	1.0643
13.6	1.0000	1.0329	1.0496	1.0609	1.0652
13.8	1.0000	1.0334	1.0504	1.0618	1.0662
14.0	1.0000	1.0339	1.0511	1.0626	1.0671

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
0	.07389	.06749	.06188	.05695	.05261	.04879	.04541	.04243	.03978	.03744
1	.06494	.05832	.05250	.04738	.04287	.03889	.03537	.03226	.02950	.02705
2	.06678	.05999	.05401	.04874	.04410	.03999	.03636	.03314	.03028	.02773
3	.06897	.06200	.05587	.05045	.04567	.04143	.03768	.03435	.03139	.02875
4	.07139	.06425	.05796	.05239	.04746	.04310	.03922	.03578	.03271	.02998

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
5	.07401	.06669	.06023	.05451	.04944	.04494	.04094	.03738	.03421	.03137
6	.07677	.06928	.06265	.05677	.05156	.04692	.04279	.03911	.03583	.03289
7	.07968	.07201	.06521	.05918	.05381	.04903	.04477	.04097	.03757	.03453
8	.08274	.07489	.06792	.06172	.05621	.05129	.04689	.04297	.03945	.03630
9	.08597	.07794	.07079	.06443	.05876	.05370	.04917	.04511	.04148	.03821
10	.08936	.08115	.07383	.06730	.06147	.05626	.05159	.04741	.04365	.04027
11	.09293	.08453	.07704	.07035	.06436	.05900	.05419	.04988	.04599	.04250
12	.09666	.08807	.08040	.07354	.06739	.06188	.05693	.05248	.04847	.04486
13	.10049	.09172	.08387	.07684	.07053	.06487	.05977	.05518	.05104	.04731
14	.10437	.09541	.08738	.08017	.07370	.06788	.06263	.05791	.05364	.04978
15	.10827	.09912	.09090	.08352	.07688	.07090	.06551	.06064	.05623	.05225
16	.11220	.10285	.09445	.08689	.08008	.07394	.06839	.06337	.05883	.05472
17	.11615	.10661	.09802	.09028	.08330	.07699	.07129	.06612	.06144	.05719
18	.12017	.11043	.10165	.09373	.08656	.08009	.07422	.06890	.06408	.05969
19	.12428	.11434	.10537	.09726	.08992	.08327	.07724	.07177	.06679	.06226
20	.12850	.11836	.10919	.10089	.09337	.08654	.08035	.07471	.06959	.06492
21	.13282	.12248	.11311	.10462	.09692	.08991	.08355	.07775	.07247	.06765
22	.13728	.12673	.11717	.10848	.10059	.09341	.08686	.08090	.07546	.07049
23	.14188	.13113	.12136	.11248	.10440	.09703	.09032	.08418	.07858	.07345
24	.14667	.13572	.12575	.11667	.10839	.10084	.09395	.08764	.08187	.07659
25	.15167	.14051	.13034	.12106	.11259	.10486	.09778	.09130	.08536	.07991
26	.15690	.14554	.13517	.12569	.11703	.10910	.10184	.09518	.08907	.08346
27	.16237	.15081	.14024	.13056	.12171	.11359	.10614	.09930	.09302	.08724
28	.16808	.15632	.14555	.13567	.12662	.11831	.11068	.10366	.09720	.09125
29	.17404	.16208	.15110	.14104	.13179	.12329	.11547	.10827	.10163	.09551
30	.18025	.16808	.15692	.14665	.13721	.12852	.12051	.11313	.10631	.10002
31	.18672	.17436	.16300	.15255	.14291	.13403	.12584	.11827	.11127	.10480
32	.19344	.18090	.16935	.15870	.14888	.13980	.13142	.12367	.11650	.10985
33	.20044	.18772	.17598	.16514	.15513	.14587	.13730	.12936	.12201	.11519
34	.20770	.19480	.18287	.17185	.16165	.15221	.14345	.13533	.12780	.12060
35	.21522	.20215	.19005	.17884	.16846	.15883	.14989	.14159	.13388	.12670
36	.22299	.20974	.19747	.18609	.17552	.16571	.15660	.14812	.14022	.13287
37	.23101	.21760	.20516	.19360	.18286	.17288	.16358	.15492	.14685	.13933
38	.23928	.22572	.21311	.20139	.19048	.18032	.17085	.16201	.15377	.14607
39	.24780	.23409	.22133	.20945	.19837	.18804	.17840	.16939	.16097	15310
40	.25658	.24273	.22982	.21778	.20654	.19605	.18624	.17706	.16847	.16043
41	.26560	.25163	.23858	.22639	.21499	.20434	.19436	.18502	.17627	.16806
42	.27486	.26076	.24758	.23525	.22370	.21289	.20276	.19326	.18434	.17597
43	.28435	.27013	.25683	.24436	.23268	.22172	.21143	.20177	.19270	.18416
44	.29407	.27975	.26633	.25373	.24191	.23081	.22038	.21057	.20134	.19265
45	.30402	.28961	.27608	.26337	.25142	.24019	.22962	.21966	.21028	.20144
46	.31420	.29970	.28608	.27326	.26120	.24983	.23913	.22904	.21951	.21053
47	.32460	.31004	.29632	.28341	.27123	.25975	.24892	.23870	.22904	.21991
48	.33521	.32058	.30679	.29379	.28151	.26992	.25897	.24862	.23883	.22957
49	.34599	.33132	.31746	.30438	.29201	.28032	.26926	.25879	.24888	.23949
50	.35695	.34224	.32833	.31518	.30273	.29094	.27978	.26921	.25918	.24966
51	.36809	.35335	.33940	.32619	.31367	.30180	.29055	.27987	.26973	.26010
52	.37944	.36468	.35070	.33744	.32486	.31292	.30158	.29081	.28057	.27083
53	.39098	.37622	.36222	.34892	.33629	.32429	.31288	.30203	.29170	.28186
54	.40269	.38794	.37393	.36062	.34795	.33590	.32442	.31349	.30308	.29316
55	.41457	.39985	.38585	.37252	.35983	.34774	.33621	.32522	.31474	.30473
56	.42662	.41194	.39796	.38464	.37193	.35981	.34824	.33720	.32666	.31658
57	.43884	.42422	.41028	.39697	.38426	.37213	.36053	.34945	.33885	.32872
58	.45123	.43668	.42279	.40951	.39682	.38468	.37307	.36196	.35132	.34114
59	.46377	.44931	.43547	.42224	.40958	.39745	.38584	.37471	.36405	.35383
60	.47643	.46206	.44830	.43513	.42250	.41040	.39880	.38767	.37699	.36674
61	.48916	.47491	.46124	.44814	.43556	.42350	.41192	.40080	.39012	.37985
62	.50196	.48783	.47427	.46124	.44874	.43672	.42518	.41408	.40340	.39314
63	.51480	.50081	.48736	.47444	.46201	.45006	.43856	.42749	.41684	.40658
64	.52770	.51386	.50054	.48773	.47540	.46352	.45208	.44105	.43043	.42019
65	.54069	.52701	.51384	.50115	.48892	.47713	.46577	.45480	.44422	.43401
66	.55378	.54029	.52727	.51472	.50262	.49093	.47965	.46876	.45824	.44808
67	.56697	.55368	.54084	.52845	.51648	.50491	.49373	.48293	.47248	.46238
68	.58026	.56717	.55453	.54231	.53049	.51905	.50800	.49729	.48694	.47691
69	.59358	.58072	.56828	.55624	.54459	.53330	.52238	.51179	.50154	.49160
70	.60689	.59427	.58205	.57021	.55874	.54762	.53683	.52638	.51624	.50641
71	.62014	.60778	.59578	.58415	.57287	.56193	.55131	.54100	.53099	.52126
72	.63334	.62123	.60948	.59808	.58700	.57624	.56579	.55563	.54577	.53617
73	.64648	.63465	.62315	.61198	.60112	.59056	.58029	.57030	.56059	.55113
74	.65961	.64806	.63682	.62590	.61527	.60492	.59485	.58504	.57550	.56620
75	.67274	.66149	.65054	.63987	.62948	.61936	.60950	.59990	.59053	.58140
76	.68589	.67495	.66429	.65390	.64377	.63390	.62427	.61487	.60570	.59676
77	.69903	.68841	.67806	.66796	.65811	.64849	.63910	.62993	.62097	.61223
78	.71209	.70182	.69179	.68199	.67242	.66307	.65393	.64501	.63628	.62775
79	.72500	.71507	.70537	.69588	.68660	.67754	.66867	.65999	.65151	.64321
80	.73768	.72809	.71872	.70955	.70058	.69180	.68320	.67479	.66655	.65849
81	.75001	.74077	.73173	.72288	.71422	.70573	.69741	.68926	.68128	.67345
82	.76195	.75306	.74435	.73582	.72746	.71926	.71123	.70335	.69562	.68804

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0
83	.77346	.76491	.75654	.74832	.74026	.73236	.72460	.71699	.70952	.70219
84	.78456	.77636	.76831	.76041	.75265	.74503	.73756	.73021	.72300	.71592
85	.79530	.78743	.77971	.77212	.76466	.75733	.75014	.74306	.73611	.72928
86	.80560	.79806	.79065	.78337	.77621	.76917	.76225	.75544	.74875	.74216
87	.81535	.80813	.80103	.79404	.78717	.78041	.77375	.76720	.76076	.75442
88	.82462	.81771	.81090	.80420	.79760	.79111	.78472	.77842	.77223	.76612
89	.83356	.82694	.82043	.81401	.80769	.80147	.79533	.78929	.78334	.77747
90	.84225	.83593	.82971	.82357	.81753	.81157	.80570	.79991	.79420	.78857
91	.85058	.84455	.83861	.83276	.82898	.82129	.81567	.81013	.80466	.79927
92	.85838	.85263	.84696	.84137	.83585	.83040	.82503	.81973	.81449	.60933
93	.86557	.86009	.85467	.84932	.84405	.83884	.83370	.82862	.82360	.81865
94	.87212	.86687	.86169	.85857	.85152	.84653	.84160	.83673	.83192	.82717
95	.87801	.87298	.86801	.86310	.85825	.85345	.84872	.84404	.83941	.83484
96	.88322	.87838	.87360	.86888	.86420	.85959	.85502	.85051	.84605	.84165
97	.88795	.88328	.87867	.87411	.86961	.86515	.86074	.85639	.85208	.84782
98	.89220	.88769	.88323	.87883	.87447	.87016	.86589	.86167	.85750	.85337
99	.89612	.89176	.88745	.88318	.87895	.87478	.87064	.86656	.86251	.85850
100	.89977	.89555	.89136	.88722	.88313	.87908	.87506	.87109	.86716	.86327
101	.90326	.89917	.89511	.89110	.88712	.88318	.87929	.87543	.87161	.86783
102	.90690	.90294	.89901	.89513	.89128	.88746	.88369	.87995	.87624	.87257
103	.91076	.90694	.90315	.89940	.89569	.89200	.88835	.88474	.88116	.87760
104	.91504	.91138	.90775	.90415	.90058	.89704	.89354	.69006	.88661	.88319
105	.92027	.91681	.91337	.90996	.90658	.90322	.89989	.89659	.89331	.89006
106	.92763	.92445	.92130	.91816	.91506	.91197	.90890	.90586	.90284	.89983
107	.93799	.93523	.93249	.92977	.92707	.92438	.92170	.91905	.91641	.91378
108	.95429	.95223	.95018	.94814	.94611	.94409	.94208	.94008	.93809	.93611
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
0	.03535	.03349	.03183	.03035	.02902	.02783	.02676	.02579	.02492	.02413
1	.02486	.02292	.02119	.01963	.01824	.01699	.01587	.01486	.01395	.01312
2	.02547	.02345	.02164	.02002	.01857	.01727	.01609	.01504	.01408	.01321
3	.02640	.02429	.02241	.02073	.01921	.01785	.01662	.01552	.01451	.01361
4	.02753	.02535	.02339	.02163	.02005	.01863	.01735	.01619	.01514	.01418
5	.02883	.02656	.02453	.02269	.02105	.01956	.01822	.01700	.01590	.01490
6	.03026	.02790	.02578	.02387	.02215	.02060	.01919	.01792	.01677	.01572
7	.03180	.02935	.02714	.02515	.02336	.02174	.02027	.01894	.01773	.01664
8	.03347	.03092	.02863	.02656	.02469	.02300	.02146	.02007	.01881	.01766
9	.03528	.03263	.03025	.02810	.02615	.02438	.02278	.02133	.02000	.01880
10	.03723	.03449	.03201	.02977	.02774	.02590	.02423	.02271	.02133	.02006
11	.03935	.03650	.03393	.03160	.02949	.02757	.02583	.02424	.02279	.02147
12	.04160	.03865	.03598	.03356	.03136	.02936	.02755	.02589	.02438	.02299
13	.04394	.04088	.03811	.03560	.03331	.03123	.02934	.02761	.02603	.02458
14	.04629	.04312	.04025	.03764	.03527	.03311	.03113	.02933	.02768	.02617
15	.04864	.04536	.04238	.03968	.03721	.03496	.03290	.03103	.02930	.02773
16	.05099	.04759	.04451	.04170	.03913	.03679	.03466	.03270	.03090	.02926
17	.05333	.04982	.04662	.04370	.04104	.03861	.03638	.03434	.03247	.03075
18	.05570	.05207	.04875	.04573	.04296	.04044	.03812	.03599	.03404	.03225
19	.05814	.05438	.05095	.04781	.04494	.04231	.03990	.03769	.03565	.03378
20	.06065	.05677	.05321	.04996	.04698	.04424	.04173	.03943	.03731	.03535
21	.06325	.05922	.05554	.05217	.04907	.04623	.04362	.04122	.03901	.03697
22	.06594	.06178	.05797	.05447	.05126	.04831	.04559	.04309	.04078	.03865
23	.06876	.06448	.06051	.05688	.05355	.05048	.04766	.04505	.04265	.04042
24	.07174	.06729	.06321	.05945	.05599	.05281	.04987	.04715	.04465	.04233
25	.07491	.07031	.06609	.06219	.05861	.05530	.05224	.04941	.04680	.04438
26	.07830	.07355	.06918	.06515	.06142	.05799	.05481	.05187	.04915	.04662
27	.08192	.07702	.07250	.06832	.06446	.06090	.05759	.05454	.05170	.04906
28	.08577	.08071	.07603	.07171	.06772	.06402	.06059	.05740	.05445	.05170
29	.08986	.08464	.07981	.07534	.07120	.06736	.06380	.06049	.05742	.05456
30	.09420	.08882	.08383	.07921	.07492	.07095	.06725	.06381	.06061	.05763
31	.09881	.09327	.08812	.08335	.07891	.07479	.07095	.06738	.06405	.06095
32	.10369	.09797	.09267	.08774	.08315	.07888	.07491	.07120	.06774	.06451
33	.10885	.10297	.09750	.09241	.08767	.08325	.07913	.07529	.07170	.06834
34	.11430	.10824	.10261	.09736	.09246	.08790	.08363	.07964	.07592	.07243
35	.12002	.11380	.10800	.10259	.09754	.09282	.08841	.08428	.08041	.07679
36	.12602	.11963	.11366	.10809	.10288	.09800	.09344	.08917	.08516	.08140
37	.13230	.12574	.11961	.11387	.10850	.10347	.09876	.09433	.09018	.08628
38	.13887	.13214	.12584	.11994	.11441	.10922	.10436	.09978	.09549	.09145
39	.14573	.13883	.13237	.12630	.12081	.11527	.11025	.10553	.10109	.09690
40	.15290	.14583	.13920	.13297	.12712	.12162	.11644	.11157	.10698	.10266
41	.16036	.15312	.14633	.13994	.13393	.12827	.12294	.11792	.11318	.10871

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	6.2	6.4	6.6	6.8	7.0	7.2	7.4	7.6	7.8	8.0
42	.16810	.16071	.15375	.14720	.14103	.13522	.12973	.12456	.11967	.11505
43	.17614	.16858	.16146	.15475	.14842	.14245	.13682	.13149	.12645	.12169
44	.18447	.17675	.16948	.16261	.15613	.15000	.14421	.13873	.13355	.12864
45	.19310	.18524	.17780	.17078	.16414	.15787	.15192	.14630	.14096	.13591
46	.20204	.19402	.18644	.17926	.17247	.16604	.15995	.15418	.14870	.14350
47	.21128	.20311	.19538	.18806	.18112	.17454	.16830	.16238	.15676	.15141
48	.22080	.21249	.20462	.19716	.19007	.18335	.17696	.17090	.16513	.15964
49	.23059	.22214	.21413	.20653	.19930	.19244	.18591	.17970	.17379	.16816
50	.24063	.23206	.22391	.21617	.20881	.20180	.19514	.18879	.18274	.17697
51	.25095	.24225	.23398	.22610	.21861	.21147	.20466	.19818	.19199	.18609
52	.26157	.25275	.24436	.23636	.22874	.22147	.21453	.20791	.20159	.19556
53	.27249	.26357	.25505	.24694	.23919	.23180	.22474	.21799	.21154	.20537
54	.28369	.27466	.26604	.25782	.24995	.24244	.23526	.22839	.22181	.21552
55	.29518	.28605	.27734	.26900	.26103	.25341	.24611	.23912	.23243	.22601
56	.30695	.29774	.28893	.28050	.27242	.26469	.25728	.25019	.24338	.23685
57	.31902	.30973	.30084	.29232	.28415	.27632	.26881	.26161	.25469	.24805
58	.33138	.32203	.31306	.30446	.29621	.28829	.28069	.27339	.26637	.25962
59	.34402	.33461	.32558	.31691	.30859	.30059	.29290	.28550	.27839	.27155
60	.35690	.34745	.33836	.32963	.32124	.31317	.30540	.29792	.29073	.28379
61	.36999	.36050	.35137	.34259	.33414	.32601	.31817	.31062	.30334	.29633
62	.38325	.37374	.36458	.35576	.34726	.33907	.33117	.32356	.31621	.30912
63	.39669	.38717	.37799	.36913	.36060	.35236	.34441	.33674	.32933	.32217
64	.41031	.40078	.39159	.38272	.37415	.36588	.35789	.35016	.34270	.33548
65	.42416	.41464	.40545	.39656	.38798	.37968	.37166	.36390	.35639	.34912
66	.43825	.42876	.41958	.41070	.40211	.39380	.38576	.37797	.37043	.36312
67	.45260	.44315	.43399	.42513	.41655	.40824	.40019	.39238	.38482	.37749
68	.46720	.45779	.44868	.43985	.43129	.42299	.41494	.40713	.39956	.39221
69	.48197	.47263	.46357	.45478	.44625	.43798	.42995	.42215	.41458	.40722
70	.49686	.48760	.47861	.46988	.46140	.45316	.44516	.43738	.42983	.42248
71	.51182	.50265	.49374	.48508	.47666	.46847	.46051	.45276	.44523	.43790
72	.52685	.51778	.50896	.50038	.49203	.48390	.47599	.46829	.46079	.45349
73	.54194	.53298	.52426	.51578	.50751	.49946	.49161	.48397	.47652	.46926
74	.55714	.54832	.53972	.53134	.52317	.51520	.50744	.49986	.49247	.48527
75	.57250	.56382	.55536	.54710	.53904	.53118	.52351	.51601	.50870	.50156
76	.58803	.57951	.57120	.56308	.55515	.54740	.53984	.53245	.52522	.51817
77	.60369	.59535	.58720	.57923	.57144	.56383	.55639	.54912	.54200	.53504
78	.61942	.61126	.60329	.59549	.58787	.58040	.57310	.56596	.55896	.55212
79	.63508	.62713	.61935	.61174	.60428	.59698	.58983	.58283	.57597	.56925
80	.65059	.64285	.63527	.62785	.62058	.61345	.60646	.59961	.59290	.58632
81	.66579	.65827	.65090	.64368	.63659	.62965	.62283	.61615	.60959	.60316
82	.68061	.67332	.66616	.65914	.65226	.64550	.63886	.63235	.62595	.61968
83	.69499	.68793	.68099	.67418	.66749	.66092	.65447	.64813	.64191	.63579
84	.70896	.70213	.69541	.68881	.68233	.67595	.66969	.66353	.65748	.65153
85	.72256	.71596	.70947	.70308	.69681	.69063	.68456	.67859	.67271	.66693
86	.73569	.72931	.72305	.71688	.71081	.70484	.69896	.69318	.68748	.68188
87	.74818	.74204	.73599	.73003	.72417	.71839	.71271	.70711	.70159	.69616
88	.76011	.75419	.74836	.74261	.73695	.73137	.72588	.72046	.71512	.70986
89	.77169	.76599	.76037	.75484	.74938	.74400	.73870	.73347	.72831	.72323
90	.78302	.77755	.77215	.76683	.76158	.75640	.75129	.74625	.74128	.73638
91	.79395	.78870	.78352	.77842	.77337	.76840	.76349	.75864	.75385	.74913
92	.80423	.79920	.79423	.78933	.78449	.77971	.77499	.77033	.76572	.76118
93	.81377	.80894	.80417	.79946	.79481	.79022	.78568	.78120	.77677	.77239
94	.82247	.81784	.81325	.80873	.80425	.79983	.79547	.79115	.78688	.78266
95	.83033	.82586	.82145	.81709	.81278	.80852	.80431	.80014	.79602	.79195
96	.83729	.83298	.82872	.82451	.82034	.81622	.81215	.80812	.80414	.80019
97	.84361	.83944	.83532	.83124	.82721	.82322	.81927	.81537	.81151	.80769
98	.84929	.84525	.84126	.83730	.83339	.82952	.82569	.82190	.81815	.81443
99	.85454	.85062	.84674	.84290	.83910	.83534	.83161	.82792	.82427	.82066
100	.85942	.85561	.85184	.84810	.84440	.84074	.83711	.83352	.82997	.82644
101	.86408	.86037	.85670	.85306	.84946	.84589	.84236	.83886	.83539	.83196
102	.86894	.86534	.86177	.85823	.85473	.85126	.84782	.84442	.84104	.83770
103	.87408	.87060	.86714	.86371	.86032	.85695	.85362	.85031	.84703	.84378
104	.87980	.87644	.87311	.86980	.86653	.86328	.86005	.85686	.85369	.85054
105	.88684	.88363	.88046	.87731	.87418	.87108	.86800	.86494	.86191	.85890
106	.89685	.89389	.89095	.88804	.88514	.88226	.87940	.87656	.87374	.87094
107	.91117	.90858	.90600	.90344	.90089	.89836	.89584	.89334	.89085	.88838
108	.93414	.93217	.93022	.92828	.92634	.92442	.92250	.92060	.91870	.91681
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.8	9.8	10.0
0	.02341	.02276	.02217	.02163	.02114	.02069	.02027	.01989	.01954	.01922
1	.01237	.01170	.01108	.01052	.01000	.00953	.00910	.00871	.00834	.00801
2	.01243	.01172	.01107	.01048	.00994	.00944	.00899	.00857	.00819	.00784
3	.01278	.01203	.01135	.01073	.01016	.00964	.00916	.00872	.00832	.00795
4	.01332	.01253	.01182	.01116	.01056	.01001	.00951	.00904	.00862	.00822
5	.01400	.01317	.01241	.01172	.01109	.01051	.00998	.00949	.00904	.00862
6	.01477	.01390	.01310	.01238	.01171	.01110	.01054	.01002	.00954	.00910
7	.01563	.01472	.01389	.01312	.01242	.01178	.01118	.01064	.01013	.00968
8	.01660	.01564	.01477	.01396	.01322	.01254	.01192	.01134	.01081	.01031
9	.01770	.01669	.01577	.01492	.01414	.01342	.01276	.01216	.01159	.01107
10	.01891	.01785	.01688	.01599	.01517	.01442	.01372	.01308	.01249	.01194
11	.02026	.01915	.01814	.01720	.01634	.01555	.01481	.01414	.01351	.01293
12	.02173	.02056	.01950	.01852	.01761	.01678	.01601	.01529	.01463	.01402
13	.02326	.02204	.02092	.01989	.01895	.01807	.01726	.01651	.01582	.01517
14	.02478	.02351	.02234	.02126	.02027	.01935	.01850	.01771	.01698	.01630
15	.02628	.02495	.02372	.02259	.02155	.02058	.01969	.01886	.01810	.01738
16	.02774	.02635	.02507	.02388	.02279	.02178	.02084	.01997	.01917	.01842
17	.02917	.02772	.02637	.02513	.02399	.02293	.02194	.02103	.02018	.01940
18	.03059	.02907	.02767	.02637	.02517	.02406	.02302	.02207	.02118	.02035
19	.03205	.03046	.02899	.02763	.02637	.02521	.02412	.02312	.02218	.02131
20	.03355	.03188	.03035	.02892	.02760	.02638	.02524	.02419	.02320	.02229
21	.03509	.03334	.03173	.03024	.02886	.02758	.02638	.02527	.02424	.02328
22	.03669	.03487	.03318	.03162	.03017	.02882	.02757	.02640	.02532	.02430
23	.03837	.03646	.03470	.03306	.03154	.03013	.02881	.02759	.02644	.02538
24	.04018	.03819	.03634	.03463	.03303	.03155	.03016	.02888	.02767	.02655
25	.04214	.04006	.03812	.03633	.03465	.03309	.03164	.03029	.02902	.02784
26	.04428	.04210	.04008	.03820	.03644	.03481	.03328	.03186	.03052	.02928
27	.04662	.04434	.04223	.04025	.03841	.03670	.03509	.03360	.03219	.03088
28	.04915	.04677	.04456	.04249	.04056	.03876	.03708	.03550	.03403	.03264
29	.05189	.04941	.04709	.04493	.04291	.04102	.03925	.03760	.03604	.03458
30	.05485	.05226	.04984	.04757	.04546	.04348	.04162	.03988	.03825	.03671
31	.05805	.05535	.05282	.05045	.04824	.04616	.04421	.04238	.04067	.03905
32	.06149	.05867	.05603	.05356	.05124	.04906	.04702	.04510	.04329	.04160
33	.06520	.06226	.05950	.05692	.05449	.05221	.05007	.04806	.04616	.04438
34	.06916	.06609	.06322	.06052	.05799	.05560	.05336	.05125	.04926	.04738
35	.07339	.07020	.06720	.06439	.06174	.05925	.05690	.05469	.05260	.05063
36	.07787	.07455	.07143	.06850	.06573	.06313	.06068	.05836	.05617	.05411
37	.08262	.07917	.07593	.07287	.06999	.06727	.06470	.06228	.05999	.05783
38	.08765	.08407	.08069	.07751	.07451	.07167	.06899	.06646	.06407	.06180
39	.09296	.08925	.08574	.08243	.07931	.07635	.07356	.07092	.06841	.06604
40	.09858	.09472	.09109	.08765	.08440	.08132	.07841	.07565	.07303	.07055
41	.10449	.10050	.09673	.09316	.08978	.08658	.08355	.08067	.07794	.07535
42	.11069	.10658	.10265	.09895	.09544	.09212	.08896	.08596	.08312	.08041
43	.11718	.11291	.10887	.10503	.10140	.09794	.09466	.09154	.08858	.08576
44	.12399	.11958	.11540	.11143	.10766	.10407	.10067	.09743	.09434	.09141
45	.13111	.12656	.12224	.11814	.11423	.11052	.10699	.10362	.10042	.09736
46	.13856	.13387	.12941	.12516	.12113	.11728	.11362	.11013	.10680	.10363
47	.14633	.14150	.13690	.13252	.12835	.12438	.12059	.11697	.11352	.11022
48	.15442	.14945	.14471	.14020	.13589	.13179	.12787	.12412	.12055	.11713
49	.16280	.15769	.15281	.14816	.14373	.13949	.13544	.13157	.12787	.12433
50	.17147	.16622	.16121	.15643	.15186	.14749	.14331	.13931	.13548	.13182
51	.18045	.17507	.16993	.16501	.16030	.15580	.15150	.14737	.14342	.13963
52	.18979	.18427	.17899	.17394	.16911	.16448	.16004	.15579	.15172	.14780
53	.19947	.19383	.18842	.18324	.17828	.17352	.16896	.16458	.16038	.15635
54	.20950	.20372	.19819	.19288	.18779	.18291	.17822	.17372	.16940	.16524
55	.21986	.21397	.20831	.20288	.19767	.19268	.18785	.18322	.17878	.17450
56	.23058	.22457	.21879	.21324	.20791	.20278	.19785	.19310	.18854	.18414
57	.24167	.23554	.22965	.22399	.21654	.21329	.20824	.20338	.19870	.19419
58	.25314	.24690	.24090	.23512	.22956	.22420	.21904	.21407	.20927	.20464
59	.26497	.25863	.25252	.24664	.24097	.23550	.23023	.22515	.22024	.21551
60	.27712	.27068	.26448	.25849	.25272	.24716	.24178	.23659	.23158	.22674
61	.28956	.28304	.27674	.27067	.26480	.25913	.25366	.24837	.24325	.23831
62	.30228	.29567	.28929	.28312	.27717	.27141	.26584	.26045	.25524	.25020
63	.31525	.30857	.30211	.29586	.28982	.28397	.27832	.27284	.26754	.26240
64	.32851	.32176	.31522	.30890	.30278	.29685	.29111	.28555	.28016	.27493
65	.34209	.33528	.32868	.32229	.31610	.31010	.30429	.29865	.29317	.28787
66	.35604	.34918	.34253	.33609	.32983	.32377	.31788	.31217	.30663	.30124
67	.37037	.36347	.35678	.35028	.34398	.33786	.33191	.32614	.32053	.31508
68	.38508	.37815	.37142	.36489	.35854	.35237	.34638	.34055	.33488	.32937
69	.40008	.39313	.38638	.37982	.37344	.36724	.36120	.35533	.34961	.34405
70	.41533	.40838	.40162	.39504	.38864	.38241	.37634	.37043	.36468	.35907
71	.43076	.42382	.41705	.41047	.40405	.39780	.39171	.38578	.38000	.37436
72	.44638	.43945	.43269	.42611	.41969	.41344	.40733	.40138	.39558	.38991
73	.46218	.45527	.44854	.44197	.43556	.42931	.42321	.41725	.41143	.40575
74	.47823	.47137	.46466	.45812	.45173	.44549	.43940	.43345	.42763	.42195
75	.49459	.48777	.48112	.47462	.46826	.46205	.45598	.45004	.44424	.43856
76	.51127	.50452	.49793	.49148	.48517	.47900	.47297	.46706	.46129	.45563
77	.52823	.52157	.51505	.50867	.50243	.49632	.49033	.48447	.47673	.47311

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	8.2	8.4	8.6	8.8	9.0	9.2	9.4	9.6	9.8	10.0
78	.54541	.53885	.53242	.52613	.51996	.51392	.50800	.50220	.49652	.49094
79	.56267	.55621	.54989	.54369	.53762	.53166	.52582	.52009	.51448	.50897
80	.57987	.57354	.56733	.56125	.55527	.54941	.54366	.53802	.53248	.52705
81	.59685	.59065	.58457	.57860	.57274	.56699	.56134	.55579	.55035	.54499
82	.61351	.60746	.60151	.59567	.58993	.58429	.57875	.57331	.56796	.56270
83	.62978	.62387	.61806	.61236	.60675	.60123	.59581	.59047	.58523	.58007
84	.64567	.63992	.63426	.62869	.62321	.61783	.61253	.60731	.60218	.59713
85	.66125	.65565	.65014	.64472	.63938	.63413	.62896	.62387	.61886	.61392
86	.67636	.67092	.66557	.66030	.65511	.65000	.64496	.64000	.63511	.63030
87	.69081	.68554	.68034	.67522	.67018	.66520	.66031	.65548	.65071	.64602
88	.70468	.69957	.69453	.68956	.68466	.67983	.67507	.67037	.66574	.66117
89	.71821	.71326	.70838	.70357	.69882	.69414	.68952	.68495	.68045	.67601
90	.73153	.72676	.72204	.71739	.71280	.70827	.70379	.69938	.69502	.69071
91	.74447	.73986	.73532	.73083	.72640	.72202	.71770	.71343	.70921	.70504
92	.75669	.75225	.74787	.74354	.73927	.73504	.73087	.72674	.72267	.71864
93	.76807	.76379	.75957	.75540	.75127	.74719	.74317	.73918	.73524	.73135
94	.77849	.77437	.77030	.76627	.76229	.75835	.75446	.75061	.74680	.74303
95	.78792	.78394	.78001	.77611	.77226	.76845	.76468	.76096	.75727	.75362
96	.79630	.79244	.78863	.78485	.78112	.77742	.77377	.77015	.76657	.76303
97	.80391	.80016	.79646	.79280	.78917	.78559	.78203	.77852	.77504	.77160
98	.81076	.80712	.80352	.79996	.79643	.79294	.78948	.78606	.78267	.77931
99	.81709	.81354	.81004	.80657	.80313	.79972	.79635	.79302	.78971	.78644
100	.82296	.81950	.81609	.81270	.80934	.80602	.80273	.79947	.79624	.79304
101	.82855	.82518	.82185	.81854	.81526	.81201	.80880	.80561	.80245	.79932
102	.83438	.83110	.82785	.82462	.82142	.81826	.81512	.81200	.80892	.80586
103	.84056	.83737	.83420	.83106	.82795	.82487	.82181	.81878	.81577	.81279
104	.84743	.84433	.84127	.83822	.83521	.83221	.82924	.82630	.82338	.82048
105	.85591	.85295	.85001	.84709	.84419	.84132	.83846	.83563	.83282	.83003
106	.86816	.86540	.86266	.85993	.85723	.85454	.85187	.84922	.84659	.84397
107	.88592	.88348	.88105	.87863	.87623	.87384	.87147	.86911	.86676	.86443
108	.91493	.91306	.91119	.90934	.90749	.90566	.90383	.90201	.90020	.89840
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
0	.01891	.01864	.01838	.01814	.01791	.01770	.01750	.01732	.01715	.01698
1	.00770	.00741	.00715	.00690	.00667	.00646	.00626	.00608	.00590	.00574
2	.00751	.00721	.00693	.00667	.00643	.00620	.00600	.00580	.00562	.00544
3	.00760	.00728	.00699	.00671	.00646	.00622	.00600	.00579	.00560	.00541
4	.00786	.00752	.00721	.00692	.00665	.00639	.00616	.00594	.00573	.00554
5	.00824	.00788	.00755	.00724	.00695	.00668	.00643	.00620	.00598	.00578
6	.00869	.00832	.00796	.00764	.00733	.00705	.00678	.00654	.00630	.00608
7	.00923	.00883	.00846	.00811	.00779	.00749	.00720	.00694	.00669	.00646
8	.00986	.00943	.00904	.00867	.00833	.00801	.00771	.00743	.00716	.00692
9	.01059	.01014	.00972	.00933	.00897	.00863	.00831	.00801	.00773	.00747
10	.01142	.01095	.01051	.01009	.00971	.00935	.00901	.00869	.00840	.00812
11	.01239	.01189	.01142	.01098	.01057	.01019	.00983	.00950	.00918	.00889
12	.01345	.01292	.01243	.01197	.01154	.01113	.01075	.01040	.01007	.00975
13	.01457	.01401	.01349	.01300	.01255	.01212	.01172	.01135	.01100	.01067
14	.01567	.01508	.01453	.01402	.01354	.01309	.01267	.01227	.01190	.01155
15	.01672	.01610	.01552	.01498	.01448	.01400	.01356	.01314	.01275	.01238
16	.01772	.01707	.01646	.01589	.01536	.01486	.01439	.01396	.01354	.01315
17	.01866	.01798	.01734	.01674	.01618	.01566	.01516	.01470	.01427	.01386
18	.01958	.01886	.01818	.01755	.01697	.01641	.01590	.01541	.01495	.01452
19	.02050	.01974	.01903	.01837	.01775	.01717	.01662	.01611	.01563	.01517
20	.02143	.02064	.01989	.01919	.01854	.01793	.01735	.01681	.01630	.01582
21	.02238	.02154	.02075	.02002	.01933	.01868	.01807	.01750	.01696	.01646
22	.02336	.02247	.02164	.02087	.02014	.01946	.01882	.01821	.01764	.01711
23	.02438	.02345	.02257	.02176	.02099	.02027	.01959	.01895	.01835	.01778
24	.02550	.02451	.02359	.02273	.02192	.02115	.02044	.01976	.01913	.01853
25	.02673	.02569	.02472	.02381	.02295	.02214	.02138	.02067	.01999	.01936
26	.02811	.02701	.02598	.02502	.02411	.02326	.02246	.02170	.02098	.02031
27	.02965	.02849	.02741	.02639	.02543	.02452	.02367	.02287	.02211	.02140
28	.03134	.03013	.02898	.02790	.02689	.02593	.02503	.02418	.02338	.02262
29	.03322	.03193	.03072	.02958	.02851	.02750	.02654	.02564	.02479	.02398
30	.03527	.03391	.03264	.03143	.03030	.02923	.02821	.02726	.02635	.02550
31	.03753	.03610	.03475	.03348	.03228	.03115	.03008	.02907	.02811	.02720
32	.04000	.03849	.03707	.03573	.03446	.03326	.03213	.03105	.03004	.02907
33	.04269	.04111	.03961	.03819	.03685	.03558	.03438	.03325	.03217	.03115
34	.04561	.04394	.04236	.04087	.03945	.03812	.03685	.03565	.03451	.03342
35	.04877	.04702	.04535	.04378	.04229	.04087	.03953	.03826	.03706	.03591
36	.05215	.05031	.04856	.04690	.04533	.04384	.04242	.04108	.03980	.03859

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	10.2	10.4	10.6	10.8	11.0	11.2	11.4	11.6	11.8	12.0
37	.05578	.05384	.05200	.05025	.04860	.04703	.04553	.04411	.04276	.04148
38	.05965	.05761	.05568	.05385	.05211	.05045	.04888	.04738	.04595	.04460
39	.06379	.06165	.05962	.05770	.05587	.05412	.05247	.05089	.04939	.04795
40	.06820	.06596	.06383	.06181	.05989	.05806	.05631	.05465	.05307	.05155
41	.07288	.07054	.06832	.06620	.06418	.06226	.06042	.05868	.05701	.05541
42	.07784	.07539	.07306	.07085	.06873	.06671	.06479	.06295	.06119	.05952
43	.08308	.08052	.07808	.07576	.07355	.07143	.06941	.06748	.06564	.06387
44	.08861	.08594	.08340	.08097	.07865	.07644	.07432	.07230	.07036	.06851
45	.09445	.09167	.08901	.08648	.08406	.08174	.07953	.07741	.07538	.07343
46	.10060	.09770	.09494	.09230	.08977	.08735	.08503	.08281	.08068	.07865
47	.10707	.10406	.10119	.09843	.09579	.09327	.09085	.08853	.08630	.08417
48	.11386	.11073	.10774	.10487	.10213	.09949	.09697	.09455	.09222	.08999
49	.12094	.11769	.11458	.11160	.10874	.10600	.10337	.10084	.09842	.09609
50	.12831	.12494	.12172	.11862	.11565	.11280	.11006	.10743	.10490	.10247
51	.13600	.13251	.12917	.12596	.12288	.11991	.11706	.11432	.11169	.10915
52	.14405	.14044	.13698	.13366	.13046	.12738	.12442	.12157	.11883	.11619
53	.15247	.14875	.14517	.14172	.13841	.13522	.13215	.12919	.12635	.12360
54	.16124	.15740	.15370	.15014	.14671	.14341	.14023	.13717	.13421	.13136
55	.17039	.16642	.16261	.15893	.15539	.15198	.14868	.14551	.14244	.13948
56	.17991	.17583	.17190	.16811	.16445	.16092	.15752	.15423	.15106	.14799
57	.18984	.18564	.18160	.17769	.17392	.17029	.16677	.16338	.16010	.15692
58	.20018	.19587	.19172	.18770	.18382	.18007	.17645	.17295	.16956	.16628
59	.21093	.20652	.20225	.19812	.19414	.19028	.18655	.18294	.17945	.17606
60	.22206	.21753	.21316	.20893	.20483	.20087	.19703	.19332	.18972	.18624
61	.23353	.22890	.22442	.22009	.21589	.21182	.20788	.20407	.20037	.19678
62	.24532	.24059	.23601	.23158	.22728	.22311	.21907	.21515	.21135	.20767
63	.25742	.25260	.24793	.24339	.23900	.23473	.23060	.22658	.22268	.21890
64	.26987	.26495	.26019	.25556	.25107	.24671	.24248	.23837	.23438	.23050
65	.28271	.27771	.27286	.26815	.26357	.25912	.25480	.25059	.24651	.24254
66	.29601	.29093	.28600	.28120	.27654	.27200	.26760	.26331	.25913	.25507
67	.30978	.30462	.29961	.29474	.29000	.28539	.28090	.27653	.27227	.26813
68	.32401	.31879	.31371	.30877	.30396	.29927	.29471	.29027	.28593	.28171
69	.33863	.33336	.32822	.32322	.31835	.31359	.30896	.30445	.30005	.29576
70	.35361	.34829	.34310	.33804	.33311	.32830	.32361	.31903	.31457	.31021
71	.36886	.36349	.35826	.35316	.34818	.34332	.33858	.33394	.32942	.32500
72	.38439	.37899	.37373	.36858	.36356	.35866	.35387	.34919	.34461	.34015
73	.40021	.39479	.38950	.38432	.37927	.37433	.36950	.36478	.36016	.35565
74	.41639	.41096	.40565	.40046	.39538	.39042	.38556	.38081	.37616	.37161
75	.43301	.42758	.42226	.41706	.41198	.40699	.40212	.39734	.39267	.38809
76	.45009	.44467	.43937	.43417	.42908	.42410	.41921	.41443	.40974	.40514
77	.46761	.46221	.45693	.45175	.44667	.44170	.43682	.43203	.42734	.42274
78	.48548	.48013	.47488	.46973	.46468	.45972	.45486	.45009	.44541	.44082
79	.50356	.49826	.49306	.48795	.48294	.47802	.47319	.46845	.46379	.45922
80	.52171	.51647	.51133	.50628	.50132	.49644	.49166	.48695	.48233	.47779
81	.53974	.53457	.52950	.52451	.51961	.51479	.51006	.50541	.50083	.49633
82	.55753	.55245	.54745	.54254	.53771	.53296	.52828	.52369	.51917	.51472
83	.57500	.57001	.56510	.56026	.55551	.55083	.54623	.54170	.53724	.53285
84	.59216	.58726	.58245	.57770	.57304	.56844	.56391	.55945	.55506	.55074
85	.60906	.60428	.59956	.59492	.59034	.58583	.58139	.57702	.57270	.56845
86	.62555	.62088	.61627	.61173	.60725	.60284	.59849	.59420	.58997	.58580
87	.64139	.63683	.63233	.62790	.62352	.61921	.61495	.61076	.60661	.60253
88	.65666	.65221	.64783	.64350	.63923	.63502	.63086	.62675	.62270	.61871
89	.67163	.66730	.66304	.65882	.65466	.65055	.64650	.64249	.63854	.63463
90	.68646	.68226	.67812	.67402	.66998	.66599	.66204	.65814	.65430	.65049
91	.70093	.69686	.69285	.68888	.68496	.68108	.67725	.67347	.66973	.66604
92	.71466	.71073	.70684	.70300	.69920	.69545	.69173	.68806	.68444	.68085
93	.72750	.72370	.71994	.71622	.71254	.70890	.70530	.70174	.69822	.69474
94	.73931	.73562	.73198	.72838	.72481	.72129	.71780	.71434	.71093	.70755
95	.75001	.74644	.74291	.73941	.73595	.73253	.72914	.72579	.72247	.71919
96	.75953	.75606	.75262	.74923	.74586	.74253	.73924	.73598	.73275	.72955
97	.76819	.76481	.76147	.75816	.75489	.75165	.74844	.74526	.74211	.73899
98	.77599	.77270	.76944	.76621	.76302	.75986	.75672	.75362	.75054	.74750
99	.78319	.77998	.77680	.77365	.77053	.76744	.76437	.76134	.75833	.75535
100	.78987	.78673	.78362	.78054	.77748	.77446	.77146	.76849	.76555	.76263
101	.79622	.79315	.79010	.78708	.78409	.78113	.77819	.77528	.77239	.76953
102	.80283	.79983	.79685	.79390	.79097	.78807	.78519	.78234	.77951	.77671
103	.80983	.80690	.80399	.80111	.79825	.79541	.79260	.78981	.78705	.78430
104	.81760	.81475	.81192	.80912	.80633	.80357	.80083	.79810	.79541	.79273
105	.82726	.82451	.82178	.81907	.81638	.81371	.81106	.80843	.80582	.80322
106	.84137	.83879	.83623	.83368	.83115	.82863	.82614	.82366	.82119	.81874
107	.86211	.85981	.85751	.85523	.85297	.85071	.84847	.84624	.84403	.84182
108	.89660	.89481	.89304	.89127	.88950	.88775	.88601	.88427	.88254	.88081
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989

Age	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
0	.01683	.01669	.01655	.01642	.01630	.01618	.01607	.01596	.01586	.01576
1	.00559	.00544	.00531	.00518	.00506	.00494	.00484	.00473	.00464	.00454
2	.00528	.00513	.00499	.00485	.00473	.00461	.00449	.00439	.00428	.00419
3	.00524	.00508	.00493	.00479	.00465	.00453	.00441	.00429	.00419	.00408
4	.00536	.00519	.00503	.00488	.00473	.00460	.00447	.00435	.00423	.00412
5	.00558	.00540	.00523	.00507	.00492	.00477	.00464	.00451	.00439	.00427
6	.00588	.00569	.00550	.00533	.00517	.00502	.00487	.00473	.00460	.00448
7	.00624	.00604	.00584	.00566	.00549	.00532	.00517	.00502	.00488	.00475
8	.00668	.00646	.00626	.00606	.00588	.00570	.00554	.00538	.00523	.00509
9	.00722	.00699	.00677	.00656	.00636	.00617	.00600	.00583	.00567	.00552
10	.00785	.00761	.00737	.00715	.00694	.00674	.00655	.00637	.00620	.00604
11	.00861	.00835	.00810	.00786	.00764	.00743	.00723	.00704	.00686	.00668
12	.00946	.00918	.00891	.00866	.00843	.00820	.00799	.00779	.00760	.00741
13	.01035	.01006	.00978	.00951	.00927	.00903	.00880	.00859	.00839	.00819
14	.01122	.01091	.01061	.01034	.01007	.00982	.00958	.00936	.00914	.00894
15	.01203	.01171	.01140	.01110	.01082	.01056	.01031	.01007	.00985	.00963
16	.01279	.01244	.01211	.01181	.01151	.01123	.01097	.01072	.01048	.01025
17	.01347	.01311	.01276	.01244	.01213	.01184	.01156	.01130	.01104	.01081
18	.01411	.01373	.01336	.01302	.01270	.01239	.01210	.01182	.01155	.01130
19	.01474	.01434	.01396	.01359	.01325	.01293	.01262	.01233	.01205	.01178
20	.01537	.01494	.01454	.01415	.01379	.01345	.01313	.01282	.01252	.01224
21	.01598	.01553	.01510	.01470	.01432	.01396	.01361	.01329	.01298	.01268
22	.01660	.01613	.01568	.01525	.01485	.01446	.01410	.01375	.01343	.01312
23	.01725	.01674	.01627	.01581	.01539	.01498	.01460	.01423	.01388	.01355
24	.01796	.01742	.01692	.01644	.01599	.01556	.01515	.01476	.01439	.01404
25	.01876	.01819	.01765	.01714	.01666	.01621	.01577	.01536	.01497	.01460
26	.01967	.01907	.01850	.01796	.01745	.01696	.01650	.01606	.01565	.01525
27	.02072	.02008	.01948	.01890	.01836	.01784	.01735	.01688	.01644	.01601
28	.02190	.02122	.02057	.01996	.01938	.01883	.01831	.01781	.01734	.01689
29	.02322	.02249	.02181	.02116	.02054	.01996	.01940	.01887	.01836	.01788
30	.02469	.02392	.02319	.02250	.02184	.02122	.02062	.02006	.01952	.01900
31	.02634	.02552	.02475	.02401	.02331	.02264	.02201	.02140	.02083	.02028
32	.02816	.02729	.02647	.02568	.02494	.02423	.02355	.02291	.02229	.02170
33	.03018	.02926	.02838	.02755	.02675	.02600	.02528	.02459	.02393	.02331
34	.03239	.03142	.03048	.02960	.02875	.02795	.02718	.02645	.02575	.02508
35	.03482	.03378	.03279	.03185	.03095	.03009	.02928	.02850	.02775	.02704
36	.03743	.03633	.03528	.03428	.03333	.03242	.03155	.03072	.02992	.02916
37	.04026	.03909	.03798	.03692	.03591	.03494	.03401	.03313	.03228	.03147
38	.04330	.04207	.04089	.03977	.03869	.03767	.03668	.03574	.03484	.03398
39	.04658	.04528	.04403	.04284	.04170	.04061	.03957	.03857	.03762	.03670
40	.05011	.04873	.04741	.04615	.04495	.04379	.04269	.04163	.04061	.03964
41	.05389	.05244	.05104	.04971	.04844	.04721	.04604	.04492	.04384	.04281
42	.05791	.05638	.05491	.05350	.05216	.05086	.04962	.04844	.04729	.04620
43	.06219	.06057	.05902	.05754	.05812	.05475	.05344	.05218	.05099	.04981
44	.06673	.06503	.06340	.06184	.06034	.05890	.05752	.05619	.05491	.05368
45	.07157	.06978	.06806	.06642	.06484	.06332	.06186	.06046	.05911	.05781
46	.07669	.07481	.07301	.07128	.06962	.06802	.06649	.06501	.06358	.06221
47	.08212	.08015	.07826	.07645	.07470	.07302	.07140	.06984	.06834	.06690
48	.08784	.08578	.08380	.08190	.08006	.07830	.07660	.07496	.07338	.07186
49	.09384	.09169	.08961	.08762	.08570	.08384	.08206	.08034	.07868	.07708
50	.10013	.09787	.09570	.09361	.09160	.08966	.08779	.08598	.08424	.08256
51	.10671	.10436	.10209	.09991	.09780	.09577	.09381	.09192	.09009	.08832
52	.11365	.11120	.10883	.10655	.10435	.10222	.10017	.09819	.09628	.09442
53	.12095	.11840	.11593	.11355	.11126	.10904	.10689	.10482	.10282	.10088
54	.12860	.12595	.12338	.12090	.11851	.11619	.11396	.11179	.10970	.10767
55	.13663	.13386	.13120	.12662	.12613	.12372	.12138	.11912	.11694	.11482
56	.14503	.14217	.13940	.13672	.13413	.13162	.12919	.12683	.12456	.12235
57	.15385	.15089	.14801	.14523	.14254	.13994	.13741	.13496	.13259	.13029
58	.16311	.16004	.15706	.15418	.15139	.14868	.14606	.14352	.14105	.13866
59	.17279	.16961	.16654	.16355	.16066	.15786	.15514	.15250	.14994	.14745
60	.18286	.17958	.17640	.17332	.17033	.16743	.16462	.16188	.15922	.15664
61	.19330	.18992	.18665	.18347	.18038	.17738	.17447	.17164	.16889	.16622
62	.20409	.20061	.19724	.19396	.19078	.18768	.18467	.18175	.17891	.17614
63	.21522	.21165	.20818	.20480	.20152	.19833	.19523	.19221	.18928	.18642
64	.22672	.22306	.21949	.21602	.21265	.20937	.20617	.20306	.20003	.19708
65	.23867	.23491	.23125	.22769	.22423	.22085	.21757	.21437	.21125	.20821
66	.25112	.24727	.24353	.23988	.23632	.23286	.22948	.22619	.22299	.21986
67	.26409	.26016	.25833	.25260	.24896	.24541	.24195	.23857	.23528	.23206
68	.27760	.27359	.26968	.26586	.26214	.25851	.25497	.25151	.24814	.24484
69	.29157	.28748	.28350	.27961	.27581	.27211	.26849	.26495	.26150	.25812
70	.30596	.30181	.29775	.29379	.28992	.28614	.28245	.27884	.27532	.27187
71	.32069	.31648	.31236	.30833	.30440	.30055	.29679	.29312	.28952	.28600
72	.33578	.33151	.32733	.32325	.31925	.31535	.31152	.30778	.30412	.30054
73	.35123	.34691	.34269	.33855	.33450	.33054	.32666	.32286	.31914	.31550
74	.36715	.36279	.35852	.35434	.35024	.34623	.34230	.33845	.33466	.33098
75	.38360	.37921	.37491	.37069	.36656	.36250	.35853	.35464	.35082	.34708
76	.40064	.39623	.39190	.38765	.38349	.37941	.37540	.37148	.36762	.36384
77	.41823	.41381	.40947	.40521	.40103	.39692	.39290	.38895	.38507	.38126

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1989—Continued

Age	Interest rate in percentages									
	12.2	12.4	12.6	12.8	13.0	13.2	13.4	13.6	13.8	14.0
78	.43632	.43189	.42755	.42329	.41910	.41499	.41095	.40698	.40309	.39926
79	.45473	.45032	.44599	.44173	.43755	.43344	.42940	.42543	.42153	.41770
80	.47333	.46894	.46463	.46040	.45623	.45213	.44811	.44414	.44025	.43642
81	.49191	.48755	.48328	.47907	.47493	.47085	.46684	.46290	.45902	.45520
82	.51034	.50603	.50179	.49762	.49351	.48947	.48549	.48157	.47772	.47392
83	.52852	.52427	.52008	.51595	.51189	.50788	.50394	.50006	.49623	.49246
84	.54648	.54228	.53815	.53407	.53006	.52610	.52221	.51836	.51458	.51084
85	.56426	.56013	.55606	.55205	.54810	.54420	.54035	.53656	.53282	.52913
86	.58169	.57764	.57364	.56970	.56581	.56197	.55818	.55445	.55076	.54713
87	.59850	.59452	.59060	.58673	.58291	.57913	.57541	.57174	.56811	.56453
88	.61478	.61086	.60702	.60322	.59947	.59577	.59212	.58851	.58494	.58142
89	.63078	.62697	.62321	.61950	.61583	.61220	.60862	.60508	.60159	.59813
90	.64674	.64302	.63935	.63573	.63215	.62861	.62511	.62165	.61823	.61485
91	.66238	.65877	.65520	.65167	.64819	.64474	.64133	.63795	.63462	.63132
92	.67730	.67379	.67032	.66689	.66350	.66014	.65682	.65354	.65029	.64708
93	.69130	.68789	.68452	.68119	.67789	.67463	.67140	.68820	.66504	.66191
94	.70421	.70090	.69762	.69438	.69118	.68800	.68488	.68175	.67867	.67563
95	.71594	.71272	.70954	.70639	.70326	.70017	.69712	.69409	.69109	.68812
96	.72638	.72325	.72014	.71707	.71403	.71101	.70803	.70507	.70215	.69925
97	.73590	.73285	.72982	.72682	.72385	.72090	.71799	.71510	.71224	.70941
98	.74448	.74149	.73853	.73560	.73269	.72981	.72696	.72414	.72134	.71856
99	.75240	.74948	.74658	.74371	.74086	.73805	.73525	.73248	.72974	.72702
100	.75974	.75687	.75403	.75121	.74842	.74566	.74292	.74020	.73751	.73484
101	.76669	.76388	.76109	.75833	.75559	.75287	.75018	.74751	.74486	.74223
102	.77393	.77117	.76844	.76573	.76304	.76037	.75773	.75511	.75251	.74993
103	.78158	.77888	.77620	.77355	.77091	.76830	.76571	.76313	.76058	.75805
104	.79007	.78743	.78482	.78222	.77964	.77709	.77455	.77203	.76953	.76705
105	.80065	.79809	.79556	.79304	.79054	.78805	.78559	.78314	.78071	.77829
106	.81631	.81389	.81149	.80911	.80674	.80438	.80204	.79972	.79741	.79511
107	.83963	.83745	.83529	.83313	.83099	.82886	.82674	.82463	.82254	.82045
108	.87910	.87739	.87569	.87400	.87232	.87064	.86897	.86731	.86566	.86401
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

TABLE 80 CNSMT

Age x	l(x)
(1)	(2)
0	100000
1	98740
2	98648
3	98584
4	98535
5	98495
6	98459
7	98426
8	98396
9	98370
10	98347
11	98328
12	98309
13	98285
14	98248
15	98196
16	98129
17	98047
18	97953
19	97851
20	97741
21	97623
22	97499
23	97370
24	97240
25	97110
26	96982
27	96856
28	96730
29	96604
30	98477
31	96350
32	96220
33	96088
34	95951
35	95808
36	95655

TABLE 80 CNSMT—Continued

Age x	l(x)
(1)	(2)
37	95492
38	95317
39	95129
40	94928
41	94706
42	94465
43	94201
44	93913
45	93599
46	93256
47	92882
48	92472
49	92021
50	91526
51	90986
52	90402
53	89771
54	89087
55	88348
56	87551
57	88695
58	85776
59	84789
60	83726
61	82581
62	81348
63	80024
64	78609
65	77107
66	75520
67	73846
68	72082
69	70218
70	68248
71	66185
72	63972
73	61673

TABLE 80 CNSMT—Continued

Age x	l(x)
(1)	(2)
74	59279
75	56799
76	54239
77	51599
78	48878
79	46071
80	43180
81	40208
82	37172
83	34095
84	31012
85	27960
86	24961
87	22038
88	19235
89	16598
90	14154
91	11908
92	9863
93	8032
94	6424
95	5043
96	3884
97	2939
98	2185
99	1598
100	1150
101	815
102	570
103	393
104	267
105	179
106	119
107	78
108	51
109	33

TABLE 80 CNSMT—Continued

Age x	l(x)
(1)	(2)
110	0

§ 20.2031-10 [Removed]

Par. 18. Section 20.2031-10 is removed.

Par. 19. Section 20.2055-2 is amended by revising paragraph (f)(4) to read as follows:

§ 20.2055-2 Transfers not exclusively for charitable purposes.

* * * * *

(f) * * *

(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031-7(e) in the case of decedents where the valuation date of the gross estate falls after April 30, 1989 or under § 20.2031-7A in the case of decedents where the valuation date of the gross estate falls before May 1, 1989.

Par. 20. Immediately following § 20.7101-1, an undesignated center heading and §§ 20.7520-1 through 20.7520-4 are added to read as follows:

General Actuarial Valuations

§ 20.7520-1 Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions.

(a) *Valuation*—(1) *In general.* (i) Except as otherwise provided in this section, in the case of estates of decedents where the valuation date of the gross estate falls after April 30, 1989, gifts made after April 30, 1989, and for certain transfers occurring after April 30, 1989, subject to income tax, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions, is their present value determined under this section. See § 20.2031-7(e) or § 25.2512-5(e) of this chapter, whichever is appropriate, for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(1)(ii), (iii), and (iv) of this section.

(ii) See § 1.642(c)-6(e) of this chapter (Income Tax Regulations) with respect to the valuation of the remainder interest in property transferred to a pooled income fund where the valuation date falls after April 30, 1989. See § 1.642(c)-6A(d) of this chapter with respect to the valuation of the remainder interest in property transferred to a pooled income fund after November 30, 1983, where the valuation date falls before May 1, 1989. See § 1.642(c)-6A(a) through (c) of this chapter with respect to the valuation of the remainder interest in property transferred to a pooled income fund before December 1, 1983.

(iii) See § 1.664-2 of this chapter with respect to the valuation of the remainder interest in property transferred to a charitable remainder annuity trust. See § 1.664-4 of this chapter with respect to the valuation of the remainder interest in property transferred to a charitable remainder unitrust.

(iv) See § 20.2031-7A(d) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after November 30, 1983, where the valuation date falls before May 1, 1989. See § 20.2031-7A(c) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after December 31, 1970, and before December 1, 1983. See § 20.2031-7A(b) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died after December 31, 1951, and before January 1, 1971. See § 20.2031-7A(a) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includible in estates of decedents who died before January 1, 1952. See § 25.2512-5A(d) of this chapter with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983, and before May 1, 1989. See § 25.2512-5A(c) of this chapter with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, and before December 1, 1983. See § 25.2512-5A(b) of this chapter with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1951, and before January 1, 1971. See § 25.2512-5A(a) of this chapter with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred before January 1, 1952.

(2) *Tables.* The present value on the valuation date of an annuity, life estate, term for years, remainder, and reversion is computed by using an interest rate component described in paragraph (b) of this section and actuarial factors for measuring the mortality component that are contained in tables published by the Internal Revenue Service. The tables are contained in I.R.S. Publication 1457, "Actuarial Values, Alpha Volume," and I.R.S. Publication 1458, "Actuarial Values, Beta Volume." A copy of "Actuarial Values, Alpha Volume" and "Actuarial Values" may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. "Actuarial Values, Alpha Volume" contains table S (actuarial factors for one life) and Table R(2) (actuarial factors for two lives) used in determining the present value of annuities, life estates, remainders, and reversions. It also contains Table B (actuarial factors used in determining interests for a term of years). These tables may also be used in the valuation of interests in charitable remainder annuity trusts as defined in § 1.664-2 of this chapter (Income Tax Regulations) and pooled income funds as defined in § 1.642(c)-5 of this chapter. "Actuarial Values, Alpha Volume" also contains table K (annuity end-of-interval adjustment actuarial factors), table H (a commutation table), and table 80CNSMT (a mortality table). In addition, tables S, B, K, and J (term certain annuity beginning-of-interval adjustment actuarial factors) providing factors based on interest rates between 4.2 and 14 percent, and Table 80CNSMT, are contained in § 20.2031-7(e). "Actuarial Values, Beta Volume" contains Table U(1) (actuarial factors for one life) and table U(2) (actuarial factors for two lives) used in determining the present value of remainder interests in charitable remainder unitrusts as defined in § 1.664-3 of this chapter. "Actuarial Values, Beta Volume" also contains table D (actuarial factors used in determining the present value of a remainder interest in a charitable remainder unitrust postponed for a term of years), table F (payout factors for charitable remainder unitrusts), and Table 80CNSMT (a mortality table). In addition, tables U(1), D, and F providing factors based on interest rates between 4.2 and 14 percent are contained in § 1.664-4(e) of this chapter. The mortality component is computed by taking into account the most recent mortality experience. The mortality component table (table 80CNSMT) is published in the regulations and revised periodically. If a special factor is required in order to value an interest, the Commissioner will furnish the factor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts, including the date of birth for each measuring life and copies of relevant instruments. A request for a ruling must comply with the instructions for requesting a ruling

published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601 (d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(b) *Interest rate component*—(1) *Interest rate.* The assumed rate of return on the valuation date is the rounded (to the nearest two-tenths of one percent) interest rate that is equal to 120 percent of the applicable Federal mid-term rate, compounded annually, for purposes of section 1274(d)(1), for the month in which the valuation date falls. In rounding the rate to the nearest two-tenths of a percent, any rate that is midway between one two-tenths of a percent and another is rounded up to the higher of those two rates. For example, if 120 percent of the applicable Federal mid-term rate is 10.29, the rate of 10.2 is the interest rate component for that month. Likewise, if 120 percent of the applicable Federal mid-term rate is 10.30, the rate of 10.4 is the interest rate component. The interest rate that is 120 percent of the applicable Federal mid-term rate is published monthly by the Service in the Internal Revenue Bulletin (See § 601.601(d)(2)(ii)(*b*) of this chapter).

(2) *Valuation date.* Generally, the valuation date is the date on which the transaction takes place. For estate tax purposes, the valuation date is the date of the decedent's death, unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder, in which event the valuation date is the alternate valuation date. For gift and income tax purposes, the valuation date is the date on which the transfer is complete under § 25.2511–2 of this chapter (Gift Tax Regulations).

(c) *Computation*—(1) *Annuities.* (i) Except for interests described in § 20.7520–3, the value of an annuity and a qualified interest described in section 2702(b)(1) may be derived from the appropriate tables for valuing remainder interests. If an annuity is payable annually at the end of each year for the life of an individual, the value of the annuity is the aggregate amount payable annually multiplied by an annuity factor derived from table S (remainder factors for one life) in § 20.2031–7(e)(6) based on the appropriate interest rate component on the valuation date. If an annuity is payable until the death of the survivor of two individuals, the value of the annuity is the aggregate amount payable annually multiplied by an annuity factor derived from using Table R(2) (remainder factors for two lives) in Publication 1457. In the case of an annuity that is payable at the end of each year for a term of years, the aggregate amount payable annually is multiplied by an annuity factor derived from Table B (remainder factors for a term of years) in § 20.2031–7(e)(6) based on the interest rate component at the time of the transfer. This annuity factor is obtained by subtracting the remainder factor in table S, table R(2), or Table B, whichever is appropriate, under the appropriate interest rate component opposite the number of years nearest the age of the individual or individuals (or the term of years representing the duration of the annuity) from 1.00, and then dividing the result by the appropriate interest rate component expressed as a decimal number. If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in table K. Alternatively, annuity factors for the life of one individual have been published and are contained in column (2) of the appropriate Table S in Publication 1457. Annuity factors for a term of years have been published and are contained in column (2) of the appropriate table B in Publication 1457. The following examples illustrate the computation of the value of an annuity and computation of the value of a qualified interest described in section 2702(b)(1):

Example 1. Annuity. In July 1989, the donor transferred to the annuitant, age 68, an annuity of $10,000 a year payable in equal semiannual installments at the end of each period for life. The rate that is 120 percent of the applicable Federal mid-term rate for July 1989 was 10.54 percent. This rate is rounded to 10.6 percent. Under Table S, the factor at 10.6 percent for determining the present value of a remainder interest payable at the death of an individual aged 68 is .31371. Converting the remainder factor to an annuity factor, as described above, the annuity factor for determining the present value of an annuity transferred to an individual aged 68 is 6.4744 (1.00 minus .31371, divided by .106). Based on Table K, the adjustment factor under the column for payments made at the end of each semiannual period at the rate of 10.6 percent is 1.0258. The aggregate annual amount of the annuity, $10,000, is multiplied by the factor 6.4744 and the product multiplied by 1.0258. The present value of the annuity at the date of transfer to the annuitant is, therefore, $66,414 ($10,000 × 6.4744 × 1.0258).

Example 2. Qualified § 2702(b)(1) Interest. The donor, who will be 60 years old on February 15, 1990, transfers $100,000 to an annuity trust on January 1, 1990. The trust instrument requires that the trust pay to the donor an annuity of $6,000 per year in equal semiannual installments for 10 years or until the donor's prior death. The semiannual installments are to be made on each June 30th and December 31st. The rate that is 120 percent of the applicable Federal mid-term rate (rounded to the nearest two-tenths of one percent) for January 1990 is 9.6 percent. The present value of the donor's retained interest is $35,708, determined as follows:

Table S value at 9.6 percent, age 60		.23659
Table S value at 9.6 percent, age 70		.37043
Table 80CNSMT value at age 70	68248	
Table 80CNSMT value at age 60	83726	
Table B value at 9.6 percent, 10 years		.399848
Table K value at 9.6 percent		1.0235

Annuity factor for donor's retained interest at 9.6 percent:

$$\frac{(1-.23659)1-.399848\times 168248/83726\times(1-.37043)}{.096}=5.8147$$

Present value of donor's retained interest:

($6,000 × 5.8147 × 1.0235) $35,708

The present value of the donor's retained interest in the annuity trust can also be determined by the use of factors involving one life and a term for years as published in Publication 1457 (8–89). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, DC 20402.

(ii) If the annuity payments are made at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (c)(1)(i) of this section. If the first payment of an annuity for a specified term of years is due at the beginning of the payment period, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor derived as described in paragraph (c)(1)(i) of this section, based on the applicable Federal mid-term rate (rounded) opposite the number of years representing the duration of the annuity. The product so obtained is then multiplied by the applicable adjustment factor set forth in Table J for payments made at the beginning of specified periods. Additional examples of computation of annuity interests are in § 20.2031–7(e)(5).

(2) *Life estates, terms for years, remainders, and reversions.* If the interest to be valued is the right to receive the income from certain property or to use certain property for the life of one or two individuals, or for a term of years, the present value of the interest is

computed by multiplying the value of the property by the applicable factor representing the income interest. The applicable factor is obtained by subtracting the appropriate remainder factor in Table S (for the life of one individual), table R(2) (for the lives of two individuals), or table B (for a term of years), from 1.00. If the interest to be valued is to take effect after the death of one or two individuals, or after a definite number of years, the present value of the interest is computed by multiplying the value of the property by the applicable actuarial factor in table S, table R(2), or table B, whichever is appropriate, based on the applicable Federal mid-term rate (rounded) opposite the number of years nearest the age of the individual or individuals whose lives measure the interest, or the number of years representing the duration of the interest. Examples of a computation of a life estate interest and a reversion are at § 20.2031-7(e)(5).

(3) *Qualified section 2702(b)(2) interest.* If the interest to be valued is the right to receive amounts that are payable not less frequently than annually and that are a fixed percentage of the fair market value of the property in a trust (determined annually) as described in section 2702(b)(2), the present value of the interest is computed as described in the following example:

Example. The donor, who will be 60 years old on February 15, 1990, transfers $100,000 to a unitrust on January 1, 1990. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 6 percent of the fair market value of the trust assets as of January 1st for 10 years or until the prior death of the donor. The rate that is 120 percent of the applicable Federal mid-term rate (rounded to the nearest two-tenths of one percent) for January 1990 is 9.6 percent. Under table F(9.6), the appropriate adjustment factor is .933805 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 5.603 percent (6% × .933805). The present value of the donor's retained interest is $40,540, determined as follows:

TABLE U(1) value at 5.8 percent, age 60	.35898
TABLE U(1) value at 5.8 percent, age 70	.49889
TABLE 80CNSMT value at age 70	68248
TABLE 80CNSMT value at age 60	83726
TABLE D value at 5.8 percent, 10 years	.550185

Factor for donor's retained interest at 5.8 percent:

(1−.35898)−.550185×68248/83726×(1−.49889)=.41628

TABLE U(1) value at 5.6 percent, age 60	.37017
TABLE U(1) value at 5.6 percent, age 70	.50971
TABLE 80CNSMT value at age 70	68248
TABLE 80CNSMT value at age 60	83726
TABLE D value at 5.6 percent, 10 years	.561979
Factor for donor's retained interest at 5.6 percent: (1−.37017)−.561979×68248/83726×(1−.50971)=	.40523
Difference	.01105

Interpolation adjustment:

$$\frac{5.603\% - 5.6\%}{0.2\%} = \frac{x}{.01105}$$

x=.00017

Factor at 5.6 percent, age 60	.40523
Plus: Interpolation adjustment	.00017
Interpolated Factor	.40540
Present value of donor's retained interest: ($100,000×.40540)	$40,540

§ 20.7520-2 Valuation of charitable interests.

(a) *In general*—(1) *Valuation.* Except as otherwise provided in this paragraph, the fair market value of annuities, interests for life or for a term for years, remainders, and reversions for which an income, estate, or gift tax charitable deduction is allowable is their present value determined under § 20.7520-1.

(2) *Three month rule.* If more than an insignificant part, as defined in paragraph (a)(3) of this section, of the property interest transferred qualifies as an income tax charitable deduction under section 170(c), an estate tax charitable deduction under section 2055 or section 2106, or a gift tax charitable deduction under section 2522, the transferor may elect to compute the present value of the interest transferred by use of the interest rate component described in § 20.7520-1(b)(1) for the month in which the valuation date falls or the interest rate component for either of the 2 months preceding the month in which the valuation date falls. If the actuarial factor for either or both of the 2 months preceding the month in which the interest is transferred is based on a mortality experience that is different from the mortality experience at the date of the transfer and if the transferor elects to use the applicable Federal mid-term rate for a prior month with the different mortality experience, the transferor must use the actuarial factor derived from the mortality experience in effect on the date of the applicable Federal mid-term rate elected.

(3) *Insignificant part defined.* For purposes of this paragraph, "more than an insignificant part" of the property interest transferred qualifies for a charitable deduction if the present value of the property interest transferred that qualifies for a charitable deduction under section 170(c), 2055, 2106, or 2523 is 5 percent or more of the value of the entire interest transferred computed with the interest rate component for the month in which the property interest is transferred.

(4) *Transfers of more than one interest in the same property.* If a transferor transfers more than one interest in the same property, for purposes of valuing the transferred interest, the transferor must use the same interest rate component for each interest in the property transferred. For example, if a transferor transfers property to a charitable remainder trust in December 1989, the transferor may use an interest rate based on the applicable Federal mid-term rate for December 1989 or elect to use an interest rate based on the applicable Federal mid-term rate for November or October 1989. The transferor, however, must use the same rate for both the noncharitable lead interest and the charitable remainder interest.

(b) *Election of interest rate component*—(1) *In general.* No election is necessary if the transferor computes the present value of the transferred interest by using the interest rate component for the month in which the transfer takes place. An election must be made if the transferor computes the present value of the transferred interest by using the interest rate component for any month other than the month in which the valuation date falls. The election under paragraph (b)(2) of this section to compute the present value of the transferred interest by using the interest rate component for either of the 2 months preceding the month in which the valuation date falls is made as described below. (Section 301.9100-8(a)(1) contains rules for making this election.)

(2) *Time and manner of making election*—(i) *Time for making election*—(A) *Income tax.* If an income tax charitable deduction is allowable for part of the transferred interest, the transferor must attach the information described in paragraph (b)(2)(ii) of this section to the last income tax return filed by the transferor on or before the due date of the return for the year in which the contribution is made, or if a timely return is not filed by the

transferor, the first income tax return filed by the transferor after the due date for the year in which the contribution is made.

(B) *Estate tax.* If an estate tax charitable deduction is allowable for part of the transferred interest, the executor must attach the information described in paragraph (b)(2)(ii) of this section to the last estate tax return filed by the executor on or before the due date of the return, or if a timely return is not filed by the executor, the first estate tax return filed by the executor after the due date.

(C) *Gift tax.* If a gift tax charitable deduction is allowable for part of the transferred interest, the donor must attach the information described in paragraph (b)(2)(ii) of this section to the last gift tax return filed by the transferor on or before the due date of the return, or if a timely return is not filed by the transferor, the first gift tax return filed by the transferor after the due date.

(ii) *Manner of making election.* An election under this section is made by attaching to the return a notice of election that contains the following information:

(A) A statement that the election under section 7520(a) of the Internal Revenue Code is being made;

(B) The transferor's name and taxpayer identification number as they appear on the return;

(C) A description of the interest that is transferred;

(D) The recipients, beneficiaries, or donees of the transferred interest;

(E) The date of the transfer; and

(F) The applicable Federal mid-term rate that is used to value the transferred interest and the month to which the rate pertains.

(iii) *Place for filing returns.* See section 6091 of the Internal Revenue Code and the regulations thereunder for the place for filing the return or other document required by this section.

(3) *Revocability.* The election described in paragraph (b)(1) of this section may be revoked by filing an amended return (or supplemental information in the case of an estate tax return) within the period of limitations on assessments and collections under section 6501 of the Internal Revenue Code.

§ 20.7520-3 Internal Revenue Code sections to which section 7520 of the Internal Revenue Code does not apply.

Section 7520 of the Internal Revenue Code does not apply for purposes of:

(a) Part I, subchapter D of subtitle A, (section 401 et. seq.) of the Internal Revenue Code, relating to certain qualified plans;

(b) Section 72 of the Internal Revenue Code, relating to the income taxation of life insurance, endowment, and annuity contracts, unless otherwise provided for in the regulations under section 72;

(c) Sections 83 and 451 of the Internal Revenue Code, unless otherwise provided for in the regulations under those sections;

(d) Section 457 of the Internal Revenue Code, relating to the valuation of deferred compensation, unless otherwise provided for in the regulations under section 457;

(e) Sections 3121(v) and 3306(r) of the Internal Revenue Code, relating to the valuation of deferred amounts, unless otherwise provided for in the regulations under those sections;

(f) Section 6058 of the Internal Revenue Code, relating to valuation statements evidencing compliance with qualified plan requirements, unless otherwise provided for in the regulations under section 6058;

(g) Section 7872 of the Internal Revenue Code, relating to income and gift taxation of interest-free loans and loans with below-market interest rates, unless otherwise provided for in the regulations under section 7520;

(h) Section 2702(a)(2)(A), of the Internal Revenue Code, relating to the value of a nonqualified retained interest upon a transfer of an interest in trust to or for the benefit of a member of the transferor's family; and

(i) To the extent provided by the Commissioner in revenue rulings or revenue procedures. (See §§ 601.201 and 601.601 of this chapter).

§ 20.7520-4 Transitional rules.

(a) If the valuation date is after April 30, 1989, and before November 2, 1992, a transferor can rely on Notice 89-24, 1989-1 C.B. 660, or Notice 89-60, 1989-1 C.B. 700 (See § 601.601(d)(2)(ii)(*b*) of this chapter), in valuing the transferred interest.

(b) For purposes of the estate tax, if on April 30, 1989, a decedent was mentally incompetent so that the disposition of the decedent's property could not be changed and the decedent died after April 30, 1989, without having regained competency to dispose of the decedent's property, or died within 90 days of the date on which the decedent first regained competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the estate of the decedent, may, at the option of the executor, be determined under either § 20.2031-7(e) or § 20.2031-7A(d). However, each annuity, life estate, term for years, remainder, and reversion includible in the decedent's gross estate must be valued under the same section.

(c) For purposes of the gift tax, if a donor transferred an interest in property by gift after December 31, 1988, and before May 1, 1989, retaining an interest in the same property and, after April 30, 1989, and before January 1, 1990, transferred the retained interest in the property, the donor may, at the donor's option, value the transfer of the retained interest under either § 25.2512-5(e) or § 25.2512-5A(d) of this chapter (Gift Tax Regulations).

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 21. The general authority for part 25 is revised to read as follows:

Authority: 26 U.S.C. 7805.

Par. 22. Section 25.2512-0 is added to read as follows:

§ 25.2512-0 Table of contents.

This section lists the section headings that appear in the regulations under section 2512.

§ 25.2512-1 Valuation of property; in general.

§ 25.2512-2 Stocks and bonds.

§ 25.2512-3 Valuation of interests in businesses.

§ 25.2512-4 Valuation of notes.

§ 25.2512-5 Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions after April 30, 1989.

§ 25.2512-6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

§ 25.2512-7 Effect of excise tax.

§ 25.2512-8 Transfers for insufficient consideration.

§ 25.2512-5A Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions before May 1, 1989.

Par. 23. Immediately following § 25.2518-3 an undesignated center heading and § 25.2512-5A are added to read as follows:

Actuarial tables applicable before May 1, 1989.

§ 25.2512-5A Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions before May 1, 1989.

(a) *Valuation of annuities, life estates, terms for years, remainders, and reversions transferred before January 1, 1952.* Except as otherwise provided in § 25.2512-5(c), if the transfer was made before January 1, 1952, the present value of annuities, life estates, terms for years,

remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation or termination of one or more lives or upon a term certainly concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 4 percent a year, compounded annually, and life contingencies for each life involved from values that are based upon the "Actuaries' or Combined Experience Table of Mortality, as extended." This table and many additional factors are set described in former § 86.19 (as contained in CFR edition revised as of April 1, 1958). The present value of an interest measured by a term for years is computed on the basis of interest at the rate of 4 percent a year.

(b) *Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1951, and before January 1, 1971.* Except as otherwise provided in § 25.2512–5(c), the present value of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1951, and before January 1, 1971, is their present value determined under this section. If the value of the interest involved is dependent upon the continuation or termination of one or more lives, the factor for the present value is computed on the basis of interest at the rate of 3½ percent a year, compounded annually, and life contingencies for each life involved from U.S. Life Table 38. This table and many accompanying factors are set forth in former § 25.2512–5 (as contained in CFR edition revised as of April 1, 1984). Special factors involving one and two lives may be found in or computed with the use of tables contained in Publication Number 11, "Actuarial Values for Estate and Gift Tax," (Rev. 5–59). A copy of this publication may be purchased from the Superintendent of Documents, United States Printing Office, Washington, DC 20402. The present value of an interest measured by a term for years is computed on the basis of interest at the rate of 3½ percent a year.

(c) *Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, and before December 1, 1983.* Except as otherwise provided in § 25.2512–5(c), the present value of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, and before December 1, 1983, is their present value determined under this section. If the interest to be valued is dependent upon the continuation or termination of one or more lives or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 6 percent a year, compounded annually, and life contingencies determined for each male and female life involved, from the values that are set forth in table LN. Table LN contains values that are taken from the life table for total males and the life table for total females appearing as tables 2 and 3, respectively, in United States Life Tables: 1959–61, published by the Department of Health and Human Services, Public Health Service. Table LN and accompanying factors are set forth in former § 25.2512–9 (as contained in CFR edition revised as of April 1, 1992). Special factors involving one and two lives may be found in or computed with the use of tables contained in Internal Revenue Service Publication 723E, entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders" (12–70), and Internal Revenue Service Publication 723A, entitled "Actuarial Values II: Factors at 6 Percent Involving One and Two Lives" (12–70). A copy of these publications may be purchased from the Superintendent of Documents, United States Printing Office, Washington, DC 20402. The present value of an interest measured by a term of years is computed on the basis of interest at the rate of 6 percent a year.

Par. 24. Section 25.2512–5 is redesignated as paragraph (d) of § 25.2512–5A and amended as follows:

1. The following redesignation table indicates the old CFR unit numbers for § 25.2512–5 and the corresponding new CFR unit numbers for § 25.2512–5A(d):

Old CFR unit number in § 25.2512–5	Corresponding new number in § 25.2512–5A
§ 25.2512–5 heading	paragraph (d) heading
(a)	(d)(1)
(a)(1)	(d)(1)(i)
(a)(1)(i)	(d)(1)(i)(A)
(a)(1)(ii)	(d)(1)(i)(B)
(a)(1)(ii)(A)	(d)(1)(i)(B)(*1*)
(a)(1)(ii)(B)	(d)(1)(i)(B)(*2*)
(a)(1)(iii)	(d)(1)(i)(C)
(a)(1)(iii)(A)	(d)(1)(i)(C)(*1*)
(a)(1)(iii)(B)	(d)(1)(i)(C)(*2*)
(a)(2)	(d)(1)(ii)
(a)(3)	(d)(1)(iii)
(b)	(d)(2)
(b)(1)	(d)(2)(i)
(b)(2)	(d)(2)(ii)
(b)(3)(i)	(d)(2)(iii)(A)
(b)(3)(ii)	(d)(2)(iii)(B)
(c)	(d)(3)
(d)	(d)(4)
(e)	(d)(5)
(f)	(d)(6)

2. The paragraph heading for (d) is revised.

3. Newly designated paragraph (d)(1)(i)(A) is amended by revising the first sentence and removing the eighth and last sentences.

4. In newly designated paragraph (d)(1)(i)(B), the concluding text is amended by revising the first full sentence.

5. In newly designated paragraph (d)(1)(i)(C), the concluding text is amended by revising the first and second full sentences.

6. Newly designated paragraph (d)(1)(iii) is revised.

7. Newly designated paragraph (d)(5) is amended by revising the second and third sentences.

8. Redesignated paragraph (d)(6) is revised.

9. The revised heading and provisions read as follows:

§ 25.2512–5A Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions before May 1, 1989.

* * * * *

(d) *Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983, and before May 1, 1989*—(1) *In general.* (i)(A) Except as otherwise provided in § 25.2512–5(c) and in this paragraph (d)(1)(i)(A), the fair market value of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983, and before May 1, 1989, is their present value determined under this section. * * *

(B) * * *

* * * The donor may elect to value both interests transferred in 1983 under § 25.2512–5A(c) as if such section applied to all transfers made before January 1, 1984, or the donor may elect to have both interests transferred valued under this section. * * *

(C) * * *

* * * The donor may elect to value the interest transferred in 1984 under § 25.2512–5A(c) as if such section applied to all transfers made before January 1, 1985, or the donor may elect to have the transfer valued under this section. If the donor elects to value the interest transferred in 1984 under § 25.2512–5A(c), the donor shall indicate that the election is being made by attaching a statement to the donor's gift tax return for 1984. * * *

* * * * *

(iii) In all examples set forth in this section, the interest is assumed to have

been transferred after November 30, 1983, and before May 1, 1989.

* * * * *

(5) * * * The factor is to be computed on the basis of interest at the rate of 10 percent a year, compounded annually, and life contingencies are determined for each person involved from the values of *lx* that are set forth in column 2 of Table LN in § 20.2031–7A(d)(6) of this chapter. Table LN contains values of *lx* taken from the life table for the total population appearing as Table 1 in United States Life Tables: 1969–71, published by the Department of Health and Human Services, Public Health Service.

* * * * *

(6) *Tables.* (i) For actuarial factors showing the present worth at 10 percent of a single life annuity, a life interest, and a remainder interest postponed for a single life, see § 20.2031–7A(d)(6) of this chapter, table A, of the Estate Tax Regulations.

(ii) For actuarial factors showing the present worth at 10 percent of an annuity for a term certain, an income interest for a term certain, and a remainder interest postponed for a term certain, see § 20.2031–7A(d)(6) of this chapter, table B, of the Estate Tax Regulations.

Par. 25. New § 25.2512–5 is added to read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions after April 30, 1989.

(a) *In general.* Except as otherwise provided in paragraph (c) of this section, the fair market value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions transferred by gift is their present value determined under paragraph (d) of this section.

(b) *Actuarial computations by the Internal Revenue Service.* Section 20.2031–7 of this chapter (Estate Tax Regulations) provides tables of actuarial factors and examples that illustrate the use of those tables to compute the value of temporary and remainder interests in property. Those factors and examples are also applicable for gift tax purposes in computing the values of taxable gifts. Section 20.2031–7 of this chapter also refers to government publications that provide additional tables of factors and examples of computations for more complex situations. Some older publications are no longer available. If the transferor requires a special factor or computation, the transferor may request the factor in a request for a ruling. A request for a ruling must be accompanied by a recitation of the facts, including the date of birth for each measuring life, the date of the transfer, any other applicable dates, and a copy of any relevant document. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(c) *Commercial annuities and insurance contracts.* The value of life insurance contracts and contracts for the payment of annuities issued by companies regularly engaged in their sale is determined under § 25.2512–6.

(d) *Valuation.* The present value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions transferred by gift after April 30, 1989, is determined under paragraph (e) of this section. The present value annuities, unitrust interests, life estates, terms for years, remainders, and reversions transferred by gift before May 1, 1989, is determined under the following sections:

Transfers		Applicable regulations
After	Before	
....	01–01–52	25.2512–5A(a)
12–31–51 ..	01–01–71	25.2512–5A(b)
12–31–70 ..	12–01–83	25.2512–5A(c)
11–30–83 ..	05–01–89	25.2512–5A(d)

(e) *Valuation of annuities, unitrust interests, life estates, terms for years, remainders, and reversions transferred after April 30, 1989*—(1) *In general.* Except as otherwise provided in § 25.2512–5(c) and in this paragraph (e)(1), the fair market value of annuities, life estates, terms for years, remainders, and reversions transferred after April 30, 1989, is their present value determined by use of the tables in § 20.2031–7(e)(6) of this chapter (Estate Tax Regulations) and the interest rate component described in § 20.7520–1(b)(1) of this chapter. The fair market value of a qualified annuity interest described in § 2702(b)(1) and a qualified unitrust interest described in § 2702(b)(2) is their present value determined in § 20.7520–1(c) of this chapter.

(2) *Certain Interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. If the donor transfers property in trust after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred.

(i) *Charitable Interests.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6(e) of this chapter (Income Tax Regulations). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a) of this chapter, is its present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4(e) of this chapter. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest determined under § 1.664–4(e) of this chapter.

(ii) Annuities. (A) The factor for valuing an annuity may be derived from the tables for valuing a remainder interest. If an annuity is payable annually at the end of each year for the life of an individual, the aggregate amount payable annually is multiplied by an annuity factor derived from Table S (remainder factors for one life) in § 20.2031–7(e)(6) of this chapter (Estate Tax Regulations) based on the interest rate component at the time of the transfer. If an annuity is payable until the death of the survivor of two individuals, the aggregate amount payable annually is multiplied by an annuity factor derived from table R(2) (remainder factors for two lives) in Publication 1457. A copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. In the case of an annuity that is payable at the end of each year for a term of years, the aggregate amount payable annually is multiplied by an annuity factor derived from table B (remainder factors for a term of years) in § 20.2031–7(e)(6) of this chapter based on the interest rate component at the time of the transfer. The annuity factor is obtained by subtracting the remainder factor in table S, table R(2), or table B, whichever is appropriate, under the appropriate interest rate component opposite the

number of years nearest the age of the individual or individuals (or the term of years representing the duration of the annuity), from 1.00 and then dividing the result by the appropriate interest rate component expressed as a decimal number. Alternatively, annuity factors for the life of one individual have been published and are contained in column (2) of the appropriate table S in Publication 1457. Annuity factors for a term of years have been published and are contained in column (2) of the appropriate Table B in Publication 1457. If the annuity payments are made at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in Table K for payments made at the end of the specified periods. The following example illustrates the computation of the value of an annuity:

Example. At the time of the decedent's death in September 1989, the annuitant, age 66, is entitled to receive for life an annuity of $5,000 a year payable in equal quarterly installments at the end of each period. The rate that is 120 percent of the applicable Federal mid-term rate for September 1989 is 9.68 percent. This rate is rounded to 9.6 percent. Under Table S, the remainder factor at 9.6 percent for an individual aged 66 is .31217. Converting the remainder factor to an annuity factor, as described above, the annuity factor at 9.6 percent for an individual aged 66 is 7.1649 (1.00 minus .31217, divided by .096). Under Table K, the adjustment factor under the column for payments made at the end of each quarter at the rate of 9.6 percent is 1.0353. The aggregate annual amount, $5,000, is multiplied by the factor 7.1649 and the product multiplied by 1.0353. The present value of the annuity at the date of the decedent's death is, therefore, $37,089 ($5,000 × 7.1649 × 1.0353).

(B) If the annuity payments are made at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or two lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (e)(2)(ii)(A) of this section. If the first payment of an annuity for a definite number of years is due at the beginning of the payment period, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor derived as described in paragraph (e)(2)(ii)(A) of this section, opposite the number of years representing the duration of the annuity. The product so obtained is then multiplied by the adjustment factor in table J in § 20.2031–7(e)(6) of this chapter (Estate Tax Regulations) at the appropriate interest rate component for payments made at the beginning of specified periods.

(iii) *Life estates, terms for years, remainders, and reversions.* If the interest to be valued is the right of a person to receive the income of certain property or to use certain property for the life of one or two individuals or for a term of years, the present value of the interest is computed by multiplying the value of the property by the applicable factor representing the income interest. The applicable factor is obtained by subtracting the appropriate remainder factor found in table S (for the life of one individual), table R(2) (for the lives of two individuals), or table B (for a term of years), whichever is appropriate, from 1.00. If the interest to be valued is to take effect after the death of one or two individuals or after a definite number of years, the present value of the interest is computed by multiplying the value of the property by the applicable actuarial factor found in table S, table R(2), or table B, whichever is appropriate, at the applicable Federal mid-term rate (rounded) opposite the number of years nearest the age of the individual or individuals whose life measures the interest or the number of years representing the duration of the interest.

(iv) *Other Interests.* See § 25.2512–5A(d) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983, and before May 1, 1989. See § 25.2512–5A(c) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, and before December 1, 1983. See § 25.2512–5A(b) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1951, and before January 1, 1971. See § 25.2512–5A(a) with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred before January 1, 1952.

(3) *Transitional rule.* (i) If the valuation date of a transfer of an interest in property by gift is after April 30, 1989, and before November 2, 1992, a donor can rely on Notice 89–24, 1989–1 C.B. 660, or Notice 89–60, 1989–1 C.B. 700 (See § 601.601(d)(2)(ii)(*b*) of this chapter) in valuing the transferred interest.

(ii) If a donor transferred an interest in property by gift after December 31, 1988, and before May 1, 1989, retaining an interest in the same property, and after April 30, 1989, and before January 1, 1990, transferred the retained interest in property, the donor may, at the option of the donor, value the transfer of the retained interest under this section or under § 25.2512–5A(d).

(4) *Publications.* Actuarial factors for gift tax transactions not contained in § 20.2031–7(e)(6) of this chapter are contained in Internal Revenue Service Publication 1457, "Actuarial Value, Alpha Volume" (8–89), and Internal Revenue Service Publication 1458, "Actuarial Values, Beta Volume" (8–89). A copy of these publications may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. See § 25.2512–5(b) for the procedure for obtaining special factors from the Service in appropriate cases.

Par. 26. Section 25.2512–9 is removed.

Par. 27. Section 25.2515–2(c) is amended by revising the first and last sentences to read as follows:

§ 25.2515–2 Tenancies by the entirety; transfers treated as gifts; manner of election and valuation.

* * * * *

(c) Factors representing the respective interests of the spouses, under a tenancy by the entirety, at their attained ages at the time of the transaction may be readily computed based on the method described in § 25.2512–5 of this chapter. * * * See § 25.2512–5(b) for the procedure for obtaining special factors from the Service in appropriate cases.

* * * * *

Par. 28. Section 25.2522(a)–2(a) is amended by revising the fifth sentence to read as set forth below, and removing the fourth sentence.

§ 25.2522(a)–2 Transfers not exclusively for charitable, etc., purposes in the case of gifts made before August 1, 1969.

(a) * * * If the interest involved is such that its value is to be determined by a special computation, see § 25.2512–5(b). * * *

* * * * *

Par. 29. Section 25.2522(c)–3(d)(3) is revised to read as follows:

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(d) * * *

(3) *Other transfers.* The present value of an interest not described in paragraph (d)(2) of this section is to be determined under § 25.2512–5.

* * * * *

Par. 30. Section 25.2523(a)–1 is amended by revising paragraph (d) to read as follows:

§ 25.2523(a)–1 Gift to spouse; In general.

* * * * *

(d) *Valuation.* If the income from property is made payable to the donor or another individual for life, or for a term of years, with remainder to the donor's spouse or to the estate of the donor's spouse, the marital deduction is computed (pursuant to § 25.2523(a)–1(c))

with respect to the present value of the remainder. The present value of the remainder (that is, its value as of the date of the gift) is to be determined in accordance with the rules stated in § 25.2512–5. If the value of the remainder is to be determined by a special computation (see § 25.2512–5(b)), a request for a specific factor, accompanied by a statement of the dates of birth of each person, the duration of whose life may affect the value of the remainder, copies of the relevant instruments, and payment of the required user fee, must be submitted to the Service by the donor. If conditions permit, the Service may supply the factor requested. If the Service does not furnish the factor, the claim for the deduction must be supported by a full statement of the computation of the present value, made in accordance with the principles set forth in § 25.2512–5.

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92–26052 Filed 10–30–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

26 CFR Parts 1, 20, 25, and 602

[PS–100–88]

RIN 1545–AM81

Valuation Tables; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the valuation of certain partial interests in property under section 7520 of the Internal Revenue Code of 1986, as added by section 5031 of the Technical and Miscellaneous Revenue Act of 1988.

DATES: The public hearing will be held on Friday, December 11, 1992, beginning at 1:30 p.m. Requests to speak and outlines of oral comments must be received by Friday, November 30, 1992.

ADDRESSES: The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [PS–100–88], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the regulations under section 7520 of the Internal Revenue Code relating to the valuation of any annuity, any interest for life or a term of years, or any remainder or reversionary interest. These regulations appear in the proposed rules section of this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, November 20, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 1 p.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–26051 Filed 10–3–92; 8:45 am]

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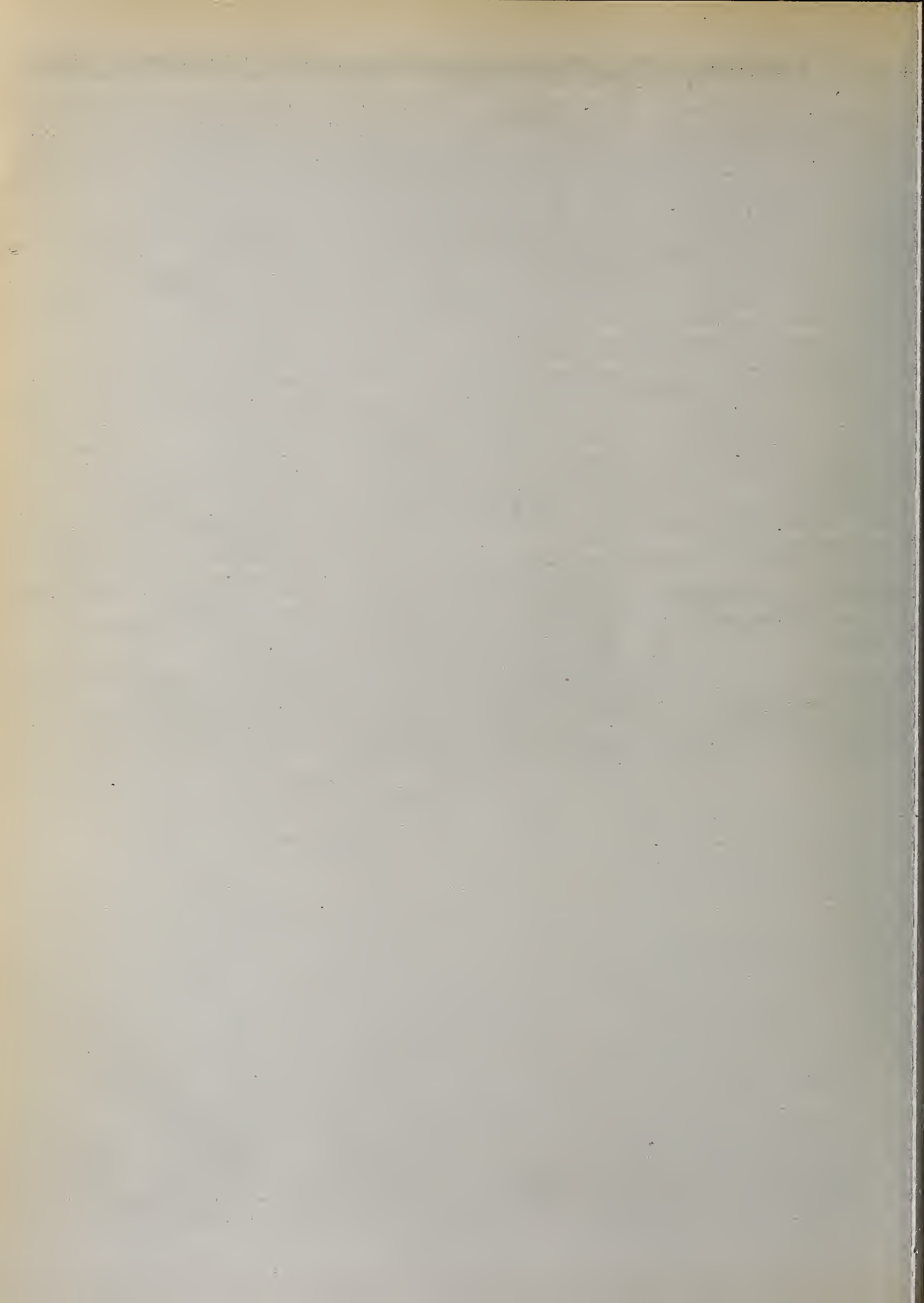

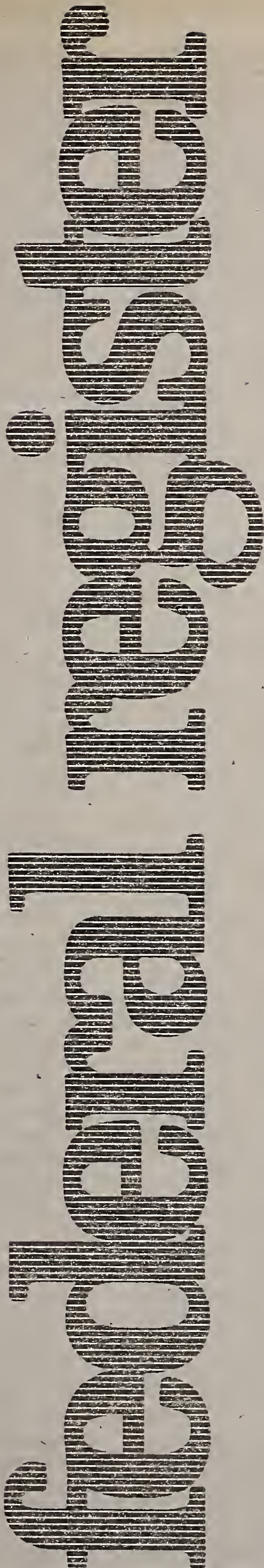

Monday
November 2, 1992

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee: Meeting; Recombinant DNA Research: Proposed Actions Under the Guidelines; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on December 3–4, 1992. The meeting will be held at the National Institutes of Health (NIH), Building 1, Third Floor, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. on December 3, 1992, to adjournment at approximately 5 p.m. on December 4, 1992. The meeting will be open to the public to discuss the following proposed actions under the *NIH Guidelines for Research Involving Recombinant DNA Molecules* (51 FR 16958):

Proposed Major Actions to the *NIH Guidelines;* Four additions to Appendix D of the *NIH Guidelines* Regarding Human Gene Therapy/Gene Transfer Protocols; Amendments to the *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects* regarding (1) Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols, and (2) the separation of Gene Marking Information Consent Document from the Therapeutic Informed Consent Documents; Discussion regarding Costs Associated with Treatment for Research-Related Injuries; Report on Murine Replication-Competent Retrovirus (RCR) Assays; Other Matters to Be Considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: October 23, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–26484 Filed 10–30–92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Recombinant DNA Research; Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on December 3–4, 1992. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the NIH Guidelines.

DATES: Comments received by November 19, 1992, will be reproduced and distributed to the RAC for consideration at its December 3–4, 1992, meeting.

ADDRESSES: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities (ORDA), Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by FAX to 301–496–9839.

All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. O'Shaughnessy

In a letter dated September 9, 1992, a letter was received indicating the intention of Dr. Joyce A. O'Shaughnessy, National Institutes of Health, Bethesda, Maryland, to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Retroviral Mediated Transfer of the Human Multi-Drug Resistance Gene (MDR–1) into Hematopoietic Stem Cells During Autologous Transplantation after Intensive Chemotherapy for Breast Cancer.

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Crystal

In a letter dated October 7, 1992, Dr. Ronald G. Crystal, National Institutes of Health, Bethesda, Maryland, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Gene Therapy of the Respiratory Manifestations of Cystic Fibrosis using a Replication Deficient, Recombinant Adenovirus to Transfer the Normal Human Cystic Fibrosis Transmembrane Conductance Regulator cDNA to the Airway Epithelium.

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Welsh

In a letter dated October 5, 1992, Dr. Michael J. Welsh, Howard Hughes Medical Institute Research Laboratories, Iowa City, Iowa, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Cystic Fibrosis Gene Therapy Using an Adenovirus Vector: In

Vivo Safety and Efficacy in Nasal Epithelium.

IV. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Wilson

In a letter dated October 8, 1992, Dr. James M. Wilson, University of Michigan Medical Center, Ann Arbor, Michigan, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Gene Therapy of Cystic Fibrosis Lung Diseases Using E1 Deleted Adenoviruses: A Phase I Trial.

V. Amendment to the Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols

The *Points to Consider* (March 1, 1990, 55 FR 7447) states under *Part IV—Reporting Requirements* that:

"B. Reports regarding the general progress of patients should be filed with both your locals IRB and ORDA within six-months of the commencement of the experiment and at six-month intervals thereafter. These twice-yearly reports should continue for a sufficient period of time to allow observation of all major effects. In the event of a patient's death, a summary of the special post-mortem studies and statement of the cause of death should be submitted to the IRB and ORDA, if available."

Dr. Brigid Leventhal, Chair of Working Group on Data Management, will provide a summary of the reports submitted to ORDA by the principal investigators of NIH/RAC approved protocols, and make recommendations regarding actions to be taken in the event of non-reporting.

VI. Amendment to the Points To Consider Regarding the Separation of Gene Marking Information Consent Document From the Therapeutic Informed Consent Documents

During the September 14–15, 1992, RAC meeting, Dr. Leonard Post requested that when a gene transfer protocol is submitted as an addition to a therapeutical protocol, the principal investigator should submit two separate informed consent documents, one for the gene marking portion and one for the therapeutic portion of the protocol. In the *Points to Consider, Part I-D—Informed Consent* (March 1, 1990, 55 FR 7446), a new sentence would be added to the introductory paragraph:

"When gene transfer is a procedure separate from the therapeutic protocol, an informed consent document should be submitted for both the gene marking and therapeutic procedures."

VII. Discussion Regarding Costs Associated With Treatment for Research-Related Injuries

The issue of payment for costs associated with research-related injury is becoming a matter of increased concern for some members of the RAC. During the Human Gene Therapy Subcommittee meeting on November 21–22, 1991, Ms. Abbey S. Meyers and Dr. Doris T. Zallen released a statement that any requirement that a patient/subject pay *all costs associated with treatment for research-related injuries* unacceptable. Recombinant DNA research applied to humans (e.g., gene therapy, gene transfer, gene marking) is a new area of investigation. The likely consequences of the research are not yet known. It is unfair to expect individuals, their families, or their insurers to absorb unpredictable and potentially significant costs arising out of their participation as research subjects—especially in experiments from which they, themselves can derive no benefit. At a minimum, research sponsors or their institutions should be responsible for such costs. Ms. Meyers and Dr. Zallen stated that it would be appropriate for the National Institutes of Health to establish uniform standards for payment of medically-related costs for injuries arising out of non-therapeutic biomedical research on humans.

During the September 14–15, 1992, RAC meeting, Dr. Charles McCarthy, Kennedy Institute of Ethics, Georgetown University, made a presentation on Financial Obligation of Research Institutions to Patients Who Participate in Clinical Research Protocols. This presentation was presented in the context of the Code of Federal Regulations (45 CFR 46) relating to the part protection of human subjects. Dr. Zallen suggested that the RAC forward a letter to the Director, NIH. The RAC will consider uniformed standards for the payment of medically related costs for injury arising out of non-therapeutic biomedical research.

VIII. Amendment to the Points To Consider Regarding Safety of Delivery/Expression Systems and Report on Murine Replication-Competent Retrovirus (RCR) Assays

During the September 14–15, 1992, RAC meeting, there was a discussion regarding requirements for the assays of replication-competent retrovirus in vector supernatants. In the *Points To Consider* (March 1, 1990, 55 FR 7445), it states:

"I. Description of Proposal * * *.

"B. Research design, anticipated risks, and benefits * * *.

"2. Preclinical studies, including risk assessment studies * * *.

"c. Laboratory studies pertaining to the safety of the delivery/expression system.

"(1) If a retroviral system is used: * * *.

"(b) How stable are the retroviral vector and the resulting provirus against loss, rearrangement, recombination, or mutation? What information is available on how much rearrangement of recombination with endogenous or other viral sequences is likely to occur in the patient's cells? What steps have been taken in designing the vector to minimize instability or variation? What laboratory studies have been performed to check for stability, and what is the sensitivity of the analyses? * * *.

"(e) Has a protocol similar to the one proposed for a clinical trial been carried out in non-human primates and/or other animals? What were the results? Specifically, is there any evidence that the retroviral vector has recombined with any endogenous or other viral sequences in the animals?"

The recommended assays for detecting the presence of adventitious agents, including replication-competent retroviruses (RTR) has evolved as the RAC has gained experience in the review and approval of human gene transfer/therapy protocols. As the number of protocols has increased, so have the requirements for minimal detectable levels of these agents in vector supernatant preparations. The *Points To Consider* require the investigator to provide evidence that vector constructs are stable in vitro and in vivo.

Since it is very important that retroviral vectors be free of RCR, it is important to quantitate the relative safety margin afforded by the assay systems used. To confirm that this safety margin is adequate, the RAC will discuss specific assay requirements and minimal levels of detection for possible inclusion in the *Points To Consider.*

Drs. W. French Anderson, National Institutes of Health, Bethesda, Maryland; Gerard J. McGarrity, Genetic Therapy, Inc., Gaithersburg, Maryland; and Robert Moen, Genetic Therapy, Inc., Gaithersburg, Maryland, submitted a Report on Murine Replication—Competent Retrovirus (RCR) Assays.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government

programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Jay Moskowitz,
Associate Director for Science Policy and Legislation, NIH.

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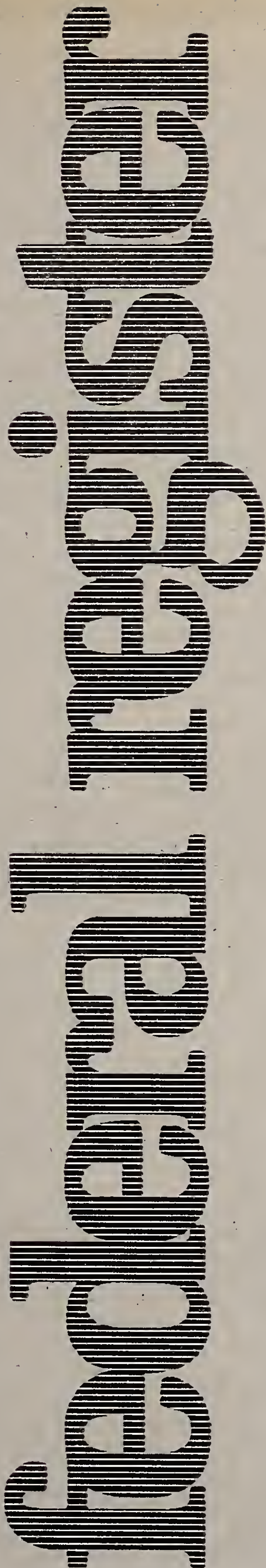

Monday
November 2, 1992

Part IV

Department of Labor

Office of Labor-Management Standards

29 CFR Part 470

Obligations of Federal Contractors and Subcontractors; Employee Rights Concerning Payment of Union Dues or Fees; Final Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 470

RIN 1294-AA06

Obligations of Federal Contractors and Subcontractors; Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Final rule.

SUMMARY: This Final Rule implements Executive Order 12800, which was signed by President Bush on April 13, 1992 and published in the Federal Register on April 14, 1992. Executive Order 12800 requires government contractors and subcontractors to post notices informing their employees that under federal law they cannot be required to join a union or maintain membership in a union to retain their jobs, and employees who choose not to be union members may object to the use of their compulsory union dues and fees collected pursuant to a lawful union-security agreement for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. Executive Order 12800 further requires that, where applicable, each federal contracting agency include certain provisions of the Order in its contracts, and that covered government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

EFFECTIVE DATE: December 2, 1992.

FOR FURTHER INFORMATION CONTACT: Marshall J. Breger, Acting Assistant Secretary for Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., room S-2203, Washington, DC 20210, (202) 219-8174. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background and Overview

The United States Supreme Court ruled in 1988 that the National Labor Relations Act (NLRA) prohibits a union, over the objections of bargaining unit employees who have chosen not to be union members, from expending fees and dues collected from those employees on activities not germane to the union's representational purposes, *i.e.*, collective bargaining, contract administration, and grievance adjustment. *Communications Workers of America* v. *Beck*, 487 U.S. 735. *Beck*, although not the first case in which the Supreme Court has imposed restrictions on expenditures of objecting nonmembers' dues, is significant because it applies to the large portion of the private sector that is covered by the NLRA, 29 U.S.C. 151 *et seq.* In reaching its decision in *Beck*, the Court relied heavily upon earlier rulings pertaining to a provision of the Railway Labor Act (RLA) that the Court found to be in all material respects identical to the NLRA provisions at issue in *Beck*, 487 U.S. at 744. These earlier decisions held that the RLA does not permit union expenditure of compulsory dues and fees in support of political causes objected to by nonmember employees, *International Association of Machinists* v. *Street*, 367 U.S. 740 (1961), but permits only the charging of expenses "germane to collective bargaining," *Railway Clerks* v. *Allen*, 373 U.S. 113, 122 (1963), and "necessarily or reasonably incurred for the purpose of performing the duties of an exclusive representative of the employees in dealing with the employer on labor-management issues." *Ellis* v. *Railway Clerks*, 466 U.S. 435, 448 (1984). The Court noted that the nearly identical language of the RLA and the NLRA provisions " * * * reflects the fact that in both Congress authorized compulsory unionism only to the extent necessary to ensure that those who enjoy union-negotiated benefits contribute to their costs." *Beck*, 487 U.S. at 746.

The Supreme Court also addressed the constitutionality and scope of union-security provisions in public sector employment, see, *e.g.*, *Lehnert* v. *Ferris Faculty Association*, 111 S.Ct. 1950, (1991); *Abood* v. *Detroit Board of Education*, 431 U.S. 209 (1977), and has found rights and restrictions correspondent to those in the private sector. In *Lehnert*, the Court stated:

> [C]hargeable activities must: (1) Be "germane" to collective-bargaining activity; (2) be justified by the government's vital policy interest in labor peace and avoiding "free riders"; and (3) not significantly add to the burdening of free speech that is inherent in the allowance of an agency or union shop.

Lehnert, 111 S.Ct. at 1959.

The principal aim of Executive Order 12800 (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992) and this Final Rule is to provide employees, labor organizations, and contractors with information concerning the rights of employees and thereby to promote harmonious relations in the workplace for purposes of ensuring the economical and efficient administration and completion of government contracts.

Executive Order 12800 requires government contracting agencies to include a clause in government contracts requiring contractors to post a notice informing employees of their rights under *Beck* and related decisions, and to include a clause in federally connected subcontracts and purchase orders requiring subcontractors and vendors to post the notice also. That clause appears in section 2(a)(1)-(3) of Executive Order 12800 and in § 470.2(a)(1)-(4) of this Final Rule. To implement this requirement, on May 12, 1992, the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration jointly issued an Interim Rule with request for comment (57 FR 20373) amending the Federal Acquisition Regulation (FAR) (48 CFR part 22, subpart 22.15 and part 52, 52.222-18), to require government contracting agencies to insert the employee notice clause in all contracts entering into, amended, renegotiated, or renewed on or after May 13, 1992.

Section 1 of E.O. 12800 requires that the Secretary of Labor shall "* * * adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of this order." Accordingly, in the July 28, 1992 Federal Register (57 FR 33402), the Department of Labor (Department) issued an Interim Procedural Notice specifying the size and form of the prescribed Executive Order 12800 employee notice. This Interim Procedural Notice was intended to provide guidance to contractors and subcontractors until the effective date of the Final Rule.

On the same date, the Department also published a Notice of Proposed Rulemaking (57 FR 33403) to implement Executive Order 12800. In the Notice of Proposed Rulemaking (NPRM) the Department proposed definitions, required contract provisions, contract and contractor exemptions, compliance review and complaint procedures, enforcement proceedings, hearing procedures, and sanctions and penalties for failure to comply.

Comments on the NPRM

The Department invited public comment on the NPRM with the comment period ending on August 27, 1992. Thirty-one comments were received (two of these comments were received shortly after the deadline but were accepted in the interests of having a more complete record). Ten organizations submitted comments:

Aerospace Industries Association,
Associated Builders and Contractors,
Associated General Contractors of America (three comments),
Associated General Contractors of St. Louis,
Labor Policy Association,
Management Association of Illinois,
National Association of Manufacturers,
National Institute of Federal Procurement,
National Right to Work Legal Defense Foundation,
Timber Operators Council.

Eleven employers submitted comments:

Anheuser-Bush Companies,
Diamond Shamrock,
Geo. A. Hormel & Company,
Harsen & Johns Architects & Engineers,
Industrial Compliance & Safety, Inc.,
JB Management & Engineering Group, Inc.,
Kaiser Permanente, Kaiser Foundation Health Plan, Inc.,
OPW Fueling Components,
Southwestern Bell Telephone,
Cincinnati Gas & Electric Company,
UE & C-Catalytic, Inc.

Six officials of Local 949 of the International Brotherhood of Electrical Workers (IBEW) of Burnsville, Minnesota, submitted identical comments. The Defense Logistics Agency of the Department of Defense and one individual also submitted comments.

Eleven commenters specifically expressed support for or opposition to the NPRM. Five of these commenters, all organizations, supported the NPRM. For example, the National Right to Work Legal Defense Foundation stated that the NPRM provisions were "* * * essential, sound and should be implemented" and the rule was "* * * an important step in rectifying unlawful practices and advising employees of their rights under Supreme Court decisions." The Associated Builders and Contractors expressed the view that "Executive Order 12800, if properly implemented and enforced, should play an important role in protecting employees' freedom of choice * * *" by insuring that employees are advised of their rights under the *Beck* decision. Similar views were expressed by the National Association of Manufacturers, the Management Association of Illinois, and the Timber Operators Council.

The NPRM was opposed by the six officials of IBEW Local 949 who asked the Department to withhold the rule implementation in its entirety because it would "* * * weaken Local Unions across the board * * * is not beneficial to the working American, and is, in fact, purely politically motivated." While several other commenters did note the proliferation of required government posters, no other commenters specifically opposed the NPRM.

The remaining commenters, rather than expressing views on the NPRM as a whole, asked questions, commented on specific issues or parts of Executive Order 12800 and the NPRM, and offered recommendations for modifying the NPRM.

The largest number of specific comments concerned the preparation of the required employee notice. The NPRM sought comments on whether a poster containing the employee notice should be printed by the Department and supplied to covered contractors, or whether contractors should be required, or permitted, to prepare the poster themselves. Each of the eleven commenters who responded to this request recommended that the Department print the notice. Reasons offered for this recommendation included the need for standardized, official, easily recognized posters; improved employer compliance; lack of employer in-house means to produce the posters in the specified size and form, thereby requiring expensive outside printing; and the cost savings realized by volume government printing. In response to these recommendations, the Department has decided to print and distribute the poster. Section 470.2(d) of the Final Rule indicates how the poster may be obtained. However, contractors that prepared the employee notice posting in the format specified in the Interim Procedural Notice (57 FR 33402) may choose to continue to use those posters.

One commenter raised the issue of whether the Department should provide the initial official poster and allow each employer to reproduce the poster in-house. The Department agrees. As specified in § 470.2(d), contractors are permitted to reproduce and use exact duplicate copies of the Department's official poster.

Several organizations and employers commented on § 470.2(f) of the NPRM dealing with the employee notice format. Many of the commenters were concerned that the NPRM poster and print size requirements were too large and the type style too obscure. The commenters noted that the poster was the largest the Department had ever required; would be costly for contractors to reproduce and burdensome for them to post; and the large size would obscure other required government posters and require construction of more bulletin boards. The commenters recommended that a smaller size poster be allowed, for example, a poster the size of 11" x 17", 11" x 14", or 8½" x 11"; that the type style be one typically used by government contractors such as Times Roman, Helvetica, or Courier; and the type size be reduced significantly. The commenters argued that a smaller poster with commonly used type style would be adequate to notify employees of their rights, yet small enough to be duplicated by contractors on in-house photocopiers at less expense, and, therefore, result in better compliance. The Department agrees with the many commenters who were concerned with the size of the poster and is printing the poster in a reduced size from the proposed 24" x 20" and in a smaller print size.

One commenter recommended that the poster bear the Department's official seal thereby ensuring the poster's official character and signifying the importance of the rights set forth therein. Another commenter suggested the poster cite the legal requirement for posting the employee notice. The commenter argued that such a reference would preclude the conclusion that the notice was the result of unilateral employer action. The Department agrees with both commenters and, therefore, the Department's logo and a statement that the posting is required by Executive Order 12800 signed by President Bush appears on the official poster.

One commenter suggested that a toll free number for the NLRB be added to the notice to assist employees in obtaining information concerning their rights under the *Beck* decision. Presently the NLRB does not have a toll free number; however, any questions may be directed to any of the fifty-two NLRB offices located throughout the United States.

Two commenters were concerned about contractors' liability for noncompliance prior to the effective date of the Final Rule due to misunderstandings and/or mistakes concerning the notice posting requirements, particularly in instances where contractors made good faith efforts to comply. The Department does not intend to retroactively enforce the Final Rule, and will attempt to secure voluntary compliance before initiating enforcement proceedings. Specifically, § 470.12(a) of the Final Rule provides that "[i]f any Department of Labor compliance review or complaint investigation indicates a violation of the Order or this part, reasonable efforts shall be made to secure compliance through conciliation."

The Associated General Contractors of America (AGC) and the Associated General Contractors of St. Louis

expressed concern about the lack of regulatory coordination between the Department and the Federal Acquisition Regulatory Council (FAR Council), and asked that the FAR Interim Rule be suspended until the Department's Final Rule goes into effect to avoid unnecessary contract requirements. The AGC was concerned that the FAR Interim Rule was causing an overbroad interpretation of Executive Order 12800 by requiring all contractors, even non-union contractors, to post the notice until the contractor exemptions outlined in the NPRM were issued in final form. The AGC sought "* * * a carefully coordinated implementation of Executive Order 12800 (Order) that achieves the Order's objective without unnecessarily burdening the Federal contracting process." This Final Rule renders this issue moot.

Four commenters raised various issues concerning the National Labor Relations Board's (NLRB) implementation of the NLRA. Employees' substantive rights under the NLRA and the enforcement of those rights are within the purview of the NLRB, a separate federal agency over which the Department has no authority. These comments, therefore, are beyond the scope of this Final Rule. It is noted, however, that the NLRB is in the process of developing rules and procedures to implement employees' substantive rights under the *Beck* decision, 57 FR 43635 (September 22, 1992) and 57 FR 47023 (October 14, 1992).

A discussion of other significant comments, the Department's responses, and the changes made to specific sections of the NPRM follows. In addition to the revisions discussed below, a number of editorial and clarifying changes have been incorporated in this Final Rule.

Section 470.1 Definitions

The Anheuser-Busch Companies asked whether the NPRM terms "contract," "government contract," and "contractor" have the same meaning as under Executive Order 11246, administered by the Department's Office of Federal Contract Compliance Programs (OFCCP); and, whether an employer subject to Executive Order 11246 is also subject to Executive Order 12800. These terms generally carry the same meaning as under OFCCP regulations implementing Executive Order 11246 (see 41 CFR 60–1.3). However, a contractor covered by Executive Order 11246 may not be subject to Executive Order 12800. For example, the two Orders differ in threshold amounts for contracts (Executive Order 11246—in excess of $10,000; Executive Order 12800—$25,000 or more), for number of employees (Executive Order 11246—no minimum; Executive Order 12800—15 or more), and in coverage of federally assisted construction (Executive Order 11246 covers; Executive Order 12800 does not).

Another commenter suggested that the Final Rule (Rule) define the terms "collective bargaining," "contract administration," and "grievance adjustment" which are representational activities for which courts have held that labor organizations can charge objecting nonmember employees. The meaning and scope of these terms is an evolving matter that has been and continues to be the subject of litigation before the courts and administrative proceedings before the NLRB. Therefore, defining these terms is beyond the scope of this Rule.

Section 470.1(c) Construction

The AGC expressed several concerns about the NPRM's definitions pertaining to construction. Specifically, AGC observed that the NPRM definition of "construction" was an abbreviated version of the FAR definition (48 CFR 36.102), and the NPRM definition of "construction work site" conflicted with the Department's Wage and Hour Administration regulations implementing the Davis-Bacon Act (29 CFR 5.2(1)). The AGC further contended that by basing the NPRM's construction-related definitions on the Department's OFCCP regulations (41 CFR 60–1.3), the Department may be impermissibly expanding Executive Order 12800 coverage to include federally assisted construction.

As noted in the discussion of § 470.1, the Department agrees that Executive Order 12800 does not cover federally assisted construction. The Department disagrees, however, that anything in the NPRM either stated or implied such coverage. The Department further has considered both the FAR and Davis-Bacon construction-related definitions and prefers the considerably shorter NPRM definitions which have been retained.

Section 470.1(d) Construction Work Site

The AGC raised several concerns related to construction work sites and recommended that the Final Rule recognize the unique characteristics of multi-employer work sites generally. In responding to this concern, the Department has considered how similar posting requirements are addressed by other Department components, both in regulations and practical enforcement. The emphasis generally is that a required poster be in a prominent and accessible place where it readily may be seen by employees. In applying this to construction work sites (and other multiemployer work sites, *e.g.*, shipyards), the Department will consider the Executive Order 12800 posting requirement met if the prime or general contractor posts the employee notice at a work site location readily accessible to and visible by all workers on the site (*e.g.*, at the entrance to the site). However, if the prime or general contractor does not do so (*e.g.*, the poster is in a trailer that workers normally do not enter), then each subcontractor individually will be required to post the notice (assuming the subcontractor is not otherwise exempt under § 470.4).

Section 470.1(j) Government Contract

Southwestern Bell Telephone asked whether services provided under tariff constitute a covered government contract under § 470.3 of the NPRM. In this context, tariff is a list or scale of charges that are filed with and subject to the approval of a public utility commission. For example, telephone companies and electrical utilities that provide service to federal agencies and/or federal contractors normally operate under tariff. The Department views such a tariff agreement as an indefinite quantity contract, whose value is determined by the total dollar amount of individual orders anticipated or made. *U.S.* v. *New Orleans Public Service, Inc.*, 553 F.2d 459 (5th Cir. 1977). (See also the discussion regarding § 470.3(a)(2).) Therefore, in this instance, if the dollar amount of telephone service billed or anticipated to be billed in a given year to a federal agency or federal contractor is $25,000 or more, the tariff agreement is not exempt under § 470.3.

Section 470.1(k) Labor Organization

One commenter stated that the NPRM had incorporated the definition of "labor organization" in the Labor-Management Reporting and Disclosure Act (LMRDA) and the NLRA, and objected to the broad interpretation which that definition has been given. The Department notes that the NPRM definition was a modification of the definitions in the LMRDA and NLRA and that the definition has been further modified in this Rule. (See also the discussion regarding § 470.4(b).)

Section 470.1(u) Union-Security Agreement

Two commenters noted that the definition of "union-security agreement" was not sufficiently broad to cover all

ypes of agreements which require covered employees to make payments to a labor organization and, therefore, would permit circumvention of the intent of Executive Order 12800. The Department agrees that clarification is needed and has revised § 470.1(u) as follows: "Union-security agreement means an agreement entered into between a contractor and a labor organization which requires certain employees of the contractor to pay uniform periodic dues, initiation fees, or other payments to that labor organization as a condition of employment."

Section 470.2 Employee Notice Clause

Section 470.2(a) Government Contracts

One commenter suggested that the reference to "the provisions contained in section 2 of the Order" was confusing because most contractors will not have separate access to Executive Order 12800. Therefore, in the interest of clarity, the above language has been changed to read "the following provisions contained in section 2 of Executive Order 12800."

Two commenters stated that the exemption of small purchase contracts in § 470.2(a) and the exemption for contracts under $25,000 in § 470.3(a) are redundant. One recommended retaining only the former exemption; the other, retaining only the latter. The Department disagrees with both recommendations. The exemption of small purchase contracts governed by part 13 of the FAR is contained in the Order itself and is directed to federal contracting agencies. In contrast, the § 470.3(a) exemption for contracts under $25,000 exercises the Secretary's discretion under the Order to exempt certain classes of contracts, and is directed to federal contractors, subcontractors, and vendors as well as to federal contracting agencies. The Department chose the § 470.3(a) $25,000 amount to coincide with the current FAR small purchase ceiling, and anticipates adjusting it to reflect future changes in that ceiling.

One commenter recommended that this clause specifically reference the § 470.4 contractor exemptions. This issue is addressed in the discussion of § 470.4.

Another commenter stated that Executive Order 12800 (and consequently this Rule), by not referencing contract modifications, as described in the FAR at 48 CFR part 43, expressly excluded "change orders" as a type of covered contract action. The Department agrees that change orders do not in themselves trigger the employee notice clause requirements, but for a different reason. While the Order does not define the term "Government contract," the term is defined in § 470.1(j). This definition expressly includes modifications of agreements. However, § 470.2(a) provides, in part, that the employee notice requirement is applicable only to those government contracts "entered into, amended, renegotiated, or renewed on or after May 13, 1992." The Department does not consider a "change order" to be a government contract "entered into, amended, renegotiated, or renewed" and for that reason does not consider the employee notice clause requirements to be triggered exclusively by a change order.

Section 470.2(a)(1)

One commenter stated that it was unnecessary to include the text of the required contact provisions in the Department's regulations since it is included in FAR and that incorporation of the text in both regulations could create the possibility of inconsistencies between the two. The Department believes that the text should appear in both regulations. FAR is directed to federal contracting agencies while this Rule is directed also to federal contractors and subcontractors. Therefore, the Department believes that it is important that the required contract provisions be fully set forth both in FAR and in this Rule.

Section 470.2(a)(4)

The AGC observed that § 470.2(a)(4) of the NPRM required the prime contractor to pass down only §§ 470.2(a)(1) through (3) to its subcontractors and vendors. As a result, since §§ 470.2(a)(1) through (3) do not themselves require pass down, first tier subcontractors and vendors will not be required to pass down the clause further. The AGC noted that this contradicts the NPRM's §§ 470.2(b) and 470.10(b)(2) requirement that the clause be included in the contract document of each tier. The AGC is correct. It is clear, however, that the intent of Executive Order 12800 was that the clause flow down beyond the first tier level, otherwise there would be no reason for the Executive Order 12800 section 3(b)(v) provision that the Secretary could exempt "* * * subcontractors below an appropriate tier. * * *" The Department, therefore, has revised § 470.2(a)(4) to require pass down of paragraphs (1) through (4) rather than only paragraphs (1) through (3), and has deleted § 470.2(b) as no longer necessary.

Section 470.2(b) Subcontracts

Because of the revision being made to § 470.2(a)(4) to ensure that the employee notice clause flows down below the first tier, this section is no longer necessary and is being deleted.

Other comments received regarding § 470.2(b) are not addressed here since this section has been deleted.

Section 470.2(c) Inclusion by Reference

One commenter asked whether § 470.2(c) of the NPRM meant that the employee notice clause may be cited or cross-referenced rather than fully reprinted in the contract document. The commenter observed that, if so, this may contradict § 470.10(d)(2) which states that, during a compliance review, the Department will determine whether the provisions of the clause are included in subcontracts and purchase orders. The Department is clarifying § 470.2(c) (now redesignated § 470.2(b) since the proposed § 470.2(b) has been deleted) by retitling it and specifically stating that the clause simply may be cited in the contract rather than quoted verbatim. Further, § 470.10(b)(2) has been revised to state that during a compliance review the Department will determine whether the clause is included or cited in subcontracts and purchase orders.

Another commenter observed that the term "purchaser order" is used for the first time in this subsection, and that it either should be defined or, preferably, deleted. The Department disagrees. The reference to purchase order is drawn directly from section 2(a)(4) of Executive Order 12800, as reflected in the § 470.2(a)(4) requirement to include the clause in "* * * every subcontract or purchase order * * * so that such provisions will be binding upon each subcontractor or vendor * * * ." Under this Rule, "purchase order" is intended to have the same meaning that it does in contract law.

Section 470.2(d) Incorporation by Operation of the Order

Two commenters questioned whether this section was appropriate and recommended that it be deleted. The Department agrees that § 470.2(d) of the NPRM is not needed since the issue of incorporation of clauses which have been omitted from contracts is dealt with in an established body of contract law. Therefore, Section 470.2(d) has been deleted.

Section 470.2(e) Adaptation of Language

This section provides that the Assistant Secretary may make such

changes in the required contract provisions as may be necessary to reflect Acts of Congress, court decisions, or otherwise to fully and accurately inform employees of their rights under Executive Order 12800. One commenter expressed concern that unilateral actions by the Assistant Secretary to change this Rule would create a conflict between this Rule and FAR which cannot be amended by the Assistant Secretary. The Department disagrees. The commenter's concern that an inconsistency could exist between this Rule and FAR is addressed in section 10 of Executive Order 12800 which directs the FAR Council to take whatever action is required to implement in FAR the provisions of the Order and of any related rules, regulations, or orders of the Secretary.

The commenter also recommended that § 470.2(e) specifically require the Assistant Secretary to publish any such changes in the Federal Register before the changes become effective (unless Congress were to explicitly provide for retroactivity). The Department disagrees. This section does not anticipate retroactive amendment of this Rule; it reflects section 2(b) of Executive Order 12800 which directs the Secretary to issue such rules, regulations, or orders as are needed to revise the required contract provisions in government contracts thereafter entered into. Furthermore, in making any amendments to this Rule, the Assistant Secretary is bound by the provisions of the Administrative Procedure Act, so it is unnecessary for the Rule itself to explicitly require Federal Register publication.

Section 470.2(f) Employee Notice Format

The Defense Logistics Agency recommended that specifications for the employee notice given in § 470.2(f) of the NPRM be replaced with information on how to obtain the employee notice posters and that those same ordering instructions be included in contract solicitations and contracts whenever the clause at § 470.2(a)(1)–(4) applies. Thus, the ordering information would be readily available to contractors without any additional action required by the federal contracting agency. The Department agrees that the Rule should explain how to obtain the poster and, therefore, has added this information at the new subsection 470.2(d), "Obtaining Employee Notice Poster." However, the Department does not believe it is necessary to include this language in the contract clause itself.

Section 470.3 Contract Exemptions

Section 470.3(a) Transactions of Less Than $25,000

Section 470.3(a)(2)

The Aerospace Industries Association (AIA) and AGC both objected to aggregating contracts for purposes of determining whether the § 470.3(a) $25,000 threshold is met. For the sake of clarity and simplicity, the Department has deleted the aggregation provision.

In its place, the Department has inserted a section addressing contracts and subcontracts for indefinite quantities to clarify that tariff agreements and similar arrangements (*e.g.*, blanket purchasing agreements) are considered single contracts subject to the employee notice requirement unless the contracting agency or contractor has reason to believe that the amount to be ordered in any year under such a contract will be less than $25,000. (See also the discussion regarding § 470.1(j).)

Section 470.4 Contractor Exemptions

One commenter recommended that these exemptions should be referenced in § 470.2 so that the federal contracting agency could exclude the employee notice clause from contracts awarded to exempt contractors. Another commenter similarly read the § 470.4 contractor exemptions to be for the use of federal contracting agencies in determining whether to include the clause in a contract. In a related matter, a third commenter asked whether a contractor must include the employee notice clause in subcontracts if the contractor itself is exempt under § 470.4.

In the NPRM, the Department separated contract exemptions (§ 470.3) from contractor exemptions (§ 470.4) to clarify that the requirement to include the employee notice clause in a covered contract or subcontract is independent of whether the contractor is exempt under § 470.4 from the requirement to post the notice. There are several reasons for this. First, the contractor's status may change during the term of the contract—for example, its work force may grow from 10 employees to 15, thus triggering the posting requirement. Second, although the contractor may be and remain exempt, its subcontractors may not be—for example, the contractor's facilities may be located in right-to-work states, while its subcontractors are in non-right-to-work states; or, the contractor may have no employees covered by a union, but its subcontractors may. Additionally, for these and other reasons, it would be neither practical nor possible for federal contracting agencies to make the § 470.4 contractor exemption determinations before or at the time of award of a contract. The Rule, therefore, requires federal contracting agencies and contractors to include the clause in all covered contracts, and leaves to the contractor or subcontractor the determination of whether and when each of its facilities is exempt under § 470.4.

On comment suggested the Rule state that a contractor is permitted to post the notice in facilities where it is not required to do so under Executive Order 12800. The commenter argued that since the § 470.4 contractor exemptions leave uncertainty as to whether certain facilities are covered, this recommendation would eliminate all doubts as to compliance. However, the Department believes that including such a statement in the Rule is beyond the scope and intended purpose of Executive Order 12800 which only prescribes the conditions under which the notice is required to be posted.

Section 470.4(a) Number of Employees

The National Right to Work Legal Defense Foundation recommended that all contractors employing two or more persons be subject to the requirements of Executive Order 12800 rather than contractors with fifteen or more employees as provided in the NPRM. The Foundation argued that the threshold established by the NPRM leaves substantial gaps in comparison to the number of employees covered by the NLRA, since the NLRB will certify unions as representatives of units with as few as two people. The Foundation noted that such a change would enhance the likelihood that employees within the ambit of the NLRA would receive notice of their *Beck* rights. The Department believes that such a change is not necessary, and that lowering the employee number threshold would impose an excessive burden on small contractors.

Section 470.4(b) Union Representation

This subsection provides an exemption to the posting requirement for contractor establishments or construction work sites where there are no employees of the contractor "represented" by a union. The Labor Policy Association observed that the NPRM could be interpreted to require posting where a union organizing effort is underway and some employees have signed union authorization cards, but the union has neither been recognized nor certified. The Association suggested that the exemption be broadened to

apply to contractor establishments or construction work sites if no union had been formally recognized by the employer or certified by the NLRB as the exclusive bargaining representative. The Association noted that since compulsory union dues would only be paid under these circumstances, the reworded exemption would track the purposes of Executive Order 12800. The Association also indicated that rewording the exemption would address its concerns that the present wording requires posting whenever there are employee involvement programs, such as quality circles, quality of work life committees, self-managed work teams, etc., and whenever a union organizing effort is underway and some employees have signed union authorization cards. The Department agrees that this exemption should be clarified. Therefore, subsection (b) has been reworded to read as follows: "The posting requirement does not apply to contractor establishments or construction work sites where no union has been formally recognized by the contractor or certified as the exclusive bargaining representative."

The AGC asked whether the posting requirement applies to multi-employer work sites that have both union and non-union employees. The Department's position is that if a union has been formally recognized by the employer or certified as the exclusive bargaining unit representative of any employees on such a work site, the posting requirement applies. As noted in the discussion regarding § 470.1(d), if the prime or general contractor on a multi-employer work site does not post the required employee notice in a place easily visible to all employees working at the site, only those subcontractors with union employees would be required independently to post the employee notice.

Section 470.4(c) State Law

The Management Association of Illinois and the Timber Operators Council urged that contractors in right-to-work states not be exempted from the posting requirements. They argued that, as in all other states, a union in a right-to-work state is the exclusive bargaining agent for all members of the unit and the employer and dissenting employees are powerless to bargain directly. They also argued that each employee should have the right to participate in the collective bargaining process under section 7 of the NLRA, but this exemption perpetuates the employee's forced choice of either having to become a full regular member and pay dues to support objectionable union programs or to refrain from union membership and have no voice in the bargaining process. The Department does not believe that the exemption from posting the employee notice in right-to-work states should be changed. The purpose of Executive Order 12800 is to inform employees of their right to object to mandatory union dues and fees which are prohibited in right-to-work states.

One commenter suggested that the Department incorporate a list of right-to-work states in the Rule since such a list would promote compliance and put the responsibility for updating the list on the appropriate government agencies. The Department believes that listing right-to-work states in the Rule would be misleading because it would imply that all contractor establishments or construction work sites in such states are exempted from the posting requirements and that no contractor establishments in other states are within the scope of the exemption. This is incorrect since it is necessary to examine the nature of each particular contractor establishment and not just the state in which it is located to determine whether state law forbids enforcement of union-security agreements at the establishment.

For example, even in states with general right-to-work laws, the laws do not apply to employees covered by the Railway Labor Act. Conversely, a state without a general right-to-work law may have a law forbidding enforcement of union-security agreements for state or local government employees.

Section 470.4(d) Non-Federal Work

The Anheuser-Busch Companies asked whether the posting requirement would apply to separate facilities that supply component parts to a primary facility that produces a product under a government contract. The Department's position is that if a facility supplies materials used, in whole or in part, to fulfill a government contract, it is not separate and distinct from activities related to performance of the contract and, therefore, is subject to the posting requirement. Note, for example, that if the facilities in Anheuser-Busch's example were in difference corporations, the supplier facilities would be federal subcontractors—a less direct relationship than exists among facilities of the same corporation. (The Department has changed the term "facilities" in § 470.4(d) to "contractor establishments and construction work sites" to be consistent with the terms used in § 470.(b) and (c).)

Southwestern Bell Telephone observed that although § 470.(d) exempts facilities that are in all respects separate and distinct from activities related to the performance of the contract, the added proviso that "* * * such exemption will not interfere with or impede the effectuation of the purposes of the Order" introduces an element of uncertainty. The Department agrees. Given the clarity of the exemption, the Department is deleting the referenced proviso as unnecessary.

Section 470.10 Compliance Reviews

This section provides that during a compliance review, Departmental staff will determine whether the employee notice is properly posted in the contractor's establishments and/or construction work sites not exempted by § 470.4. One commenter stated that "* * * recognition must be given to the additional exemption from coverage for contracts exempt under [§]470.3." The Department agrees that clarification is desirable and, therefore, subsection (a) has been reworded as follows: "An on-site compliance review may be conducted by the Department to determine whether a contractor or subcontractor holding a non-exempt contract or subcontract is in compliance with the requirements of this part * * *"

Section 470.10(b)(2)

As noted in the discussion regarding § 470.2(c), the Department has revised this section to clarify that the employee notice clause may be either included or cited in subcontracts and purchase orders.

Section 470.11 Complaints

Section 470.11(a) Filing Complaints

One commenter recommended that the Rule limit the standing to file a complaint with the Department to employees in bargaining units covered by a union security clause, rather than any employee of a covered contractor or subcontractor as provided in the NPRM. The commenter pointed out that limiting standing to file a complaint to employees with a direct interest in compliance would minimize any regulatory burden. The Department disagrees and believes that any employee should have the right to file a complaint if the required employee notice is not posted in the workplace.

Another commenter noted that this subsection only addresses employee complaints against contractors and subcontractors who fail to post the required notice, but does not address employee complaints regarding unions that withhold dues improperly. This assessment is correct. The rule does not deal with employee complaints concerning wrongly withheld union dues

because such complaints are not within the Department's jurisdiction, but are within the purview of the NLRB, as specified in the employee notice.

Section 470.11(c) Referrals

The AGC and AIA were concerned that this subsection of the NPRM creates an erroneous impression that contractors and subcontractors have an obligation to respond to employee questions concerning union dues payments under the *Beck* decision. The AGC recommended that the Department and FAR advise contracting and enforcement officials that the contractor has no role in responding to such questions. The AIA went further and recommended that either the term "referrals" or the complete subsection be deleted. The Department disagrees. Subsection (c), "Referrals," simply states that the Department will refer such complaints to the NLRB. The Department never intended to require contractors to be responsible under this rule for responding to employee questions and complaints about their rights under the *Beck* decision. Furthermore, it has been and continues to be the Department's practice to refer all such matters to the NLRB, and this is all the subsection provides.

Section 470.13 Enforcement Proceedings

Section 470.13(b)(2)

One commenter recommended that contractors have the option of requesting expedited or conventional administrative enforcement proceedings. However, the Department continues to believe that the Order can best be effectuated by expedited hearings unless the Office of the Solicitor specifies otherwise in its complaint, as provided in this subsection.

Section 470.14 Sanctions and Penalties

One commenter suggested that this section be revised and expanded. Specifically, the commenter recommended that subsections (b), (c), and (d) be combined into new subsections (b)(1), (b)(2), and (b)(3), since the provisions of the three subsections relate directly to one another. Also, the commenter recommended that § 470.15, "Hearing required" be incorporated in this subsection as § 470.14(c) because the hearing requirement is a condition precedent to the imposition of sanctions. The Department agrees that clarification is necessary and, therefore, has reorganized § 470.14 and included the hearing provision as set forth in the Rule.

Section 470.14(e)(1) Existing Contracts

The AIA argued that the Government has certain remedies for a contractor's failure to adhere to the terms and conditions of a contract but that suspension of work pending subsequent compliance is not one of them. The AIA recommended seeking advice on the "proper authority" to direct stopping work under a contract or to terminate a contract.

The Department notes that paragraph (3) of the employee notice clause provides "proper authority" on which a contract "may be canceled, terminated, or suspended in whole or in part" for noncompliance. Although termination and debarment are more common remedies, suspension of work is not inherently improper and is a less drastic remedy than termination. Additionally, there is precedent for contract suspension as a remedy (see 48 CFR 52.222–26).

Section 470.15 Hearing Required.

The AIA asked whether "an order for debarment," as used in § 470.15, has the same meaning as the FAR Part 9 term "proposed for debarment." The term "an order for debarment" in this Rule does not mean the same as the term "proposed for debarment" in part 9. It means that the Assistant Secretary has issued an order debarring a contractor from future contracts.

Under 48 CFR part 9, federal agencies may not award contracts to a contractor that, before a hearing, is placed on a published list of contractors "proposed for debarment." The practical effect, therefore, of being "proposed for debarment" is the same as being debarred. In contrast, section 5(b) of Executive Order 12800 (from which § 470.15 is drawn) specifically requires a hearing—unless the contractor declines one—before debarment. Further, Executive Order 12800 also requires a hearing before any contractor is placed on a published list of noncomplying contractors. In the Department's view, this latter requirement effectively prohibits use of the FAR "proposed for debarment" list to enforce Executive Order 12800.

The AIA went on to recommend that if the regulations continue to provide for debarment, they also should include a maximum time period for such debarment, and suggested this normally should not exceed three years. As noted earlier, before imposing any sanctions the Department intends to first engage in conciliation to obtain voluntary compliance and, if that fails, to provide the opportunity for a hearing. If the Department prevails at a hearing (or the contractor declines a hearing) and a debarment order is entered, the contractor may be reinstated upon a showing that it has come into compliance with Executive Order 12800 and this part and showing that it will carry out the provisions of the Order and this part. The Department has expanded § 470.16 (now redesignated § 470.15 because the NPRM's § 470.15 has been incorporated in § 470.14) to clarify that a debarred contractor need only come into compliance with Executive Order 12800 and this part and show that it will carry out the Order and this part in order to obtain reinstatement.

Section 470.22 Intimidation and Interference

One commenter observed that Executive Order 12800 does not require, as does this section, that a contractor take all effective steps to ensure against threats, intimidation, or coercion. The Department believes that this section is necessary to effectuate the purposes of Executive Order 12800 and thus is retaining this section.

Section 470.23 General

As noted in the NPRM, some contract related provisions of the NPRM were patterned generally after the Department's OFCCP regulations; certain other provisions were patterned generally after other Department regulations. To clarify that this Rule is solely for purposes of implementing Executive Order 12800 and in no way modifies or affects the interpretation of any other Department regulation or policy, a new subsection (a) has been added (with the remaining text redesignated subsection (b)).

Regulatory Procedures

The Department of Labor has determined that this Rule is not a "major rule" under Executive Order 12291 in that it will not have an annual effect on the economy of $100 million dollars or more; cause a major increase in costs or prices; or have an adverse effect on competition in the marketplace. Therefore, no regulatory impact analysis is required.

The Department certifies that this Rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Recordkeeping

Pursuant to the Paperwork Reduction Act of 1980, as amended, the

information collection requirements for this program (i.e., request for exemptions of specific contracts under § 470.3(b)) have been submitted to the Office of Management and Budget.

List of Subjects in 29 CFR Part 470

Administrative practice and procedure; Government contracts; Union dues; Labor unions.

Accordingly, OLMS amends 29 CFR Chapter IV as set forth below.

Signed at Washington, DC, this 29th day of October, 1992.

Lynn Martin,

Secretary of Labor.

A new subchapter C, consisting of part 470, is added to 29 CFR chapter IV to read as follows:

SUBCHAPTER C—EXECUTIVE ORDER 12800, NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

PART 470—OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Subpart A—Preliminary Matters

Sec.
470.1 Definitions.
470.2 Employee notice clause.
470.3 Contract exemptions.
470.4 Contractor exemptions.

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

470.10 Compliance reviews.
470.11 Complaints.
470.12 Processing when violation found.
470.13 Enforcement proceedings.
470.14 Sanctions and penalties.
470.15 Reinstatement of debarred contractors or subcontractors.

Subpart C—Ancillary Matters

470.20 Rulings and interpretations.
470.21 Delegation of authority by the Secretary.
470.22 Intimidation and interference.
470.23 General.

Authority: E.O. 12800 (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992).

Subpart A—Preliminary Matters

§ 470.1 Definitions.

(a) *Assistant Secretary* means the Assistant Secretary of Labor for Labor-Management Standards.

(b) *Collective bargaining agreement* means an agreement between a government contractor and a labor organization which represents some or all of the contractor's employees concerning such matters as grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(c) *Construction*, as used in paragraphs (d) and (j) of this section, means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term "construction" also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(d) *Construction work site* means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor or subcontractor meets a demand or performs a function relating to the contract or subcontract.

(e) *Contract* means, unless otherwise indicated, any government contract or subcontract.

(f) *Contracting agency* means any department, agency, establishment, or instrumentality in the executive branch of the government, including any wholly owned government corporation, which enters into contracts.

(g) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor, at any tier.

(h) *Department* means the U.S. Department of Labor.

(i) *Government* means the government of the United States of America.

(j) *Government contract* means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services," as used in this section, includes but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "government contract" does not include agreements in which the parties stand in the relationship of employer and employee and does not include federally assisted contracts.

(k) *Labor organization* means any organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(l) *Modification* means any alteration in the terms and conditions of a contract, including amendments, renegotiations, and renewals.

(m) *Order* means Executive Order 12800 dated April 13, 1992 (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992).

(n) *Person*, as used in paragraphs (j), (o), (r), and (s) of this section, means any natural person, corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

(o) *Prime contractor* means any person holding a contract with a contracting agency, and, for the purposes of subpart B of this part, includes any person who has held a contract subject to the Order.

(p) *Related rules, regulations, and orders of the Secretary of Labor*, as used in § 470.2(a)(2), means rules, regulations, and relevant orders of the Assistant Secretary for Labor-Management Standards, or his or her designee, issued pursuant to the Order.

(q) *Secretary* means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

(r) *Subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(s) *Subcontractor* means any person holding a subcontract and, for the purpose of subpart B of this part, any person who has held a subcontract subject to the Order.

(t) *Union* means a labor organization as defined in paragraph (k) of this section.

(u) *Union-security agreement* means an agreement entered into between a contractor and a labor organization which requires certain employees of the contractor to pay uniform periodic dues, initiation fees, or other payments to that labor organization as a condition of employment.

(v) *United States* includes the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 470.2 Employee notice clause.

(a) Government contracts. Except in contracts exempted in accordance with § 470.3, all government contracting agencies shall, to the extent consistent with law, include the following provisions contained in section 2 of Executive Order 12800 in every government contract, other than collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8) and small purchase contracts governed by part 13 of the Federal Acquisition Regulation (48 CFR part 13), entered into, amended, renegotiated, or renewed, after May 13, 1992:

Required Contract Provisions

(1) During the term of this contract, the contractor agrees to post a notice, of such size and in such form as the Secretary of Labor may prescribe, in conspicuous places in and about its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the last sentence shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151–188)).

Notice to Employees

Under federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact either a Regional Office of the National Labor Relations Board or: National Labor Relations Board, Division of Information, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

(2) The contractor will comply with all provisions of Executive Order 12800 of April 13, 1992, and related rules, regulations, and orders of the Secretary of Labor.

(3) In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) of this contract provision, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for future government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 12800 of April 13, 1992, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

(4) The contractor will include the provisions of paragraphs (1) through (4) of this contract provision in every subcontract or purchase order entered into in connection with this contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 12800 of April 13, 1992, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. Provided, however, that if the contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Inclusion of the employee notice clause in contracts. The employee notice clause need not be quoted verbatim in a contract, subcontract, or purchase order. The clause may be made part of the contract, subcontract, or purchase order by citation to 29 CFR part 470.

(c) Adaptation of language. The Assistant Secretary may make such changes in the contractual provisions of the Order as may be necessary to reflect Acts of Congress, clarifications in the law by the courts, or otherwise to fully and accurately inform employees of their rights under the Order.

(d) Obtaining employee notice poster. The required employee notice poster, printed by the Department of Labor, will be provided by the contracting agency or may be obtained from the Office of Public Affairs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs. Additionally, contractors must reproduce and use exact duplicate copies of the Department's official poster.

§ 470.3 Contract exemptions.

(a) Transactions of less than $25,000. The requirements of this part do not apply to contracts and subcontracts of less than $25,000, other than contracts and subcontracts with depositories of federal funds in any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes. *Provided*, that—

(1) Any agency, contractor, or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the Order and the regulations in this part; and

(2) With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the employee notice clause shall be included unless the contracting agency or contractor has reason to believe that the amount to be ordered in any year under such a contract will be less than $25,000.

(b) Specific contracts. The Assistant Secretary may exempt a contracting agency or any person from requiring the inclusion of any or all of the employee notice clause in any specific contract or subcontract when the Assistant Secretary deems that special circumstances in the national interest, so require. Requests for exemption must be in writing and directed to the Assistant Secretary for Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

(c) Withdrawal of exemption. When any contract or subcontract is of a class exempted under this section, the Assistant Secretary may withdraw the exemption for a specific contract or subcontract or groups of contracts or subcontracts when in the Assistant Secretary's judgment such action is necessary or appropriate to achieve the purposes of the Order.

§ 470.4 Contractor exemptions.

(a) Number of employees. The requirement to post the employee notice given in § 470.2(a)(1) (hereafter, posting requirement) does not apply to contractors and subcontractors that employ fewer than 15 persons.

(b) Union representation. The posting requirement does not apply to contractor establishments or construction work sites where no union has been formally recognized by the contractor or certified as the exclusive bargaining representative.

(c) State law. The posting requirement does not apply to contractor establishments or construction work sites where state law forbids enforcement of union-security agreements.

(d) Non-federal work. The posting requirement does not apply to contractor establishments and construction work sites that are in all respects separate and distinct from activities related to the performance of the contract.

(e) Work outside the United States. The posting requirement does not apply to work performed outside the United States that does not involve the

recruitment or employment of workers within the United States.

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

§ 470.10 Compliance reviews.

(a) An on-site compliance review may be conducted by the Department to determine whether a contractor or subcontractor holding a non-exempt contract or subcontract is in compliance with the requirements of this part. Such compliance review may be limited to compliance with this part or may be included in an on-site compliance review conducted under other laws, executive orders, and/or regulations enforced by the Department.

(b) During such a compliance review, a determination will be made whether:

(1) The employee notice is posted in conspicuous places in and about each of the contractor's establishments and/or construction work sites not exempted by § 470.4, including all places where notices to employees are customarily posted; and

(2) The provisions of the employee notice clause are included or cited in nonexempt subcontracts and purchase orders.

(c) The results of the compliance review will be documented in the review record which will include findings regarding the contractor's compliance with the requirements of the Order and this part and, as applicable, conciliation efforts made, corrective action taken, and/or enforcement recommended.

§ 470.11 Complaints.

(a) Filing complaints. Complaints may be filed by an employee of a covered contractor or subcontractor alleging that the contractor or subcontractor has failed to post the employee notice as required by the Order and this part; and/or has failed to include the employee notice clause in nonexempt subcontracts or purchase orders. All complaints should be filed with the Office of Labor-Management Standards (OLMS) or the Office of Federal Contract Compliance Programs (OFCCP) at 200 Constitution Avenue NW., Washington, DC 20210, or with any OLMS or OFCCP field office.

(b) Content of complaints. The complaint must be in writing and must include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor alleged to have violated the Order, an identification of the alleged violation and the establishment or construction work site where it is alleged to have occurred, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint must be signed by the complainant.

(c) Referrals. The Department will refer complaints alleging use of union dues or fees for purposes unrelated to a collective bargaining agreement and/or seeking a refund or future adjustment of such dues or fees, to the National Labor Relations Board or other appropriate agency.

(d) Complaint investigations. In investigating complaints filed with the Department pursuant to paragraph (a) of this section, the Department will evaluate the allegations of the complaint and develop a case record including findings regarding the contractor's compliance with the requirements of the Order and this part and, as applicable, conciliation efforts made, corrective action taken, and/or enforcement recommended.

§ 470.12 Processing when violation found.

(a) If any compliance review or complaint investigation indicates a violation of the Order or this part, reasonable efforts shall be made by the Department to secure compliance through conciliation.

(b) A contractor must correct the violation and must commit in writing not to repeat the violation before it can be found to be in compliance with the Order or this part.

(c) If a violation cannot be resolved through conciliation efforts, the Assistant Secretary may proceed in accordance with § 470.13.

(d) For reasonable cause shown, the Assistant Secretary may reconsider, or cause to be reconsidered, any matter on his/her own motion or pursuant to a request.

§ 470.13 Enforcement proceedings.

(a) General. (1) Violations of the Order may result in administrative proceedings to enforce the Order. Violations may be found based upon, *inter alia,* any of the following:

(i) The results of a compliance review;

(ii) The results of a complaint investigation;

(iii) A contractor's refusal to allow an on-site review or investigation to be conducted; or

(iv) A contractor's refusal to supply records or other information as required by the Order and the regulations in this part.

(2) If a determination is made that the Order or the regulations in this part have been violated, and the violation has not been corrected through conciliation, the Assistant Secretary may refer the matter to the Solicitor of Labor for initiation of administrative enforcement proceedings.

(b) Administrative enforcement proceedings. (1) Administrative enforcement proceedings shall be conducted under the control and supervision of the Solicitor of Labor, under the hearing procedures set forth in 29 CFR part 18, Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.

(2) Unless otherwise provided by the Office of the Solicitor in its complaint, all hearings shall be conducted in accordance with the rules for expedited proceedings at 29 CFR 18.42.

(3) The administrative law judge shall certify his or her recommended decision issued pursuant to 29 CFR 18.57 to the Assistant Secretary. The decision shall be served on all parties and amici.

(4) Within 10 days (25 days in the event that the proceeding is not expedited) after receipt of the administrative law judge's recommended decision, either party may file exceptions to the decision. Exceptions may be responded to by the other parties within 7 days (25 days if the proceeding is not expedited) after receipt. All exceptions and responses must be filed with the Assistant Secretary.

(5) After the expiration of time for filing exceptions, the Assistant Secretary shall issue a final administrative order. In an expedited proceeding, unless the Assistant Secretary issues a final administrative order within 30 days after the expiration of time for filing exceptions, the administrative law judge's recommended decision shall become the final administrative order. If the Assistant Secretary determines that the contractor has violated the Order or the regulations in this part, the final administrative order may enjoin the violations, require the contractor to provide appropriate remedies, and, subject to the procedures in § 470.14, impose appropriate sanctions and penalties.

§ 470.14 Sanctions and penalties.

(a) Before imposing the sanctions and penalties described in paragraph (c) of this section, the Assistant Secretary shall consult with the affected contracting agency, and provide the head of that agency the opportunity to respond and provide written objections. If the contracting agency provides written objections, those objections must include a complete statement of reasons for the objections, among which

reasons shall be a finding that, as applicable, the completion of the contract, or further contracts or extensions or modifications of existing contracts, is essential to the agency's mission.

(b) The sanctions and penalties described in paragraph (c) of this section shall not be imposed if:

(1) The head of the contracting agency continues personally to object to the imposition of such sanctions and penalties, or

(2) The contractor has not been afforded an opportunity for a hearing.

(c) In enforcing the Order and this part, the Assistant Secretary may:

(1) Direct a contracting agency to cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract or any portions thereof, for failure of the contractor to comply with its contractual provisions as required by section 2 of the Order and the regulations in this part. Contracts may be canceled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon compliance.

(2) Issue an order of debarment under section 6(b) of the Order providing that one or more contracting agencies shall refrain from entering into further contracts, or extensions or other modification of existing contracts, with any noncomplying contractor.

(d) Periodically, the Assistant Secretary shall publish and distribute, or cause to be published and distributed, to all executive agencies a list of the names of contractors that have, in the judgment of the Assistant Secretary, failed to comply with the provisions of the Order and this part, or of related rules, regulations, and orders of the Assistant Secretary, and have been debarred under the Order and the regulations in this part. However, the inclusion of a contractor on a published list of noncomplying contractors under section 6(c) of the Order shall not be carried out without affording the contractor an opportunity for a hearing.

(e) Consistent with section 8 of the Order, each contracting agency shall cooperate with the Assistant Secretary and provide such information and assistance as the Assistant Secretary may require in the performance of the Assistant Secretary's functions under the Order and the regulations in this part. Whenever the Assistant Secretary has exercised his or her authority pursuant to paragraph (c) of this section, the contracting agency shall report the actions it has taken to the Assistant Secretary within such time as the Assistant Secretary shall specify.

§ 470.15 Reinstatement of debarred contractors or subcontractors.

Any contractor or subcontractor, debarred from further contracts or subcontracts under the Order, may obtain reinstatement upon a written request to the Assistant Secretary, if the Assistant Secretary finds that the contractor or subcontractor has come into compliance with the Order and this part and has shown that it will carry out the Order and this part.

Subpart C—Ancillary Matters

§ 470.20 Rulings and interpretations.

Rulings under or interpretations of the Order or the regulations contained in this part shall be made by the Assistant Secretary or his or her designee.

§ 470.21 Delegation of authority by the Secretary.

Consistent with section 9 of the Order, the Secretary may delegate any function or duty of the Secretary under this Order to any officer in the Department or to any other officer in the executive branch of the government, with the consent of the head of the department or agency in which that officer serves.

§ 470.22 Intimidation and interference.

The sanctions and penalties contained in § 470.14 may be exercised by the Assistant Secretary against any contractor or subcontractor who fails to take all necessary steps to ensure that no person intimidates, threatens, or coerces any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in a compliance review, investigation, hearing, or any other activity related to the administration of the Order or the regulations in this part.

§ 470.23 General.

(a) The regulations in this part implement Executive Order 12800 only and do not modify or affect the interpretation of any other Department of Labor regulations or policy.

(b) Consistent with section 11 of the Order, nothing contained in the Order or this part, or promulgated pursuant to the Order or this part, is intended to confer any substantive or procedural right, benefit, or privilege enforceable at law by a party against the United States, its agencies or instrumentalities, its officers, or its employees, nor to authorize the assessment of any dues or fees by any labor organization.

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Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

Real Estate Settlement Procedures Act (Regulation X); Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

[Docket No. R-92-1256; FR-1942-F-06]

RIN 2502-AC09

Real Estate Settlement Procedures Act (Regulation X)

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

ACTION: Final rule.

SUMMARY: This final rule revises the regulations for the Real Estate Settlement Procedures Act of 1974 (RESPA), also known as Regulation X, to conform to section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA). With this rule, the Department is also taking the opportunity to make other clarifying and editorial changes; and to incorporate in this regulation certain matters which were previously only covered by informal legal or program advice.

EFFECTIVE DATE: December 2, 1992.

FOR FURTHER INFORMATION CONTACT: David Williamson, Director, RESPA Enforcement, room 5241, (202) 708–4560 or, for legal questions, Grant E. Mitchell or John B. Shumway, Office of General Counsel, (202) 708–1550, room 10252, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Some of 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. Ancillary submissions are in process. 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 **Findings and Certifications.** 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.

I. Background

This final rule revises 24 CFR part 3500, also known as Regulation X, the regulations for the Real Estate Settlement Procedures Act of 1974 (RESPA), and has been issued in part in response to section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA) (Pub. L. 98–181). Section 461 defined a "controlled business arrangement" in section 3 of RESPA (12 U.S.C. 2602) added an exemption under section 8 of RESPA (12 U.S.C. 2607) for certain controlled business arrangements, amended provisions on enforcement of sections 8 and 9 of RESPA (12 U.S.C. 2607 and 2608) and, in section 19 of RESPA (12 U.S.C. 2617) gave the Secretary of HUD specific investigative authority, including subpoena authority. In addition, HUD sets forth other changes to clarify the previous regulation. Section 3500.2(a)(16) includes "the origination, processing or funding of a federally-related mortgage loan" in the definition of "settlement service." Section 3500.15 contains the new controlled business provisions. Section 3500.17 is reserved for provisions regarding escrow accounts, and escrow accounting, as well as escrow account statements required by section 942 of the National Affordable Housing Act (Pub. L. 101–625, November 28, 1990). Section 3500.20 sets forth the administrative requirements regarding subpoenas. Appendix C is a Good Faith Estimate format. Appendix D is a controlled business arrangement disclosure format. Appendix E is the CLO Fee Disclosure. The Secretary has authority to prescribe such rules and regulations to achieve the purposes of the Act under section 19(a) of RESPA (12 U.S.C. 2617(a)).

Sections 941 and 942 of the Cranston-Gonzalez National Affordable Housing Act (1990 Act), added a new section 6 of RESPA (12 U.S.C. 2605) concerning notice of mortgage servicing transfers and new sections 10(b), 10(c) and 10(d) of RESPA (12 U.S.C. 2609(b), (c) and (d)) concerning escrow account statements. Rulemaking regarding section 6 in the form of an interim rule for effect creates a new section 3500.21 and was published in the **Federal Register** on April 26, 1991 (56 FR 19506) with corrections at 56 FR 22910, May 17, 1991. Rulemaking regarding section 10, subsections (b), (c) and (d) was initiated by a proposed rule published on December 9, 1991 (56 FR 64446) with corrections at 56 FR 65541 and 65542, on December 17, 1991. Section 3500.17 is reserved for these provisions.

Regulation X, 24 CFR part 3500, was issued on June 4, 1976. It covered most provisions of RESPA (Pub. L. 93–533), as amended by the Real Estate Settlement Procedures Act Amendments of 1975 (Pub. L. 94–205).

RESPA contains certain disclosure requirements and restrictions for settlements involving "federally-related mortgage loans," which include most first lien transactions involving one- to four-family residential structures. For RESPA-covered transactions, a loan applicant must be provided with a special information booklet and a good faith estimate of certain settlement charges. One day prior to settlement, the person conducting the settlement must, if requested, provide the borrower with a HUD-prescribed settlement statement, commonly known as the "HUD–1 settlement statement," completed with information on settlement costs known to such person at that time. At settlement, a fully completed HUD–1 settlement statement showing actual settlement costs must be made available to borrower and seller. These requirements are in Sections 4 and 5 of RESPA (12 U.S.C 2603 and 2604). Section 6 of RESPA (12 U.S.C. 2605), added by the 1990 Act, contains notice requirements concerning mortgage servicing transfers. Section 8 of RESPA (12 U.S.C. 2607) prohibits kickbacks for referral of business incident to or part of a settlement service and also prohibits the splitting of a charge for a settlement service, other than for services actually performed (*i.e.*, no payment of unearned fees). RESPA also prohibits a seller from requiring a buyer to use a particular title company (Section 9) (12 U.S.C. 2608), and limits the size of escrow accounts for taxes, insurance and other charges and requires certain escrow account statements be delivered to a borrower (Section 10) (12 U.S.C. 2609). Violations of Section 8 are punishable by criminal sanctions, including imprisonment and fines, as well as injunctive relief. Violations of the escrow account statement provisions in Section 10 are enforceable by civil money penalties. Section 6, as well as Sections 8 and 9, are enforceable by private actions for damages in Federal or State courts. RESPA has no specific provisions for enforcement of other sections.

Regulation X has not been amended since it was issued in final form on June 4, 1976, except for one change in 1977 regarding an equal opportunity notice (42 FR 19327). In this rule, HUD is conforming Regulation X to the amendment of RESPA contained in

HURRA. HUD has taken this opportunity to make other clarifying and editorial changes, and to incorporate in this regulation certain matters which were previously only covered by informal legal or program advice.

To initiate the rulemaking process, a proposed rule regarding RESPA was published on May 16, 1988 (53 FR 17424). One thousand, six hundred and nine (1,609) comments were received on the various subject areas covered by the proposed rule, within the comment period and the succeeding week. Comments were received from various parties, including mortgage lenders, mortgage brokers, real estate agents and brokers, title insurers, attorneys and private citizens. Numerous telephone calls and communications, in addition to nearly a thousand comments, were received by staff and counsel after the closing date for comments, but these were not considered a part of the official record.

On August 8, 1990 and September 18, 1990, Chairman Gonzalez of the House Subcommittee on Housing and Community Development held information hearings on RESPA. On September 19, 1990 Senator Cranston of the Senate Subcommittee on Housing and Urban Affairs held a "Roundtable" hearing with industry and government officials. At both of these September hearings, HUD's General Counsel, Frank Keating, presented Congress with HUD's general principles in devising this rule on RESPA.

The Department recognizes that the contents of this regulation will have a major impact on the manner in which nearly all mortgage loans will be obtained by prospective borrowers. HUD has reviewed all comments received on the proposed RESPA rule and listened to all interested parties. At OMB's request, the Department has received legal advice regarding the rule from the Office of Legal Counsel, Department of Justice, and has also consulted with five other concerned agencies in addition to the Department of Justice. The provisions of this rule are effective immediately.

II. Major Implementations in the Rule

This section discusses the subject areas of the RESPA rule in the order that they were presented in the proposed rule.

(a) Graham Mortgage

HUD has consistently taken the position that the prohibitions of Section 8 of RESPA (12 U.S.C. 2607) extended to loan referrals. Although the making of a loan is not delineated as a "settlement service" in Section 3(3) of RESPA (12 U.S.C. 2602(3)), it has always been HUD's position, based on the statutory language and the legislative history, that the section 3(3) list was not an inclusive list of all settlement services and that the origination, processing and funding of a mortgage loan was a settlement service.

In *U.S. v. Graham Mortgage Corp.*, 740 F.2d 414 (6th Cir. 1984), the Sixth Circuit Court of Appeals stated that HUD's interpretation that the making of a mortgage loan was a part of the settlement business was unclear for purposes of a criminal prosecution, and based on the rule of lenity, overturned a previous conviction. In response to the *Graham* case, HUD decided to amend its regulations to state clearly and specifically that the making and processing of a mortgage loan was a settlement service.

In order to get a wide range of views, HUD asked for public comments in the proposed rule concerning the interpretation that the making and processing of a mortgage loan constituted a settlement service. HUD received one hundred and eleven comments. Ninety-eight agreed with HUD's position that the making and processing of a mortgage loan is business incident to or part of a settlement service. Several comments supported this conclusion with legal analysis. Thirteen comments argued that mortgage loans should not be covered by RESPA or suggested that legislative clarifications be obtained.

Having considered the comments and after further review, HUD has concluded that *Graham Mortgage* does not prevent HUD from issuing new clarifying regulations on this matter. The Sixth Circuit based its holding in *Graham Mortgage* on the rule of lenity, finding that HUD had not unambiguously interpreted "settlement services" to include mortgage lending procedures. 740 F.2d at 423. The rule of lenity provides that when a reasonable doubt persists about a criminal statute's intended scope, after resort to the statute's language and structure, its legislative history, and its motivating policies, a court should construe the statute narrowly. The rule of lenity would not apply when a regulation is adopted to cure an ambiguity in a statute.

Accordingly, HUD restates its position unequivocally that the originating, processing, or funding of a mortgage loan is a settlement service in this rule. This rule, unlike the proposed rule, sets forth an itemized list of settlement services in § 3500.2(a)(16), including "the origination, processing or funding of a federally-related mortgage loan * * *"

As of the effective date of this rule, HUD intends to consider recommending criminal prosecutions as well as pursuing civil enforcement actions, involving the origination, processing or funding of mortgage loans in the four states located within the Sixth Circuit (Michigan, Kentucky, Ohio and Tennessee), and to proceed vigorously with ongoing enforcement actions in all other jurisdictions.

(b) Controlled Business—Section 3500.15(a): Controlled Business Arrangements

Section 461 of HURRA amended RESPA by adding provisions dealing with "controlled business arrangements" (CBAs). The amendments added a definition of "controlled business arrangement" at section 3(7) of RESPA (12 U.S.C. 2602(7)) and added language at section 8(c)(4) of RESPA (12 U.S.C. 2607(c)(4)) setting out conditions under which CBAs would not violate section 8.

The proposed rule, at 53 FR 17424, contained an extensive discussion of CBAs and HUD's proposed rulemaking determinations. In the proposed rule, HUD stated its view that in order for the controlled business arrangement exemption in RESPA to make sense, the mere existence of a controlled business arrangement must raise a presumption of a Section 8 violation. Although relatively few comments stated a position on this matter, most of the individuals who expressed a view argued that language dealing with a presumption was difficult and inappropriate.

The changes to the proposed § 3500.15 that appear in the rule respond to the concerns raised in the comments about the "presumption" in the proposed rule. Based on these comments, the concept of a presumption, a legal term relating to the burden of proof in a criminal proceeding, has been deleted from the rule. Rather, the rule simply states that controlled business arrangements do not violate Section 8 of RESPA if the conditions provided in § 3500.15(b) are met. The Department believes these modifications more clearly reflect the Congressional intent and provide businesses subject to RESPA with clear rules for complying with Section 8.

Section 3500.15(b): Controlled Business Exemption

Subsection (b) of § 3500.15 implements section 8(c)(4) of RESPA (12 U.S.C. 2607(c)(4)). The subsection states that a controlled business arrangement does not violate Section 8 of RESPA and § 3500.14 of Regulation X if the three

elements of the exemption set forth in Section 8(c)(4) of RESPA are met. The three elements of the exemption are as follows: (1) A requirement for disclosure of the relationship between the parties giving and receiving the referral, with estimated charges for the referred business; (2) a bar against the required use of a particular provider (except in specified exceptions); and (3) a bar against any thing of value being received by the referring party or an associate beyond a return on ownership interest, return on franchise relationship, or payments otherwise permissible under Section 8(c) of RESPA.

The Department had considered amplifying its interpretation in section 8(c)(4) to bar the payment of fees by an employer to its employees for the referral of settlement business to another entity in the controlled business arrangement. However, HUD sought advice from the Department of Justice with respect to whether HUD could impose such a ban. It was concluded that Section 8(c)(4) does not authorize this type of prohibition on employee compensation. In particular, payments between employers and employees are not prohibited by the requirement of Section 8(c)(4) because that section only creates a safe harbor against proscriptions in Section 8(a) for certain controlled business arrangements. To the extent that subterfuge payments between affiliated entities do not satisfy the requirements of 8(c)(4), they are already prohibited by Section 8(a).

Accordingly, the Department has not amplified Section 8(c)(4) and will rely on Section 8(a) to prosecute subterfuge payments between affiliates for the referral of business. To further clarify this issue, in § 3500.14(g)(1), HUD codifies its view that payments from an employer to its employee for referral activity are exempt from Section 8 because a business entity acts through its employees such that the action of the employees is not sufficiently distinct from the action of the employer to provide the requisite plurality of actors needed to violate Section 8. In RESPA, Congress did not prohibit referrals, but rather kickbacks and similar payments for referrals. It would be unreasonable to interpret Section 8 as prohibiting a company from making payments to its own employees because such an interpretation would effectively ban all referrals. However, if the company receiving the referral makes payments to the employer that are intended to reimburse that employer for compensation paid to its employees for referral activity, this will likely violate Section 8. Similarly, the Department maintains its view that the exemption in § 3500.14(g)(1) is not applicable to payments made by one entity to the employees of another entity even where both entities are in a controlled business arrangement.

Written disclosure of the nature of the relationship between referring party and provider (*e.g.*, owner and subsidiary) is required at § 3500.15(b)(1). A suggested format for the controlled business arrangement disclosure is set out in appendix D. Some comments asserted that HUD should not require disclosure of the "nature" of the controlled business arrangement, but rather should simply require disclosure of the existence of the controlled business arrangement. Because so many various controlled business arrangements are possible, however, it is necessary for purposes of borrower information and HUD enforcement that the precise type of arrangement is detailed. Further, in order to create a discrete document containing meaningful disclosures, the disclosure is required to be made on a separate piece of paper. A written estimate of charges is required that uses the terminology of the HUD-1 settlement statement, as does the good faith estimate required by § 3500.7. The disclosure must be provided no later than at the time of the referral (not three days after the triggering event, as set out in the good faith estimate requirement in § 3500.7). However, lenders making such referrals may provide the disclosure with the good faith estimate. Special timing rules are also set forth to cover the instances where certain attorneys may require use of a particular provider when the timing of the referral may be uncertain. (These are special statutory exceptions to the normal rule that the controlled business arrangement exemption is unavailable when use of a particular provider is required.) For an attorney requiring use of an affiliated title company, the "referral" occurs at that point where the attorney is engaged by the client.

In regard to the statutory "good faith" exception to the first element of the exemption, the rule states that judicial and administrative precedents under Section 130(c) of the Truth in Lending Act are not determinative for purposes of Regulation X.

A definition of "required use" appears in § 3500.2(k). A "required use" covers any situation where the use of a particular provider for a settlement service is a condition of the availability of some other distinct service or property.

"Return on ownership interest" is discussed in Section 8(c)(4)(C) of RESPA (12 U.S.C. 2607(c)(4)(C)). The rule make[s] clear that in a controlled business arrangement (1) *bona fide* dividends an[d] capital or equity distributions, related t[o] ownership interest or franchise relationship, between affiliated entities are permissible, and (2) *bona fide* business loans, advances, and capital o[r] equity contributions, between affiliated entities (in any direction) are not prohibited—so long as they are for ordinary business purposes and are not fees for the referral of settlement servic[e] business or unearned fees. HUD does not prescribe all the acceptable method[s] of calculating return on the various forms of corporate, partnership and other ownership interests. The term applied to a payment is not determinative of whether it is permissible. A return on ownership interest may not be directly or indirectl[y] related to the number or value of referrals.

Section 8(c)(4)(C) of RESPA (12 U.S.C. 2607(c)(4)(C)) discusses "return on franchise relationship." A payment to or from a franchisee must be pursuant to a franchise agreement; however, a franchise agreement cannot insulate kickbacks or referral fees. The franchise agreement may not be adjusted on the basis of a previous amount of referrals by the franchisor or franchisees. As wit[h] ownership interests, franchise payments may not be directly or indirectly related to the number or value of referrals.

Section 3500.15(c): Controlled Business Definitions

Section 3500.15 contains definitions which are exclusive to the controlled business provisions.

The statutory controlled business arrangement definition covers a referral by a person with an "affiliate relationship" with the provider receiving the referral. A 1983 House Report (H.R. Rep. No. 98-123, 1st Sess. (1983)) described an affiliate relationship and indicated that the phrase covered situations of "control" among business entities, which are also included in the "associate" definition. After considering the comments on this subject, HUD decided to retain a separate "affiliate relationship" definition in § 3500.15(c)(2).

The statutory controlled business arrangement definition also covered a referral by a person with an ownership interest greater than 1% in the provider receiving the referral. Most comments indicated that HUD should not alter this percentage, and HUD does not alter the statutory threshold in the rule.

The statutory definition of controlled business arrangement provides that the

person referring the business incident to or part of a real estate settlement service is a person in a position to so refer (12 U.S.C. 2602(7)). While this language could literally mean any person, this would make the statutory phrase "in a position to refer" unnecessary. HUD concluded that the phrase "person in a position to refer business incident to or part of a real estate settlement service" referred to real estate brokers or agents, lenders, mortgage brokers, builders or developers, attorneys, title companies, title agents, or other persons deriving a significant portion of their gross income from providing settlement services. Although some comments asserted that HUD's list of persons in a position to refer business incident to or part of a real estate settlement service should be altered in some way, for example, to delete individuals who have no "consumer contact," or to delete title companies and title agents, very few disagreed with the concept of creating such a list. Some comments stated that the last category on the list was too vague. HUD intends to give meaning to the statutory language which narrows the category of persons who may be said to be referring business without eliminating parties who are in fact in a position to refer by establishing a definition in § 3500.15(c)(9).

Illustrations contained in Appendix B of the rule constitute specific examples of controlled business situations.

(c) Computer Loan Origination Systems (CLO's)

In an informal opinion letter dated April 24, 1986, HUD General Counsel John Knapp reviewed and approved a computer loan origination program (CLO) proposed by Citicorp, Inc., also referred to as "Mortgage Power." The program contemplated participation by real estate brokers, mortgage brokers and others; participants paid a fee to gain access to loan information and possibly, to obtain loan commitments on behalf of borrowers. The opinion was based on earlier informal legal opinions in which HUD found that an independent contract for financial advice between a prospective borrower and a mortgage broker was permissible under RESPA. These previous legal opinions, however, involved a potential borrower seeking advice from an entity not otherwise involved in the transaction. HUD's informal legal opinion to Citicorp stated that the good faith estimate should disclose that a fee was paid by the borrower pursuant to a separate Consumer, Agency and Fee Agreement, directly to a participant, and was not required by the lender.

After Citicorp initiated the Mortgage Power program, HUD received a number of comments. These comments argued that although a "borrower pay" arrangement in which a potential borrower enlisted an independent party to assist in obtaining mortgage financing could be legitimate, the legislative intent of RESPA to eliminate referral fees was being subverted in circumstances where the point-of-access professional (such as a real estate broker) was also receiving a second fee from the transaction (such as a commission) in addition to the advisory fee. Some comments stated that it was a conflict of interest when a real estate broker accepted a fee from both the seller for assisting in selling the property, and buyer for assisting in obtaining mortgage financing in the same real estate transaction. Other comments stated that real estate brokers were charging two parties for the same work. Recognizing the controversies that the April 24, 1986 opinion had generated, HUD opened up the matter for review and discussion in the May 16, 1988 proposed rule by adding the following exception under § 3500.14(g)(6) to the Section 8 prohibition against kickbacks and unearned fees:

(6) Voluntary payment by a borrower to a person who has acted as a mortgage broker or has otherwise assisted in bringing the lender and borrower together, provided that such voluntary payment is disclosed on both the good faith estimate of settlement costs and the HUD-1 settlement statement and is not a condition of the loan or other settlement service.

HUD further stated in the preamble to the proposed rule that "this is a complex issue and other variations on the program may be developing; we strongly urge public comment on this issue and request examples of potential or actual problems caused by (the Knapp) opinion."

At the conclusion of this review, HUD policy staff concluded that there were potentially substantial consumer benefits in the utilization of new technology. Further, the technology was in flux and represented, at most, no more than one to two percent of mortgage originations annually. Considering all of these factors, HUD concluded that it would issue a CLO exemption under its authority in section 19(a) of RESPA which would have the effect of eliminating possible regulatory inhibitions on the development of this technology. In line with previous HUD opinions, this exemption would apply to CLO systems where the fees, if any, are paid by the borrower on the grounds that well-informed choices by consumers do not require special protection under RESPA. Thus, in order to assure that there is complete disclosure to consumers regarding CLO systems, HUD has required that system operators provide the consumer with a written disclosure. The CLO exemption is set forth as § 3500.14(g)(2) of this rule and provides that any borrower will be provided a disclosure regarding the use of CLO services in a form approved by the Secretary (appendix E).

III. Other Changes to Regulation X

Section 3500.2 Definitions

HUD is revising some of the existing definitions and adding a number of new definitions, including some controlled business arrangement related definitions contained in § 3500.15.

Application for a federally-related mortgage loan. The phrase is defined for the first time.

Business day. The term is defined for the first time for general purposes in RESPA; a Business Day for purposes of Mortgage Servicing Transfer requirements is set forth in Section 21 of this Part.

Federally-related mortgage loan. This term is defined in § 3500.2(a)(3). The coverage of RESPA, and exemptions of some classes of loans from RESPA and Regulation X coverage, such as home equity loans or home improvement loans, are discussed in § 3500.5. There is a clarification that "reverse mortgages" are usually federally-related mortgage loans.

Good faith estimate. The term is defined for the first time. Appendix C sets forth a model form.

HUD-1 settlement statement. This term is defined for the first time. (The term "Uniform Settlement Statement" is no longer used.)

Lender. This term remains substantially the same.

Manufactured home. This defined term replaces "mobile home" in keeping with current HUD usage.

Mortgage broker. The term is defined for the first time.

Mortgaged property. The term remains substantially the same.

Person. The term remains substantially the same.

Required use. Some comments argued that HUD's application of the concept of "required use" was too broad, as applied in both Section 9 (12 U.S.C. 2608) and controlled business contexts. In response to these comments, the rule makes clear that *bona fide* discounts and certain packaging of settlement services which provide options are not violations of the "required use" provision.

RESPA. The term is defined.

Secretary. The term remains substantially the same.

Settlement. In the proposed rule, in addition to a definition of "date of settlement," HUD set out a definition of "settlement" which stated the following: "The process of conveying legal title to residential property to a purchaser who is financing the purchase of the property with a federally-related mortgage loan, including the rendering of any services which have as a purpose the facilitating of the conveyance." "In some contexts," the definition continued, "settlement means only the actual collection and distribution of funds and documents, related to the conveyance, and may also be known as 'closing' or 'escrow.' " Fourteen comments expressed concerns relating to these definitions. Many complained that changing the date of settlement to the date in which security instruments are executed would create problems. Disclosure requirements, they said, would be meaningless in states where loan documents are signed well in advance of closing. Some comments stated that the definitions of "date of settlement" and "settlement" should be the same or substantially the same. Others stated that the "settlement" definition was vague, too broad, and that the definition should include transactions where there is no title conveyance, such as refinancings. After review of these comments, HUD has eliminated the concept of "date of settlement" and substituted a restatement of the definition of settlement: "the process of executing a first lien on property which is subject to a federally-related mortgage loan." HUD also added that "settlement may also be called 'closing' or 'escrow' in different jurisdictions."

Settlement agent. This term is defined as equivalent to the statutory phrase "person conducting settlement." If no one else is chosen, the lender is considered to be the settlement agent.

Settlement service. This term is defined in Section 3(3) of RESPA (12 U.S.C. 2602(3)). The term appears in five substantive provisions of the statute: (1) Section 5(c) (12 U.S.C. 2604(c)), which requires the lender to provide a "good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement;" (2) Section 8(a) (12 U.S.C. 2607(a)), which prohibits compensation pursuant to any agreement or understanding that "business incident to or a part of a real estate settlement service involving a federally-related mortgage loan shall be referred to any person;" (3) Section 8(b) (12 U.S.C. 2607(b)), which prohibits the splitting of charges "made or received for the rendering of a real estate settlement service . . . other than for services actually performed;" (4) Section 3(7) (12 U.S.C. 2602(7)); and (5) Section 8(c)(4)(B) (12 U.S.C. 2607(c)(4)(B)), which refer to a provider of settlement services.

Since RESPA's enactment, HUD has considered the term "settlement service" to have the same meaning under all sections of RESPA. In all contexts the term includes the origination, processing or funding of the loan itself. This interpretation is reflected in the original Regulation X. For example, the charges for which good faith estimates are required to be made include, among other things, items payable in connection with the loan, *e.g.*, "loan origination fees," "loan discounts (*i.e.*, "points")," and "prepaid interest." *See* § 3500.7(c). A definition of "settlement service" is added in § 3500.2 and includes any services provided in connection with settlement, including, but not limited to, an itemized list of many services. A further discussion of the origination, processing, and funding of a mortgage loan as a settlement service appears above.

Special information booklet. This term is defined for the first time. The definition also indicates that the booklet is published in the Federal Register.

State. The term remains substantially the same.

Title company. This term is defined for the first time.

Section 3500.3: No Delegation of Authority to HUD Field Offices

All power and authority of the HUD Secretary under RESPA is currently delegated to the Deputy Assistant Secretary for Single Family Housing, and redelegated to the Director, Office of RESPA Enforcement. No authority has been delegated to any field office of HUD. Any subsequent delegation of authority will be published in the Federal Register.

Section 3500.4: Reliance Upon Rule, Regulation or Interpretation by HUD

Thirty comments discussed the extent to which HUD interpretations concerning RESPA should be official or unofficial in nature. A majority favored a procedure in which HUD would issue official commentary or official interpretations of general applicability. Many comments also favored HUD issuing informal opinion letters to individuals upon which the particular individuals could rely. Others argued that informal opinion letters merely confuse the process and should be abolished. In this rule HUD has used its legal authority to create a procedure for publishing official interpretations in the Federal Register, upon which the public may rely. Such interpretations would normally be of general applicability, rather than directed to a specific case. Such a procedure will not necessarily eliminate all unofficial staff responses to specific inquiries. The rule makes clear that courts and administrative agencies may use previous opinions to determine the validity of arrangements entered into under the previous Regulation X.

Section 3500.5: Coverage of RESPA

Seven commenters submitted views on the coverage of RESPA. Some of these expressed the opinion that HUD should more thoroughly define or explain the concept of temporary financing. Others found the language concerning construction financing in proposed § 3500.5(b)(2) to be confusing. (This section stated that the exclusion for temporary financing does not apply to a loan to finance construction of a new structure if the loan either initially has, or after completion of construction will have, a term of repayment which extends more than two years beyond the date of settlement.) Two comments supported the exemption from RESPA coverage for property for resale or investment, but stated that HUD needs to clarify the concept of "principal residence." One comment stated that HUD should exempt all non-owner occupied property. Most comments stated that the exemption for refinancing should extend to all provisions under RESPA, not just §§ 3500.6 through § 3500.11 and 3500.17. One comment indicated that the question of coverage of refinancings under RESPA should be clarified.

HUD appreciated the desirability of conforming the regulation with the statute, and for logic and consistency, stating that RESPA applied to all federally related mortgage loans. In particular, HUD believed that the exception for refinancing loans, created in the Mid-Seventies during a time of relatively stable market conditions, interest rates, and mortgage products, was outdated. For the new Section 6 (Mortgage Servicing Transfers) and Section 10 (Escrow Accounts Statements) provisions of RESPA, no distinction has been made in the outstanding rulemaking between a new loan and a refinancing loan, whether or not title is transferred. In this rule, HUD extends coverage of all portions of RESPA to all refinancings, whether or not a transfer of title is involved. Other minor exceptions to RESPA coverage have been deleted, such as the

exceptions for property exceeding 25 acres and property purchased for resale or investment, and assumptions and novations. RESPA does not apply to temporary loans such as construction loans (not used as or converted to permanent financing or for terms of two years or less) and *bona fide* secondary market transactions, except insofar as they involve mortgage servicing transfers under the new Section 6 of RESPA. HUD has clarified that "home equity conversion mortgages" or "reverse mortgages" are normally covered transactions under the Act. (HUD's Home Equity Conversion Mortgage Insurance Program (§ 206.203 of this title) does not create an escrow account covered by this Part.)

Section 3500.6: Special Information Booklet

A large majority of the 42 comments HUD received on the special information booklet and good faith estimate opposed the concept of providing multiple copies of each to multiple borrowers in a single transaction. Two comments indicated that multiple copies, if adopted, should not depend on marital status, but rather, on common residence, and lenders should have five days to deliver the additional copies. In response to these comments, HUD requires only one special information booklet (and, at § 3500.7(a), one copy of the good faith estimate) to be distributed to multiple borrowers. It was also decided in response to comments received that in cases where the borrower uses a mortgage broker, the mortgage broker would distribute the special information booklet and the lender need not do so. Several comments indicated that borrowers often do not understand that they are dealing with a mortgage broker rather than a mortgage banker, and they should be given the special information booklet (as well as the good faith estimate) at the earliest possible time, in many cases by the mortgage broker, to most effectively honor the intent of RESPA to provide timely and useful settlement charge information.

Section 3500.7: Good Faith Estimate

A suggested format for the good faith estimate is set forth in a new appendix C to Regulation X. Section 3500.7(d) requires any lender requiring use of a particular provider of legal or title examination services or title insurance to disclose the existence and nature of any "business relationship" with the provider. Although some comments opposed this provision, the requirement provides the borrower with more useful information than the original provision in Regulation X. A mortgage broker who is not the exclusive agent of a lender also must now distribute a good faith estimate within three days of receiving a borrower's loan application. This good faith estimate should include the minimum requirements set out in Appendix C and an additional legend for mortgage brokers who use the form. The lender shall distribute its good faith estimate when it receives the loan application and this estimate must include any mortgage broker fee.

Section 3500.8: Use of HUD–1 Settlement Statement

HUD received twenty-one comments concerning the HUD–1 settlement statement. Many opposed a requirement that the HUD–1 should be distributed to all borrowers in a transaction. One comment stated that if multiple copies are distributed, common mailing address should be the exception to this rule, rather than marital status. Other comments indicated that the proposed reduction of the HUD–1 to 8½×11 inch paper would be troublesome. In response to these comments, HUD has chosen to retain existing requirements that a single HUD–1 may be distributed to multiple borrowers in a single transaction and the 8½×14 inch HUD–1 form size will be used. All specific requirements for completing the HUD–1 Settlement Statement are contained in instructions in Appendix A to Regulation X. Any mortgage broker fee is to be included separately on the HUD–1 in a blank line in the 800 series. Revenue Ruling 92–2 and Revenue Procedures 92–11 and 12, published in Internal Revenue Bulletin 1992–93, dated January 21, 1992 have clarified that points paid to mortgage brokers are treated similarly to those paid to lenders for Federal income tax purposes.

Section 3500.9: Reproduction of HUD–1 Settlement Statement

Minor editorial changes have been made to this section.

Section 3500.10: Inspection and Delivery of HUD–1 Settlement Statement

Lenders must keep completed HUD–1 settlement statements and related documents for five years after the date of settlement because the statute of limitations for Section 8 actions by the HUD Secretary or an Attorney General or insurance commissioner of a State has been extended to three years. Some comments indicated that the recordkeeping requirement was burdensome. However, based on the recommendation of HUD's Inspector general, HUD establishes a five-year period for retention of any required records.

Section 3500.11: Mailing

Minor editorial changes have been made to this section.

Section 3500.12: No Fee

Minor editorial changes have been made to this section.

Section 3500.13: Relation to State Laws

This section discusses Section 8(d)(6) of RESPA (12 U.S.C. 2607(d)(6)), Section 18 (12 U.S.C. 2616) and Section 6(h) (12 U.S.C. 2605(h)). "State Law" as used in these sections includes State regulations as well as legal enactments by State political subdivisions.

Section 3500.14: Prohibition Against Kickbacks and Unearned Fees

HUD received several comments relating to the general provision prohibiting kickbacks and unearned fees. Some stated that HUD's definition of "referral" was too broad. Some of these comments pertained to HUD's treatment of "a thing of value." Two comments stated that HUD should delete "retained earnings" and "referrals of business" from the definition of a thing of value. Many comments requested further explanation of the employment exception to the referral fee prohibition. Others wanted the employment exception expanded to include other situations, such as the relationship between real estate agents and brokers. A great number of these comments supported various other exemptions, including the following: a general exemption for all realtor activity; an expanded cooperative brokerage exemption; an exemption for insurance companies; referrals prior to settlement; the sale of lists of names; and referrals connected with the Community Reinvestment Act.

In response to comments received, HUD reorganized this section and added some language to clarify what constitutes payments and services for purposes of Section 8.

Section 3500.15: Controlled Business Arrangements

This section is discussed at length above.

Section 3500.16: Title Companies

Section 3500.2(k) defines "required use" as it is to be applied to this section.

Section 3500.17: Escrow Accounts

[Reserved]

Section 3500.18: Validity of Contracts and Liens

This section essentially restates the statutory provision set out in Section 17 (12 U.S.C. 2615).

Section 3500.19: Enforcement

Paragraph (a) generally explains the manner of enforcement of the various provisions of RESPA. Paragraph (b) repeats, largely verbatim, Sections 8(d) (1), (2), (4) and (5) of RESPA (12 U.S.C. 2607(d) (1), (2), (4) and (5)). Paragraph (c) repeats, largely verbatim, Section 9(b) of RESPA (12 U.S.C. 2608(b)). Paragraph (d) of this new section sets forth Section 16 RESPA (12 U.S.C. 2614) involving the jurisdiction of courts and the statute of limitations for private and governmental enforcement actions.

Section 3500.20: Investigations; Subpoena Authority

The proposed rule set forth the statutory requirements for the Secretary's authority to issue subpoenas to investigate violation of the Act. Pursuant to Section 19(c) of RESPA (12 U.S.C. 2617(c)) this section explains in greater detail the subpoena authority of the Department.

Section 3500.21 is reserved for the final rule language for mortgage servicing transfers required by Section 6 of the 1990 Act.

Appendix A to this Part

HUD has considerably revised the instructions to complete the HUD–1 Settlement Statement. The HUD–1 itself is maintained in its current form.

For clearer terminology, the new instructions use terms which are defined in Regulation X (*i.e.*, settlement, settlement agent). To aid the settlement agent and the borrower, the instructions provide guidance for each section and line of the HUD–1. Use of blank lines is also explained.

Frequently, settlement agents have failed to provide all information required in each line. The new instructions emphasize the insertion of addresses and zip codes in Section F, identification of all persons and firms to whom payments have been made and listing of percentage and per diem charges. Unlike the previous instructions, the new instructions for Sections D and E require all buyers and sellers to be named on the HUD–1. The new instructions also describe in greater detail the specific settlement charges to be listed in Section L.

The concept of "P.O.C." charges (paid outside of closing) is clarified to address problems in disclosing charges paid outside of settlement in cases where borrower's deposits are held by a third party who will not serve as settlement agent but will retain all or part of the deposit as a commission or fee. The previous HUD–1 instructions did not assist settlement agents in cases where the settlement agent or someone else held the borrower's deposit against the sales price (earnest money). Instructions for Lines 201, 501, 506, 507 and 703 and P.O.C. items account for the handling of earnest money deposits.

The new instructions elaborate on certain common methods of financing. For example, new instructions for Line 202 provide for cases involving the use of conversion of temporary financing into permanent financing. The types of settlement charges may vary from other settlements, but the instructions suggest the HUD–1 should be completed taking into account adjustments and charges related to the temporary and permanent financing which are known at the date of settlement. Lines 204–209 should be used to indicate any seller financing arrangements or other new loans not listed in Line 202.

The new instructions revise the treatment of various fees in Lines 801–811 to reflect the current FHA, VA and FmHA practices and procedures. Because FHA, VA and FmHA do not charge application fees, Line 806 should only be used for application fees required by private mortgage insurance companies. VA funding fees should be listed on Line 904 and 905. Instructions for Lines 808–811 indicate that these lines are to be used to list additional items payable in connection with the loan such as a CLO Access Fee or a mortgage broker fee. Instructions for Lines 902–905 provide instructions for listing lump sum mortgage insurance premiums. Other items which are either required by the lender to be paid in advance (such as flood insurance, mortgage life insurance, credit life insurance and disability insurance) or paid at settlement should be listed on Lines 904 and 905. The new instructions also provide directions for transactions involving more than one attorney or attorneys for the buyer or seller who also act as title agents. (Lines 1100–1113).

Appendix B

Based on comments, HUD has eliminated some illustrations which are unclear or fail to illustrate a specific facet of RESPA or Regulation X, combined other illustrations, and updated or added other illustrations that conform to policies set forth in the regulations.

Appendix C

This appendix is a suggested form for the good faith estimate to correspond to the revision of § 3500.7.

Appendix D

This appendix is a suggested format for controlled business arrangement disclosures.

Appendix E

This appendix is the approved format for computer loan original (CLO) fee disclosures.

IV. Findings and Certifications

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. While the rule would have some economic impact on small lenders and other small businesses in a position to refer settlement services business such as builders, real estate brokers or agents and attorneys, the impact is not expected to be substantial. HUD finds that there are no anti-competitive discriminatory aspects of the rule with regard to small entities nor are there any unusual procedures that would need to be complied with by small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with Part 50 of this title which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, S.W., Washington, D.C. 20410.

Paperwork Reduction Act

Some of the collection of information requirements contained in this rule have been submitted to OMB for review under § 3504(h) of the Paperwork Reduction Act of 1980. Sections 3500.7, 3500.8, and 3500.9, of this rule have been determined by the Department to contain new collection of information requirements, and ancillary submissions are in process. Information on these requirements is provided as follows:

Regulatory Impact Analysis

The rule constitutes 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. An analysis of the rule indicates that it would, as defined by that order, have an annual effect on the economy of $100 million or more. Accordingly, a regulatory impact analysis (RIA) has been prepared and is available for review and inspection in room 10276, Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

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 contained in this rule do not have federalism implications and, thus, are not subject to review under the Order because the regulation provides, at statutory direction, an update of a previously existing regulation to take into account 1983 legislative amendments regarding interrelated businesses.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this regulation does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order, because the regulation primarily provides, at statutory direction, an update of a previously existing regulation to take into account 1983 legislative amendments regarding interrelated businesses.

Semiannual Agenda of Regulations

This rule was listed as item 1176 in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804, 16831) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 3500

Consumer protection, Housing, Mortgages, Real property acquisition, Reporting and recordkeeping requirements.

Accordingly, 24 CFR chapter XX is amended by revising part 3500 to read as follows:

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

Sec.

3500.1 Designation.
3500.2 Definitions.
3500.3 No delegation of authority to HUD field offices.
3500.4 Reliance upon rule, regulation or interpretation by HUD.
3500.5 Coverage of RESPA.
3500.6 Special information booklet at time of loan application.
3500.7 Good faith estimate.
3500.8 Use of HUD-1 settlement statement.
3500.9 Reproduction of HUD-1 settlement statement.
3500.10 One day advance inspection of HUD-1 settlement statement; delivery; recordkeeping.
3500.11 Mailing.
3500.12 No fee.
3500.13 Relation to State laws.
3500.14 Prohibition against kickbacks and unearned fees.
3500.15 Controlled business arrangements.
3500.16 Title companies.
3500.17 Escrow accounts. [Reserved]
3500.18 Validity of contracts and liens.
3500.19 Enforcement.
3500.20 Investigations; subpoena authority.
3500.21 Mortgage servicing transfers. [Reserved]

Appendix A to Part 3500—Instructions for Completing HUD-1 Settlement Statement

Appendix B to Part 3500—Illustrations of Requirements of RESPA

Appendix C to Part 3500—Sample Form of Good Faith Estimate

Appendix D to Part 3500—Controlled Business Arrangement Disclosure Statement Format

Appendix E to Part 3500—CLO Fee Disclosure

Authority: 12 U.S.C. 2601 *et seq.*

§ 3500.1 Designation.

This part may be referred to as Regulation X.

§ 3500.2 Definitions.

(a) As used in this part:

(1) *Application for a federally-related mortgage loan* means the submission of a borrower's financial information in anticipation of a credit decision, whether written or computer generated, relating to a federally-related mortgage loan.

(2) *Business day* means a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions. "Business Day" for purposes of compliance with Section 6 (12 U.S.C. 2605) is defined in § 3500.21.

(3) *Federally-related mortgage loan* means any loan (other than temporary financing, such as a construction loan, (see § 3500.5(b)(2)) which—

(i) Is secured by a first lien on residential property:

(A) Upon which there is located, or will be constructed following settlement using proceeds of the loan, a structure or structures designed principally for the occupancy of from one to four families (including individual units of condominiums and cooperatives and including any related interests such as a share in the cooperative or right to occupancy of the unit); or

(B) Upon which there is located, or will be placed following settlement using proceeds of the loan, a manufactured home; and

(ii) (A) Is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government; or

(B) Is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(C) Is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation (or its successors), or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation (or its successors); or

(D) Is made in whole or in part by any "Creditor," as defined in Section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), as such provisions may be amended from time to time, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year, except that for the purpose of this section the term "creditor" does not include any agency or instrumentality of any State and a "residential real estate loan" means any loan (including temporary financing) secured by a lien (including a junior lien) on property described in § 3500.2(a)(5) except that such property may also be designed for occupancy by more than four families or may be more than an individual cooperative or condominium units; or

(E) Is the subject of a "home equity conversion mortgage" or "reverse mortgage" issued by any maker of mortgage loans specified in paragraph (a)(3)(ii)(A)–(D) of this section.

(4) *Good faith estimate* means an estimate of charges which a borrower is likely to incur in connection with a settlement, prepared in accordance with section 5 of RESPA (12 U.S.C. 2604).

(5) *HUD-1 settlement statement* or *HUD-1* means the standard form for the

statement of settlement charges which is prescribed by the Secretary pursuant to Section 4 of RESPA (12 U.S.C. 2603).

(6) *Lender* means the secured creditor or creditors named as such in the debt obligation and document creating the lien.

(7) *Manufactured home* has the meaning given in § 3280.2(a)(16) of this chapter.

(8) *Mortgage broker* means a person (not an employee of a lender) who brings a borrower and lender together to obtain a federally-related mortgage loan and renders services such as those described in § 3500.2(a)(16).

(9) *Mortgaged property* means the real property which is security for the federally-related mortgage loan.

(10) *Person* means any individual, corporation, partnership, trust, association or other entity.

(11) *Required use*. For purposes of this rule, a person is "required" to use a particular provider of a settlement service whenever use of such provider is a condition of the availability to such person of some distinct service or property and the person will pay for the settlement service of such provider or will pay a charge attributable in whole or in part to such settlement service. However, the offering of a package, or combination of settlement services, or the offering of discounts or rebates to consumers for the purchase of multiple settlement services, does not constitute a required use. Any package or discount must be optional to the purchaser. The discount must be a true discount below the prices that are otherwise generally available and must not be made up by higher costs elsewhere in the settlement process.

(12) *RESPA* means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 *et seq.*, as it is amended from time to time.

(13) *Secretary* means the Secretary of Housing and Urban Development or any official who is delegated the authority of the Secretary with respect to RESPA.

(14) *Settlement* means, generally, the process of executing legally binding documents regarding a first lien on property that is subject to a federally-related mortgage loan. "Settlement" may also be called "closing" or "escrow" in different jurisdictions.

(15) *Settlement agent* means the person conducting or handling the settlement. If no other person is designated by the lender or the other parties to the settlement, the lender shall be considered to be the settlement agent.

(16) *Settlement service* means any service provided in connection with a prospective or actual settlement including, but not limited to, the following:

(i) The origination, processing, or funding of a federally-related mortgage loan;

(ii) The rendering of services by a mortgage broker (including counseling, taking of applications, obtaining verifications and appraisals, and other loan processing and origination services, and communicating with the borrower and lender);

(iii) The providing of any services related to the origination, processing, or funding of a federally-related mortgage loan;

(iv) The providing of title services, including title searches, title examinations, abstract preparation, insurability determinations, and the issuance of title commitments and title insurance policies;

(v) The rendering of services by an attorney;

(vi) The preparing of documents, including notarization, delivery and recordation;

(vii) The rendering of credit reports and appraisals;

(viii) The rendering of inspections, including inspections required by applicable law, or any inspections required by the sales contract or mortgage documents prior to transfer of title;

(ix) The conducting of settlement by a settlement agent and any related services;

(x) The providing of services involving mortgage insurance;

(xi) The providing of services involving hazard, flood, or other casualty insurance or homeowners warranties;

((xii) The providing of services involving mortgage life, disability or similar insurance designed to pay a mortgage loan upon disability or death of a borrower, if required by the lender as a condition of the loan;

(xiii) The providing of services involving real property taxes or any other assessments or charges on the real property;

(xiv) The rendering of services by a real estate agent or broker; and

(xv) The providing of any other services for which a settlement service provider requires a borrower or seller to pay.

(17) *Special information booklet* means the booklet prepared by the Secretary pursuant to section 5 of RESPA (12 U.S.C. 2604) to help persons understand the nature and costs of settlement services, in the form most recently published in the **Federal Register**.

(18) *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(19) *Title company* means any institution which is qualified to issue title insurance, directly or through its agents, and also refers to any duly authorized agent of a title company.

(b) Reserved.

§ 3500.3 No delegation of authority to HUD field offices.

No authority granted to the Secretary under RESPA has been delegated to HUD field offices. In the event of a change of this policy, a notice of any such delegation of authority will be published in the **Federal Register**. Any questions or suggestions from the public regarding RESPA should be directed to the Director, RESPA Enforcement, Department of Housing and Urban Development, room 5241, 451 7th Street, SW., Washington, DC 20410–8000.

§ 3500.4 Reliance upon rule, regulation or interpretation by HUD.

(a) *Statutory provision*. Section 19(b) of RESPA (12 U.S.C. 2617(b)) provides that no provision of this Act or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(b) *Rule, regulation or interpretation*.—(1) For purposes of Section 19(a) of RESPA (12 U.S.C. 2617(a)) only the following constitute a rule, regulation or interpretation of the Secretary:

(i) All provisions of this Part and all Appendices thereto, and the HUD–1 Settlement Statement; any other document referred to in this part is not incorporated in this part unless it is specifically set out in this part;

(ii) Any other document which is published in the **Federal Register** by the Secretary which states that it is an "interpretation," "interpretive rule," "commentary," or a "statement of policy" for purposes of section 19(a) of RESPA. Such documents will be prepared by HUD staff and counsel. Such documents may be revoked or amended by a subsequent document published in the **Federal Register** by the Secretary.

(2) A "rule, regulation, or interpretation thereof by the Secretary" for purposes of section 19(b) of RESPA (12 U.S.C. 2617(b)) shall not include the special information booklet prescribed by the Secretary or any other statement or issuance, whether oral or written, by an officer or representative of the Department of Housing and Urban Development (HUD), letter or memorandum by the Secretary, General Counsel, any Assistant Secretary or other officer or employee of HUD, preamble to a regulation or other issuance of HUD, report to Congress, pleading, affidavit or other document in litigation, pamphlet, handbook, guide, telegraphic communication, explanation, instructions to forms, speech or other material of any nature which is not specifically included in paragraph (b)(1) of this section.

(c) *Unofficial interpretations; staff discretion.* In response to requests for interpretation of matters not adequately covered by this Part or by an official interpretation issued under paragraph (b)(1)(ii) of this section, unofficial staff interpretations may be provided at the discretion of HUD staff or counsel. Written requests for such interpretations should be directed to the address indicated in § 3500.3. Such interpretations provide no protection under section 19(b) of RESPA. Ordinarily, staff or counsel will not issue unofficial interpretations on matters adequately covered by this Part or by official interpretations or commentaries issued under paragraph (b)(1)(ii) of this section.

(d) All informal counsel's opinions and staff interpretations issued before the effective date of this rule are hereby withdrawn as of the date of this rule. Courts and administrative agencies, however, may use previous opinions to determine the validity of conduct under the previous Regulation X. Any recipient of an informal opinion letter issued before the effective date of this rule may, within 30 days after the effective date of this rule, request a clarification regarding the content of this rule and the substance of its opinion letter.

§ 3500.5 Coverage of RESPA.

(a) *Applicability.* RESPA and this part apply to all federally-related mortgage loans.

(b) *Exemptions.* RESPA does not apply to the following:

(1) Home equity loans, home improvement loans, or any other loan not secured by a first lien on the related loan property.

(2) Temporary financing such as a construction loan. The exemption for temporary financing, such as a construction loan stated in § 3500.2(a)(3), does not apply to a loan made to finance construction of a new structure if the loan is used as or may be converted to permanent financing to finance transfer of title to the first user. In addition, any construction loan for a new structure will be presumed to be a RESPA covered loan if its term is in excess of two years.

(3) *Secondary market transactions.* A *bona fide* transfer of the loan obligation in the secondary market is not covered by Section 8 of RESPA. In determining what constitutes a *bona fide* transfer, HUD will consider the real source of funding and the real interest of the settlement lender. Mortgage broker transactions commonly called "table funding" wherein there is a contemporaneous advance of loan funds and assignment of the loan is not considered to be a secondary market transaction.

§ 3500.6 Special information booklet at time of loan application.

(a) *Lender to provide information booklet.* The lender shall provide a copy of the special information booklet to a person from whom the lender receives or for whom it prepares a written application on an application form or forms normally used by the lender for a federally-related mortgage loan, unless the application is for a refinancing of the borrower's property. Where more than one person apply together for a loan, the lender is in compliance if the lender supplies a copy of the booklet to one of the individuals applying, but may supply additional booklets to other applicants or guarantors. The lender shall supply the special information booklet by delivering it or placing it in the mail to the applicant not later than three business days (see § 3500.2(a)(2)) after the application is received or prepared. If a borrower uses a mortgage broker, the mortgage broker shall distribute the special information booklet and the lender need not do so. The intent of this provision is that the applicant receive this special information booklet at the earliest possible date.

(b) *Revision.* The Secretary may from time to time revise the special information booklet by publishing a notice in the **Federal Register**.

(c) *Reproduction.* The special information booklet may be reproduced in any form, provided that no change is made other than as provided under paragraph (d) of this section. The special information booklet may not be made a part of a larger document for purposes of distribution under RESPA and this section. Any color, size and quality of paper, type of print, and method of reproduction may be used so long as the booklet is clearly legible.

(d) *Permissible changes.* (1) No changes to, deletions from, or additions to the special information booklet currently prescribed by the Secretary shall be made other than those specified in this paragraph (d) of this section or any others approved in writing by the Secretary. A request to the Secretary for approval of any changes shall be submitted in writing to the address indicated in § 3500.3, stating the reasons why the applicant believes such changes, deletions or additions are necessary.

(2) The cover of the booklet may be in any form and may contain any drawings, pictures or artwork, provided that the words "settlement costs" are used in the title. Names, addresses and telephone numbers of the lender or others and similar information may appear on the cover, but no discussion of the matters covered in the booklet shall appear on the cover.

(3) The special information booklet may be translated into languages other than English.

§ 3500.7 Good faith estimate.

(a) *Lender to provide.* The lender shall provide the good faith estimate required under this section (a suggested format is set forth in appendix C of this part) to all applicants for a federally-related mortgage loan by delivering the good faith estimate or placing it in the mail to the loan applicant not later than three business days after the application is received or prepared. If a mortgage broker is the exclusive agent of the lender, either the lender or the mortgage broker shall provide the good faith estimate.

(b) *Mortgage broker to provide.* In the event an application is received by a mortgage broker who is not an exclusive agent of the lender, the mortgage broker must provide a good faith estimate within three days of receiving a loan application based on his or her knowledge of the range of costs (a suggested format is set forth in appendix C of this part).

(c) *Content of good faith estimate.* A good faith estimate consists of an estimate, as a dollar amount or range, of each charge which:

(1) Will be listed in Section L of the HUD-1 in accordance with the instructions set forth in appendix A to this part; and

(2) That the borrower will normally pay or incur at or before settlement based upon common practice in the locality of the mortgaged property. Each such estimate must be made in good

faith and bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement, and must be based upon experience in the locality of the mortgaged property. As to each charge with respect to which the lender requires a particular settlement service provider to be used, the lender shall make its estimate based upon the lender's knowledge of the amounts charged by such provider.

(d) *Form of good faith estimate.* A suggested good faith estimate form is set forth in appendix C to this part and is in compliance with the requirements of the Act except for any additional requirements of paragraph (e) of this section. The good faith estimate may be provided together with disclosures required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, so long as all required material for the good faith estimate is grouped together. The lender may include additional relevant information, such as the name/signature of the applicant and loan officer, date, and information identifying the loan application and property, as long as the form remains clear and concise and the additional information is not more prominent than the required material.

(e) *Particular providers required by lender.* If the lender requires the use of a particular provider of a settlement service and also requires the borrower to pay any portion of the cost of such service, then the good faith estimate must clearly state that use of the particular provider is required and that the estimate is based on charges of the designated provider, give the name, address and telephone number of each such provider, and describe the nature of any relationship between each such provider and the lender. For purposes of the preceding sentence, a "relationship" exists:

(1) If the provider is an associate of the lender, or;

(2) If within the last 12 months the provider has maintained an account with the lender or had an outstanding loan or credit arrangement with the lender; or

(3) If the lender has repeatedly used or required borrowers to use the services of the provider within the last 12 months.

Section 3500.2(a)(11) defines "required use" of a provider of settlement services.

(Approved by the Office of Management and Budget under control number 2502–0265)

§ 3500.8 Use of HUD–1 settlement statement.

(a) *Use by settlement agent.* The settlement agent shall use the HUD–1 settlement statement in every settlement involving a federally-related mortgage loan.

(b) *Charges to be stated.* The settlement agent shall complete the HUD–1 in accordance with the instructions set forth in appendix A to this part.

(Approved by the Office of Management and Budget under control number 2502–0265)

§ 3500.9 Reproduction of HUD–1 settlement statement.

(a) *Permissible changes.* The HUD–1 settlement statement may be reproduced with the following permissible changes and insertions:

(1) The person reproducing the HUD–1 may insert in Section A its business name and/or logotype and may rearrange, but not delete, the other information which appears in Section A.

(2) The name, address and other information regarding the lender and settlement agent may be printed in Sections F and H, respectively.

(3) Reproduction of the HUD–1 must conform to the terminology, sequence and numbering of line items as presented in lines 100–1400. However, blank lines or items listed in lines 100–1400 which are not used locally or in connection with mortgages by the lender may be deleted, except for the following: Lines 100, 120, 200, 220, 300, 301, 302, 303, 400, 420, 500, 520, 600, 601, 602, 603, 700, 800, 900, 1000, 1100, 1200, 1300, and 1400. The form may be correspondingly shortened. The number of a deleted item shall not be used for a substitute or new item, but the number of a blank space on the HUD–1 may be used for a substitute or new item.

(4) Charges not listed on the HUD–1 but which are customary locally or pursuant to the lender's practice may be inserted in blank spaces; or where existing blank spaces on the HUD–1 are insufficient, additional lines and spaces may be added and numbered in sequence with spaces on the HUD–1.

(5) The following variations in layout and format are within the discretion of persons reproducing the HUD–1 and do not require prior HUD approval: size of pages; tint or color of pages; size and style of type or print, vertical spacing between lines or provision for additional horizontal space on lines (for example, to provide sufficient space for recording time periods used in prorations); printing of the HUD–1 contents on separate pages, on the front and back of a single page, or on one continuous page; use of multicopy tear-out sets; printing on rolls for computer purposes; reorganization of Sections B through I where necessary to accommodate computer printing; and manner of placement on the HUD–1 of the HUD number but not the OMB approval number, neither of which in any case may be deleted from the HUD-1. Any changes in the HUD number or OMB approval number may be announced by notice in the Federal Register rather than by amendment of this rule. The designation of the expiration date of the OMB number may be deleted.

(6) The borrower's information and the seller's information may be provided on separate pages.

(7) Signature lines may be added.

(8) The HUD–1 may be translated into languages other than English.

(9) An additional page may be attached to the HUD–1 for the purpose of including customary recitals and information used locally in real estate settlements, for example, breakdown of payoff figures; a breakdown of the borrower's total monthly mortgage payments; check disbursements; a statement indicating receipt of funds; applicable special stipulations between buyer and seller; and the date funds are transferred. If space permits, such information may be added at the end of the HUD–1.

(10) As required by HUD/FHA in FHA loans.

(11) As allowed by Section 17 of this Part relating to an initial escrow account statement.

(b) *Written approval.* Any other deviation in the HUD–1 form is only permissible upon receipt of written approval of the Secretary. A request to the Secretary for approval shall be submitted in writing to the address indicated in § 3500.3, stating the reasons why the applicant believes such deviation is needed. The prescribed form must be used until such approval is received.

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§ 3500.10 One day advance inspection of HUD-1 settlement statement; delivery; recordkeeping.

(a) *Inspection one day prior to settlement upon request by the borrower.* The settlement agent shall permit the borrower to inspect the HUD–1 settlement statement, completed to set forth those items which are known to the settlement agent at the time of inspection, during the business day immediately preceding settlement. Items related only to the seller's transactions may be omitted.

(b) *Delivery.* The settlement agent shall provide a completed HUD–1 to the borrower, the seller and the lender (if the lender is not the settlement agent), and/or their agents. Where borrower's and seller's copies differ as permitted by

the instructions in appendix A to this part, both copies shall be provided to the lender (if the lender is not the settlement agent). The settlement agent shall deliver the completed HUD–1 at or before the settlement, except as provided in paragraphs (c) and (d) of this section.

(c) *Waiver.* The borrower may waive the right to delivery of the completed HUD–1 no later than at settlement by executing a written waiver at or before settlement. In such case, the completed HUD–1 shall be mailed or delivered to the borrower, seller and lender (if the lender is not the settlement agent) as soon as practicable after settlement.

(d) *Exempt transactions.* Where the borrower or the borrower's agent does not attend the settlement or where the settlement agent does not conduct a meeting of the parties for that purpose, the transaction shall be exempt from the requirements of paragraphs (a) and (b) of this section, except that the HUD–1 shall be mailed or delivered as soon as practicable after settlement.

(e) *Recordkeeping.* The lender shall retain each completed HUD–1 and related documents for five years after settlement, unless the lender disposes of its interest in the mortgage and does not service the mortgage. In that case, the lender shall provide its copy of the HUD–1 to the owner or servicer of the mortgage as a part of the transfer of the loan file. Such owner or servicer shall retain the HUD–1 for the remainder of the five-year period. The Secretary shall have the right to inspect or require copies of records covered by this paragraph (e) of this section.

(Approved by the Office of Management and Budget under control number 2502–0265.)

§ 3500.11 Mailing.

The provisions of this part requiring or permitting mailing of documents shall be deemed to be satisfied by placing the document in the mail (whether or not received by the addressee) addressed to the addresses stated in the loan application or in other information submitted to or obtained by the lender at the time of loan application or submitted or obtained by the lender or settlement agent, except that a revised address shall be used where the lender or settlement agent has been expressly informed in writing of a change in address.

§ 3500.12 No fee.

No fee shall be imposed or charge made upon any other person, as a part of settlement costs or otherwise, by a lender in connection with a federally-related mortgage loan made by it (or a loan for the purchase of a manufactured home), or by a servicer (as that term is defined under 12 U.S.C. 2605(1)) for or on account of the preparation and distribution of the HUD–1 settlement statement, escrow account statements, or statements required by the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

§ 3500.13 Relation to State laws.

(a) State laws that are inconsistent with RESPA or this part are preempted to the extent of the inconsistency. However, RESPA and these regulations do not annual, alter, affect, or exempt any person subject to their provisions from complying with the laws of any State with respect to settlement practices, except to the extent of the inconsistency.

(b) Upon request by any person, the Secretary is authorized to determine if inconsistencies with State law exist; in doing so, the Secretary shall consult with appropriate Federal agencies.

(1) The Secretary may not determine that a State law or regulation is inconsistent with any provision of RESPA or this part, if the Secretary determines that such law or regulation gives greater protection to the consumer.

(2) In determining whether provisions of State law or regulations concerning controlled business arrangements are inconsistent with RESPA or this part, the Secretary may not construe those provisions that impose more stringent limitations on controlled business arrangements as inconsistent with RESPA so long as they give more protection to consumers and/or competition.

(c) Any person may request the Secretary to determine whether an inconsistency exists by submitting to the address indicated in § 3500.3, a copy of the State law in question, any other law or judicial or administrative opinion that implements, interprets or applies the relevant provision, and an explanation of the possible inconsistency. A determination by the Secretary that an inconsistency with State law exists will be made by publication of a notice in the **Federal Register.** "Law" as used in this section includes regulations and any enactment which has the force and effect of law and is issued by a State or any political subdivision of a State.

(d) A specific preemption of conflicting State laws regarding notices and disclosures of mortgage servicing transfers is set forth in § 3500.21(h).

§ 3500.14 Prohibition against kickbacks and unearned fees.

(A) *Section 8 violation.* Any violation of this section is a violation of Section 8 of RESPA (12 U.S.C. 2607) and is subject to enforcement as such under § 3500.19(b).

(b) *No referral fees.* No person shall give and no person shall accept any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a settlement service involving a federally-related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service, except as set forth in paragraph of § 3500.14(g)(2). A company may not pay any other company or the employees of any other company for the referral of settlement service business.

(c) *No split of charges except for actual services performed.* No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a settlement service in connection with a transaction involving a federally-related mortgage loan other than for services actually performed. A charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this section. The source of the payment does not determine whether or not a service is compensable. Nor may the prohibitions of this Part be avoided by creating an arrangement wherein the purchaser of services splits the fee.

(d) *Thing of value.* "Thing of value" is broadly defined by section 3(2) of RESPA (12 U.S.C. 2602(2)) to include any payment, advance, fund, loan, service, or other consideration. Under section 8 of RESPA (12 U.S.C. 2607), a thing of value can take many forms including, but not limited to, monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing monies that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special bank deposits or accounts, special or unusual banking terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payment of another person's expenses, or reduction in credit against an existing obligation. The term "payment" is used throughout § 3500.14 and § 3500.15 as synonymous with the giving or receiving any "thing of value" and does not require transfer of money.

(e) *Agreement or understanding.* An agreement or understanding for the referral of business incident to or part of a settlement service need not be written or verbalized but may be established by a practice, pattern or course of conduct. When a thing of value is received repeatedly and is connected in any way with the volume or value of the business referred, the receipt of the thing of value is evidence that it is made pursuant to an agreement or understanding for the referral of business.

(f) *Referral.*—(1) A referral includes any oral or written action directed to a person which has the effect of affirmatively influencing the selection by any person of a provider of a settlement service or business incident to or part of a settlement service when such person will pay for such settlement service or business incident thereto or pay a charge attributable in whole or in part to such settlement service or business.

(2) A referral also occurs whenever a person paying for a settlement service or business incident thereto is required to use (as described in § 3500.2(a)(11) a particular provider of a settlement service or business incident thereto.

(g) *Fees, salaries, compensation, or other payments.* (1) Section 8 of RESPA permits a payment:

(i) To an attorney at law for services actually rendered; or

(ii) By a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance; or

(iii) By a lender to its duly appointed agent or contractor for services actually performed in the origination, processing, or funding of a loan; or

(iv) To any person of a *bona fide* salary or compensation or other payment for goods or facilities actually furnished or for services actually performed; or

(v) Pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers.

(2) Section 8 of RESPA does not prohibit:

(i) Normal promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident thereto;

(ii) An employer's payment to its own employees for any referral activities; or

(iii) Any payment by a borrower for computer loan origination services, so long as the disclosure set forth in appendix E of this part is provided the borrower.

(3) The Department may investigate high prices to see if they are the result of a referral fee or a split of a fee. If the payment of a thing of value bears no reasonable relationship to the market value of the goods or services provided, then the excess is not for services or goods actually performed or provided. These facts may be used as evidence of a violation of Section 8 and may serve as a basis for a RESPA investigation. High prices standing alone are not proof of a RESPA violation. The value of a referral (*i.e.*, the value of any additional business obtained thereby) is not to be taken into account in determining whether the payment exceeds the reasonable value of such goods, facilities or services. The fact that the transfer of the thing of value does not result in an increase in any charge made by the person giving the thing of value is irrelevant in determining whether the act is prohibited.

(3) *Multiple services.* When a person in a position to refer settlement service business, such as an attorney, mortgage lender, real estate broker or agent, or developer or builder, receives a payment for providing additional settlement services as part of a real estate transaction, such payment must be for services that are actual, necessary and distinct from the #primary services provided by such person. For example, for an attorney of the buyer or seller to receive compensation as a title agent, the attorney must perform core title agent services (for which liability arises) separate from attorney services, including the evaluation of the title search to determine the insurability of the title, the clearance of underwriting objections, the actual issuance of the policy or policies on behalf of the title insurance company, and, where customary, issuance of the title commitment, and the conducting of the title search and closing.

(h) *Recordkeeping.* Any documents provided pursuant to this section shall be retained for five (5) years from the date of execution.

(i) *Appendix B of this part.* Illustrations in appendix B of this part illustrate some of the provisions of this section.

§ 3500.15 Controlled business arrangements.

(a) *General.* A controlled business arrangement is an arrangement in which:

(1) A person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally-related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in a provider of settlement services; and

(2) Such person directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider.

(b) *Violation and exemption.* A controlled business arrangement is not a violation of section 8 of RESPA and of § 3500.14 if the conditions set forth in this section are satisfied.

(1) The person making each referral has provided to each person whose business is referred a written disclosure, in the format of the Controlled Business Arrangement Disclosure Statement set forth in Appendix D of this part, of the nature of the relationship (explaining the ownership and financial interest) between the provider of settlement services (or business incident thereto) and the person making the referral and of an estimated charge or range of charges generally made by such provider (which describes the charge using the same terminology, as far as practical, as Section L of the HUD–1 settlement statement). The disclosures must be provided on a separate piece of paper no later than the time of each referral or, if the lender requires use of a particular provider, the time of loan application, except that:

(i) Where a lender makes the referral to a borrower, the condition contained in paragraph (b)(1) of this section may be satisfied as part of and at the time that the good faith estimate or a statement under § 3500.7(d) is provided; and

(ii) Whenever an attorney or law firm requires a client to use a particular title insurance agent, the attorney or law firm shall provide the disclosures no later than the time the attorney or law firm is engaged by the client. Failure to comply with the disclosure requirements of this section may be overcome if the person making a referral can prove by a preponderance of the evidence that procedures reasonably adopted to result in compliance with these conditions have been maintained and that any failure to comply with these conditions was unintentional and the result of a *bona fide* error. An error of legal judgment with respect to a person's obligations under RESPA is not a *bona fide* error. Administrative and judicial interpretations of section 130(c) of the Truth in Lending Act shall not be binding interpretations of the preceding sentence or section 8(d)(3) of RESPA (12 U.S.C. 2607(d)(3)).

(2) No person making a referral has required (as defined in § 3500.2(a)(11) any person to use any particular provider of settlement services or business incident thereto, except if such person is a lender, for requiring a buyer, borrower or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction, or except of such person is an attorney or law firm for arranging for issuance of a title insurance policy for a client, directly as agent or through a separate corporate title insurance agency that may be operated as an adjunct to the law practice of the attorney or law firm, as part of representation of that client in a real estate transaction.

(3) The only thing of value that is received from the arrangement other than payments listed in § 3500.14(g) is a return on an ownership interest or franchise relationship.

(i) In a controlled business arrangement:

(A) *Bona fide* dividends, and capital or equity distributions, related to ownership interest or franchise relationship, between entities in an affiliated relationship, are permissible; and

(B) *Bona fide* business loans, advances, and capital or equity contributions between entities in a affiliated relationship (in any direction), are not prohibited—so long as they are for ordinary business purposes and are not fees for the referral of settlement service business or unearned fees.

(ii) A return on an ownership interest does not include:

(A) Any payment which has as a basis of calculation no apparent business motive other than distinguishing among recipients of payments on the basis of the amount of their actual, estimated or anticipated referrals;

(B) Any payment which varies according to the relative amount of referrals by the different recipients of similar payments; or

(C) A payment based on an ownership, partnership or joint venture share which has been adjusted on the basis of previous relative referrals by recipients of similar payments.

(iii) Neither the mere labelling of a thing of value, nor the fact that it may be calculated pursuant to a corporate or partnership organizational document or a franchise agreement, will determine whether it is a *bona fide* return on an ownership interest or franchise relationship. Whether a thing of value is such a return will be determined by analyzing facts and circumstances on a case by case basis.

(iv) A return on franchise relationship may be a payment to or from a franchisee but it does not include any payment which is not based on the franchise agreement, nor any payment which varies according to the number or amount of referrals by the franchisor or franchisee or which is based on a franchise agreement which has been adjusted on the basis of a previous number of amount of referrals by the franchiser or franchisees. A franchise agreement may not be constructed to insulate against kickbacks or referral fees.

(c) *Definitions.* As used in this section:

(1) *Associate* means with respect to a particular person:

(i) A spouse, parent or child of such person;

(ii) A corporation or other business entity that controls, is controlled by, or is under common control with such person;

(iii) An employer, officer, director, partner, franchisor or franchisee of such person; or

(iv) Anyone who has an agreement or understanding with such person, the purpose or substantial effect of which is to enable such person to benefit financially from the referral of business incident to or part of a settlement service.

(2) *Affiliate relationship* means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

(3) *Beneficial ownership* means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person's name.

(4) *Control,* as used in the definitions of "associate" and "affiliate relationship," means that a person:

(i) Is a general partner, officer, director, or employer of another person;

(ii) Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interests of another person;

(iii) Affirmatively influences in any manner the election of a majority of the directors of another person; or

(iv) Has contributed more than 20 percent of the capital of the other person.

(5) *Direct ownership* means the holding of legal title to an interest in a provider of settlement service except where title is being held for the beneficial owner.

(6) *Franchise,* means any continuing commercial relationship created by any arrangement or arrangements whereby:

(i) A person (hereinafter "franchisee") offers, sells, or distributes to any person other than a "franchisor" (as hereinafter defined), goods, commodities, or services which are:

(A) Identified by a trademark, service mark, trade name, advertising or other commercial symbol designating another person (hereinafter "franchisor"); or

(B) Indirectly or directly required or advised to meet the quality standards prescribed by another person (hereinafter "franchisor") where the franchisee operates under a name using the trademark, service mark, trade name, advertising or other commercial symbol designating the franchisor; and

(*1*) The franchisor exerts or has authority to exert a significant degree of control over the franchisee's method of operation, including but not limited to, the franchisee's business organization, promotional activities, management, marketing plan or business affairs; or

(*2*) The franchisor gives significant assistance to the franchisee in the latter's method of operation, including but not limited to, the franchisee's business organization, management, marketing plan, promotional activities, or business affairs; Provided, however, that assistance in the franchisee's promotional activities shall not, in the absence of assistance in other areas of the franchisee's method of operation, constitute significant assistance; or

(ii) A person (hereinafter "franchisee") offers, sells, or distributes to any person other than a "franchisor" (as hereinafter defined), goods, commodities, or services which are:

(A) Supplied by another person (hereinafter "franchisor"); or

(B) Supplied by a third person (*e.g.*, a supplier) with whom the franchisee is directly or indirectly required to do business by another person (hereinafter "franchisor"); or

(C) Supplied by a third person (*e.g.*, a supplier) with whom the franchisee is directly or indirectly advised to do business by another person (hereinafter "franchisor") where such third person is affiliated with the franchisor; and

(*1*) The franchisor:

(*i*) Secures for the franchisee retail outlets or accounts for said goods, commodities, or services; or

(*ii*) Secures for the franchisee locations or sites for vending machines,

rack displays, or any other product sales display used by the franchisee in the offering, sale, or distribution of said goods, commodities, or services; or

(*iii*) Provides to the franchisee the services of a person able to secure the retail outlets, accounts, sites or locations referred to in paragraph (c)(6)(i)(B)(*1*) and (*2*) of this section; and

(*2*) Reserved.

(iii) The franchisee is required, as a condition of obtaining or commencing the franchise operation, to make a payment or a commitment to pay to the franchisor, or to a person affiliated with the franchisor.

(iv) *Exemptions*. The provisions of this part shall not apply to a franchise:

(A) Which is a "fractional franchise" (which means any relationship in which the person described therein as a franchisee, or any of the current directors or executive officers thereof, has been in the type of business represented by the franchise relationship for more than 2 years and the parties anticipated, or should have anticipated, at the time the agreement establishing the franchise relationship was reached, that the sales arising from the relationship would represent no more than 20 percent of the sales in dollar volume of the franchisee); or

(B) Where pursuant to a lease, license, or similar agreement, a person offers, sells, or distributes goods, commodities, or services on or about premises occupied by a retailer-grantor primarily for the retailer-grantor's own merchandising activities, which goods, commodities, or services are not purchased from the retailer-grantor or persons whom the lessee is directly or indirectly required to do business with by the retailer-grantor or advised to do business with by the retailer-grantor where such person is affiliated with the retailer-grantor; or

(C) Where the total of the payments referred to in paragraph (c)(6)(i)(B) of this section made during a period from any time before to within 6 months after commencing operation of the franchisee's business, is less than $500; or

(D) Where there is no writing which evidences any material term or aspect of the relationship or arrangement.

(v) *Exclusions*. The term "franchise" shall not be deemed to include any continuing commercial relationship created solely by:

(A) The relationship between an employer and an employee, or among general business partners; or

(B) Membership in a bona fide "cooperative association"; or

(C) An agreement for the use of a trademark, service mark, trade name, seal, advertising or other commercial symbol designating a person who offers on a general basis, for a fee or otherwise, a bona fide service for the evaluation, testing, or certification of goods, commodities, or services; or

(D) An agreement between a licensor and a single licensee to license a trademark, trade name, service mark, advertising or other commercial symbol where such license is the only one of its general nature and type to be granted by the licensor with respect to that trademark, trade name, service mark, advertising, or other commercial symbol.

(vi) Any relationship which is represented either orally or in writing to be a franchise (as defined in paragraph (c)(6)(i) of this section) is subject to the requirements of this part.

(Paragraph (c)(6) of this section is consistent with the definition contained in 16 CFR 436.2)

(7) *Franchisor* means any person who participates in a franchise relationship as a franchisor, as denoted in paragraph (c)(6) of this section.

(8) *Franchisee* means any person:

(i) Who participates in a franchise relationship as a franchisee, as denoted in paragraph (c)(6) of this section; or

(ii) To whom an interest in a franchise is sold.

(9) *Person who is in a position to refer settlement service business* means any real estate broker or agent, lender, mortgage broker, builder or developer, attorney, title company, title agent, or other person deriving a significant portion of his or her gross income from providing settlement services.

(d) *Recordkeeping*. Any documents provided pursuant to this section shall be retained for five (5) years after the date of execution.

(e) *Appendix B of this part*. Illustrations in appendix B of this part illustrate some of the requirements of this section.

§ 3500.16 Title companies.

No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require, directly or indirectly, as a condition of selling the property, that title insurance covering the property be purchased by the buyer from any particular title company. Section 3500.2(a)(11) defines "required" use of a provider of a settlement service. Section 3500.19(c) explains the liability of a seller for a violation of this section.

§ 3500.17 Escrow accounts. [Reserved]

§ 3500.18 Validity of contracts and liens.

Nothing in RESPA or this part shall affect the validity or enforcement of any sale or contract for the sale of real property or any loan, loan agreement, mortgage or lien made or arising in connection with a federally related mortgage loan

§ 3500.19 Enforcement

(a) *Manner of enforcement*. RESPA contains specific penalty provisions for enforcing section 8 and section 9 of RESPA (12 U.S.C. 2607 and 2608) which correspond to §3500.14, 3500.15 and 3500.16. Specific provisions for enforcing the escrow account statement provisions (12 U.S.C. 2609(c) and (d)) are reserved. Enforcement provisions for section 8 and 9 are set forth in this section. It is the policy of the Secretary to cooperate regarding RESPA enforcement matters with Federal, State or local agencies having supervisory powers over lenders or other persons with responsibilities under RESPA. Federal agencies with supervisory powers over lenders may use their powers to require compliance with RESPA. In addition, failure to comply with RESPA may be grounds for administrative action by the Secretary under part 24 of this title concerning debarment, suspension, ineligibility of contractors and grantees, or under part 25 of this title concerning the HUD Mortgagee Review Board. Nothing in this paragraph is a limitation on any other form of enforcement which may be legally available.

(b) *Violations of Section 8 of RESPA (12 U.S.C. 2607), § 3500.14, or § 3500.15 of this part.*—(1) Any person or persons who violate Section 8 of RESPA (12 U.S.C. 2607), § 3500.14 or § 3500.15 shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

(2) Any person or persons who violate any of the provisions identified in paragraph (b)(1) of this section shall be jointly and severally liable to the person or persons charged for the settlement service involved in the violation in an amount equal to three times the amount of any charge paid for such settlement service. For purposes of computing the charge paid for a mortgage loan, the loan origination fee and loan discount are included, but the principal and interest are not included.

(3) The Secretary or, to the extent authorized by State Law, the Attorney General of any State or the insurance commissioner of any State, may bring an action to enjoin violations of the provisions identified in paragraph (b)(1) of this section.

(4) In any private action brought pursuant to paragraph (b) of this section, a court may award to the prevailing

party the court costs of the action together with reasonable attorney's fees.

(c) *Violations of Section 9 of RESPA (12 U.S.C. 2608) or § 3500.16.* Any seller who violates the provisions of section 9 of RESPA or § 3500.16 is liable to the buyer in an amount equal to three times all charges made for the title insurance.

(d) *Jurisdiction of courts.* Any action pursuant to the provisions of the above-cited sections may be brought in the United States district court or in any other court of competent jurisdiction, for the district in which the property involved is located, or where the violation is alleged to have occurred, within one year from the date of the occurrence of the violation, except that actions brought by the Secretary, the Attorney General of any State, or the insurance commissioner of any State may be brought within 3 years from the date of the occurrence of the violation.

§ 3500.20 Investigations; subpoena authority.

(a) *Authority of Secretary.* (1) The Secretary may investigate any facts, conditions, practices, or matters that may be deemed necessary or proper to aid in the enforcement of the provisions of RESPA, in prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning real estate settlement practices. To aid in the investigations, the Secretary is authorized by section 19(c) of RESPA (12 U.S.C. 2617(c)(1)) to hold such hearings, administer such oaths, and require by subpoena the attendance and testimony of such witnesses and production of such documents as the Secretary deems advisable.

(2) Under section 19(c) of RESPA (12 U.S.C. 2617(c)(2)) any district court of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena of the Secretary issued pursuant to Section 19(c), issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof. For purposes of determining the jurisdiction of a court over a subpoena enforcement action, HUD's headquarters in Washington, D.C. is the location in which HUD enforcement staff carries on inquiries under the Act.

(b) *Subpoenas in investigations* (1) The Secretary may issue subpoenas relating to any matter under investigation for any or all of the following purposes:

(i) Requiring testimony to be taken by interrogatories.

(ii) Requiring the attendance and testimony of witnesses at a specific time and place.

(iii) Requiring access to, examination of, and the right to copy documents, books, records, and papers.

(iv) Requiring the production of documents, books, records, and papers at a specified time and place.

(2) A subpoenaed person may petition the Secretary or his designee to modify or withdraw a subpoena by filing the petition within 10 days after service of the subpoena. The petition may be in letter form but must set forth the facts and the laws upon which the petition is based.

(c) *Investigational proceedings.* (1) For the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation, investigational proceedings may be conducted in the course of any investigation including rulemaking proceedings.

(2) Investigational proceedings shall be presided over by the Secretary or his designee and may be stenographically or mechanically reported. A transcript may be a part of the record of investigation.

(3) Unless the Secretary determines otherwise, investigational proceedings shall be public.

(d) *Rights of witnesses in investigations.*—(1) Any person compelled to testify or to submit data in connection with any public investigational proceedings shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure copies of any data submitted and testimony as stenographically or mechanically reported, except that in a nonpublic proceeding, the witness may for good cause be limited to inspection of the official transcript of the testimony.

(2) Any witness compelled to appear in person in an investigational proceeding may be accompanied, represented, and advised by counsel as follows:

(i) A witness may be advised by counsel, in confidence, upon the initiative of either the counsel or of the witness, with respect to any question asked of the witness; if the witness is advised to refuse to answer a question, counsel may briefly state on the record that the witness has been advised not to answer the question and the legal grounds for the refusal.

(ii) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement may state briefly and precisely the grounds therefore.

(iii) Objections made under the rules in this subpart will be continuing objections throughout the course of the proceeding, and repetitious or cumulative statements of an objection or of the grounds therefore are unnecessary and impermissible.

(iv) Counsel for a witness may not, for any purpose or to any extent not allowed by paragraphs (d)(2)(i) and (ii) of this section, interrupt the examination of the witness by making any objections or statements on the record. Petitions challenging the authority of the Secretary to conduct the investigation or the sufficiency or the legality of the subpoena must have been presented to the Secretary pursuant to § 3500.21(b)(2). Copies of such petitions may be filed with the presiding official at the proceeding as part of the investigation record, but no argument in support thereof shall be allowed.

(v) Upon completion of the examination of a witness, counsel for the witness may request that the presiding official permit the witness to clarify on the record any answers in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request in whole or in part shall be within the sole discretion of the presiding official.

(vi) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist or contumacious conduct or contemptuous language.

§ 3500.21 Mortgage servicing transfers. [Reserved]

Appendix A to Part 3500—Instructions for Completing HUD-1 Settlement Statement

The following are instructions for completing Sections A through L of the HUD-1 settlement statement, required under Section 4 of RESPA and Regulation X of the Department of Housing and Urban Development (24 CFR part 3500). This form is to be used as a statement of actual charges and adjustments to be given to the parties in connection with the settlement. The instructions for completion of the HUD-1 are primarily for the benefit of the settlement agents who prepare the statements and need not be transmitted to the parties as an integral part of the HUD-1. There is no objection to the use of the HUD-1 in transactions in which its use is not legally required. Refer to the definitions section of Regulation X for specific definitions of many

of the terms which are used in these instructions.

General Instructions

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Refer to Regulation X regarding rules applicable to reproduction of the HUD-1. An additional page(s) may be attached to the HUD-1 for the purpose of including customary recitals and information used locally in settlements, for example, a breakdown of payoff figures; a breakdown of the Borrower's total monthly mortgage payments; check disbursements; a statement indicating receipt of funds; applicable special stipulations between Borrower and Seller, and the date funds are transferred.

The settlement agent shall complete the HUD-1 to itemize all charges imposed upon the Borrower and the Seller by the Lender and all sales commissions, whether to be paid at settlement or outside of settlement, and any other charges which either the Borrower or the Seller will pay for at settlement. Charges to be paid outside of settlement, including cases where a non-settlement agent (*i.e.*, attorneys, title companies, escrow agents, real estate agents or brokers) holds the Borrower's deposit against the sales price (earnest money) and applies the entire deposit towards the charge for the settlement service it is rendering, shall be included on the HUD-1 but marked "P.O.C." for "Paid Outside of Closing" (settlement) and shall not be included in computing totals. P.O.C. items should not be placed in the Borrower or Seller columns, but rather on the appropriate line next to the columns.

Blank lines are provided in Section L for any additional settlement charges. Blank lines are also provided for additional insertions in Sections J and K. The names of the recipients of the settlement charges in Section L and the names of the recipients of adjustments described in Section J or K should be included on the blank lines.

Lines and columns in Section J which relate to the Borrower's transaction may be left blank on the copy of the HUD-1 which will be furnished to the Seller. Lines and columns in Section K which relate to the Seller's transaction may be left blank on the copy of the HUD-1 which will be furnished to the Borrower.

Line Item Instructions

Instructions for completing the individual items on the HUD-1 follow.

Section A. This section requires no entry of information.

Section B. Check appropriate loan type and complete the remaining items as applicable.

Section C. This section provides a notice regarding settlement costs and requires no additional entry of information.

Sections D and E. Fill in the names and current mailing addresses and zip codes of the Borrower and the Seller. Where there is more than one Borrower or Seller, the name and address of each one is requiif needed to list multiple Borrowers or Sellers.

Section F. Fill in the name, current mailing address and zip code of the Lender.

Section G. The street address of the property being sold should be given. If there is no street address, a brief legal description or other location of the property should be inserted. In all cases give the zip code of the property.

Section H. Fill in name, address, and zip code of settlement agent; address and zip code of "place of settlement."

Section I. Date of settlement.

Section J. Summary of Borrower's Transaction. Line 101 is for the gross sales price of the property being sold, excluding the price of any items of tangible personal property if Borrower and Seller have agreed to a separate price for such items.

Line 102 is for the gross sales price of any items of tangible personal property excluded from Line 101. Personal property could include such items as carpets, drapes, stoves, refrigerators, etc. What constitutes personal property varies from state to state. Manufactured homes are not considered personal property for this purpose.

Line 103 is used to record the total charges to Borrower detailed in Section L and totaled on Line 1400.

Lines 104 and 105 are for additional amounts owed by the Borrower or items paid by the Seller prior to settlement but reimbursed by the Borrower at settlement. For example, the balance in the Seller's reserve account held in connection with an existing loan, if assigned to the Borrower in a loan assumption case, will be entered here. These lines will also be used when a tenant in the property being sold has not yet paid the rent, which the Borrower will collect, for a period of time prior to the settlement. The lines will also be used to indicate the treatment for any tenant security deposit. The Seller will be credited on Lines 404-405.

Lines 106 through 112 are for items which the Seller had paid in advance, and for which the Borrower must therefore reimburse the Seller. Examples of items for which adjustments will be made may include taxes and assessments paid in advance for an entire year or other period, when settlement occurs prior to the expiration of the year or other period for which they were paid. Additional examples include flood and hazard insurance premiums, if the Borrower is being substituted as an insured under the same policy; mortgage insurance in loan assumption cases; planned unit development or condominium association assessments paid in advance; fuel or other supplies on hand, purchased by the Seller, which the Borrower will use when Borrower takes possession of the property; and ground rent paid in advance.

Line 120 is for the total of Lines 101 through 112.

Line 201 is for any amount paid against the sales price prior to settlement.

Line 202 is for the amount of the new loan made by the Lender or first user loan (a loan to finance construction of a new structure or purchase of manufactured home where the structure was constructed for sale or the manufactured home was purchased for purposes of resale and the loan is used as or converted to a loan to finance purchase by the first user). For other loans covered by Regulation X which finance construction of a new structure or purchase of a manufactured home, list the sales price of the land on Line 104, the construction cost or purchase price of manufactured home on Line 105 (Line 101 would be left blank in this instance) and amount of the loan on Line 202. The remainder of the form should be completed taking into account adjustments and charges related to the temporary financing and permanent financing and which are known at the date of settlement.

Line 203 is used for cases in which the Borrower is assuming or taking title subject to an existing loan or lien on the property.

Lines 204-209 are used for other items paid by or on behalf of the Borrower. Examples include cases in which the Seller has taken a trade-in or other property from the Borrower in part payment for the property being sold. They may also be used in cases in which a Seller (typically a builder) is making an "allowance" to the Borrower for carpets or drapes which the Borrower is to purchase separately. Lines 204-209 can also be used to indicate any Seller financing arrangements or other new loan not listed in Line 202. For example, if the Seller takes a note from the Borrower for part of the sales price, insert the principal amount of the note with a brief explanation on Lines 204-209.

Lines 210 through 219 are for items which have not yet been paid, and which the Borrower is expected to pay, but which are attributable in part to a period of time prior to the settlement. In jurisdictions in which taxes are paid late in the tax year, most cases will show the proration of taxes in these lines. Other examples include utilities used but not paid for by the Seller, rent collected in advance by the Seller from a tenant for a period extending beyond the settlement date, and interest on loan assumptions.

Line 220 is for the total of Lines 201 through 219.

Lines 301 and 302 are summary lines for the Borrower. Enter total in Line 120 on Line 301. Enter total in Line 220 on Line 302.

Line 303 may indicate either the cash required from the Borrower at settlement (the usual case in a purchase transaction) or cash payable to the Borrower at settlement (if, for example, the Borrower's deposit against the sales price (earnest money) exceeded the Borrower's cash obligations in the transaction). Subtract Line 302 from Line 301 and enter the amount of cash due to or from the Borrower at settlement on Line 303. The appropriate box should be checked.

Section K. Summary of Seller's Transaction. Instructions for the use of Lines 101 and 102 and 104-112 above, apply also to Lines 401-412. Line 420 is for the total of Lines 401 through 412.

Line 501 is used if the Seller's real estate broker or other party who is not the settlement agent has received and holds the deposit against the sales price (earnest money) which exceeds the fee or commission owed to that party, and if that party will render the excess deposit directly to the Seller, rather than through the settlement agent, the amount of excess deposit should be entered on Line 501 and the amount of the total deposit (including commissions) should be entered on Line 201.

Line 502 is used to record the total charges to the Seller detailed in Section L and totaled on Line 1400.

Line 503 is used if the Borrower is assuming or taking title subject to existing liens which are to be deducted from sales price.

Lines 504 and 505 are used for the amounts (including any accrued interest) of any first and/or second loans which will be paid as part of the settlement.

Line 506 is used for deposits paid by the Borrower to the Seller or other party who is not the settlement agent. Enter the amount of the deposit in Line 201 on Line 506 unless Line 501 is used or the party who is not the settlement agent transfers all or part of the deposit to the settlement agent in which case the settlement agent will note in parentheses on Line 507 the amount of the deposit which is being disbursed as proceeds and enter in column for Line 506 the amount retained by the above described party for settlement services. If the settlement agent holds the deposit insert a note in Line 507 which indicates that the deposit is being disbursed as proceeds.

Lines 506 through 509 may be used to list additional liens which must be paid off through the settlement to clear title to the property. Other payoffs of Seller obligations should be shown on Lines 506–509 (but not on Lines 1303–1305). They may also be used to indicate funds to be held by the settlement agent for the payment of water, fuel, or other utility bills which cannot be prorated between the parties at settlement because the amounts used by the Seller prior to settlement are not yet known. Subsequent disclosure of the actual amount of these post-settlement items to be paid from settlement funds is optional. Any amounts entered on Lines 204–209 including Seller financing arrangements should also be entered on Lines 506–509.

Instructions for the use of Lines 510 through 519 are the same as those for Lines 210 to 219 above.

Line 520 is for the total of Lines 501 through 519.

Lines 601 and 602 are summary lines for the Seller. Enter total in Line 420 on Line 610. Enter total in Line 520 on Line 602.

Line 603 may indicate either the cash required to be paid to the Seller at settlement (the usual case in a purchase transaction) or cash payable by the Seller at settlement. Subtract Line 602 from Line 601 and enter the amount of cash due to or from the Seller at settlement on Line 603. The appropriate box should be checked.

Section L. Settlement Charges.—

For all items except for those paid to and retained by the Lender, the name of the person or firm ultimately receiving the payment should be shown.

Line 700 is used to enter the sales commission charged by the sales agent or broker. If the sales commission is based on a percentage of the price, enter the sales price, the percentage, and the dollar amount of the total commission paid by the Seller.

Lines 701–702 are to be used to state the split of the commission where the settlement agent disburses portions of the commission to two or more sales agents or brokers.

Line 703 is used to enter the amount of sales commission disbursed at settlement. If the sales agent or broker is retaining a part of the deposit against the sales price (earnest money) to apply towards the sales agent's or broker's commission, include in Line 703 only that part of the commission being disbursed at settlement and insert a note on Line 704 indicating the amount the sales agent or broker is retaining as a "P.O.C." item.

Line 704 may be used for additional charges made by the sales agent or broker, or for a sales commission charged to the Borrower, which will be disbursed by the settlement agent.

Line 801 is used to record the fee charged by the Lender for processing or originating the loan. If this fee is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

Line 802 is used to record the loan discount or "points" charged by the Lender, and, if it is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

Line 803 is used for appraisal fees if there is a separate charge for the appraisal. Appraisal fees for HUD and VA loans are also included on Line 803.

Line 804 is used for the cost of the credit report if there is a charge separate from the origination fee.

Line 805 is used only for inspections by the Lender or the Lender's agents. Charges for other pest or structural inspections required to be stated by these instructions should be entered in Lines 1301–1305.

Line 806 should be used for an application fee required by a private mortgage insurance company.

Line 807 is provided for convenience in using the form for loan assumption transactions.

Lines 808–811 are used to list additional items payable in connection with the loan including a CLO Access fee, a mortgage broker fee, fees for real estate property taxes or other real property charges.

Lines 901–905. This series is used to record the items which the Lender requires (but which are not necessarily paid to the lender, *i.e.*, FHA mortgage insurance premium) to be paid at the time of settlement, other than reserves collected by the Lender and recorded in 1000 series.

Line 901 is used if interest is collected at settlement for a part of a month or other period between settlement and the date from which interest will be collected with the first regular monthly payment. Enter that amount here and include the per diem charges. If such interest is not collected until the first regular monthly payment, no entry should be made on Line 901.

Line 902 is used for all mortgage insurance premiums due and payable at settlement. A lump sum mortgage insurance premium paid at settlement should be inserted on Line 902 with a note which indicates the premium is for the life of the loan and represents the total amount of insurance.

Line 903 is used for hazard insurance premiums which the Lender requires to be paid at the time of settlement except reserves collected by the Lender and recorded in the 1000 series.

Lines 904 and 905 are used to list additional items required by the Lender (except for reserves collected by the Lender and recorded in the 1000 series) including flood insurance, mortgage life insurance, credit life insurance and disability insurance premiums. These lines are also used to list amounts paid at settlement for insurance not required by the Lender.

Lines 1000–1008. This series is used for amounts collected by the Lender from the Borrower and held in an account for the future payment of the obligations listed as they fall due. Include the time period (number of months) and the monthly assessment. In many jurisdictions this is referred to as an "escrow", "impound", or "trust" account. In addition to the items listed, some Lenders may require reserves for flood insurance, condominium owners' association assessments, etc.

Lines 1100–1113. This series covers title charges and charges by attorneys. The title charges include a variety of services performed by title companies or others and includes fees directly related to the transfer of title (title examination, title search, document preparation) and fees for title insurance. The legal charges include fees for Lender's, Seller's or Buyer's attorney, or the attorney preparing title work. The series also includes any fees for settlement or closing agents and notaries. In many jurisdictions the same person (for example, an attorney or a title insurance company) performs several of the services listed in this series and makes a single overall charge for such services. In such cases, enter the overall fee on Line 1107 (for attorneys), or Line 1108 (for title companies), and enter on that line the item numbers of the services listed which are covered in the overall fee. If this is done, no individual amounts need be entered into the borrower's and seller's columns for the individual items which are covered by the overall fee. In transactions involving more than one attorney, one attorney's fees should appear on Line 1107 and the other attorney's fees should be on Line 1111, 1112 or 1113. If an attorney is representing a buyer, seller, or lender and is also acting as a title agent, indicate on line 1107 which services are covered by the attorney fee and on line 1113 which services are covered by the insurance commission.

Line 1101 is used for the settlement agent's fee.

Lines 1102 and 1103 are used for the fees for the abstract or title search and title examination. In some jurisdictions the same person both searches the title (that is, performs the necessary research in the records) and examines title (that is, makes a determination as to what matters affect title, and provides a title report or opinion). If such a person charges only one fee for both services, it should be entered on Line 1103 unless the person performing these tasks is an attorney or a title company in which case the fees should be entered as described in the general directions for Lines 1100–1113. If separate persons perform these tasks, or if separate charges are made for searching and examination, they should be listed separately.

Line 1104 is used for the title insurance binder which is also known as a commitment to insure.

Line 1105 is used for charges for preparation of deeds, mortgages, notes, etc. If more than one person receives a fee for such work in the same transaction, show the total paid in the appropriate column and the individual charges on the line following the word "to."

Line 1106 is used for the fee charged by a notary public for authenticating the execution of settlement documents.

Line 1107 is used to disclose the attorney's fees for the transaction. The instructions are discussed in the general directions for Lines 1100–1113. This line should include any charges by an attorney to represent a buyer, seller or lender in the real estate transaction.

Lines 1108–1110 are used for information regarding title insurance. Enter the total charge for title insurance (except for the cost of the title binder) on Line 1108. Enter on Lines 1109 and 1110 the individual charges for the Lender's and owner's policies. Note that these charges are not carried over into the Borrower's and Seller's columns, since to do so would result in a duplication of the amount in Line 1108. If a combination Lender's/owner's policy is purchased, show this amount as an additional entry on Lines 1109 and 1110.

Lines 1111–1113 are for the entry of other title charges not already itemized. Examples in some jurisdictions would include a fee to a private tax service, a fee to a county tax collector for a tax certificate, or a fee to a public title registrar for a certificate of title in a Torrens Act transaction. Line 1113 should be used to disclose services that are covered by the commission of an attorney acting as a title agent when Line 1107 is already being used to disclose the fees and services of the attorney in representing the buyer, seller, or lender in the real estate transaction.

Lines 1201–1205 are used for government recording and transfer charges. Recording and transfer charges should be itemized. Additional recording or transfer charges should be listed on Lines 1204 and 1205.

Lines 1301 and 1302 are used for fees for survey, pest inspection, radon inspection, lead-based paint inspection, or other similar inspections.

Lines 1303–1305 are used for any other settlement charges not referable to the categories listed above on the HUD–1, which are required to be stated by these instructions. Examples may include structural inspections or pre-sale inspection of heating, plumbing, or electrical equipment. These inspection charges may include a fee for insurance or warranty coverage.

Line 1400 is for the total settlement charges paid from Borrower's funds and Seller's funds. These totals are also entered on Lines 103 and 502, respectively, in Sections J and K.

(Approved by the Office of Management and Budget under control number 2502–0265.)

Appendix B to Part 3500—Illustrations of Requirements of RESPA

The following illustrations provide additional guidance on the meaning and coverage of the provisions of RESPA. Other provisions of Federal or State law may also be applicable to the practices and payments discussed in the following illustrations.

1. *Facts:* A, a provider of settlement services, provides settlement services at abnormally low rates or at no charge at all to B, a builder, in connection with a subdivision being developed by B. B agrees to refer purchasers of the completed homes in the subdivision to A for the purchase of settlement services in connection with the sale of individual lots by B.

Comments: The rendering of services by A to B at little or no charge constitutes a thing of value given by A to B in return for the referral of settlement services business and both A and B are in violation of Section 8 of RESPA.

2. *Facts:* B, a lender, encourages persons who receive federally-related mortgage loans from it to employ A, an attorney, to perform title searches and related settlement services in connection with their transaction. B and A have an understanding that in return for the referral of this business A provides legal services to B or B's officers or employees at abnormally low rates or for no charge.

Comments: Both A and B are in violation of Section 8 of RESPA. Similarly, if an attorney gives a portion of his or her fees to another attorney, a lender, a real estate broker or any other provider of settlement services, who had referred prospective clients to the attorney, Section 8 would be violated by both persons.

3. *Facts:* A, a real estate broker, obtains all necessary licenses under state law to act as a title insurance agent. A refers individuals who are purchasing homes in transactions in which A participates as a broker to B, an unaffiliated title company, for the purchase of title insurance services. A performs minimal, if any, title services in connection with the issuance of the title insurance policy (such as placing an application with the title company). B pays A a commission (or A retains a portion of the title insurance premium) for the transactions or alternatively B receives a portion of the premium paid directly from the purchaser.

Comments: The payment of a commission or portion of the title insurance premium by B to A, or receipt of a portion of the payment for title insurance under circumstances where no substantial services are being performed by A is a violation of Section 8 of RESPA. It makes no difference whether the payment comes from B or the purchaser. The amount of the payment must bear a reasonable relationship to the services rendered. Here A really is being compensated for a referral of business to B.

4. *Facts:* A is an attorney who, as a part of his legal representation of clients in residential real estate transactions, orders and reviews title insurance policies for his clients. A enters into a contract with B, a title company, to be an agent of B under a program set up by B. Under the agreement, A agrees to prepare and forward title insurance applications to B, to re-examine the preliminary title commitment for accuracy and if he chooses to attempt to clear exceptions to the title policy before closing. A agrees to assume liability for waiving certain exceptions to title, but never exercises this authority. B performs the necessary title search and examination work, determines insurability of title, prepares documents containing substantive information in title commitments, handles closings for A's clients and issues title policies. A receives a fee from his client for legal services and an additional fee for his title agent "services" from the client's title insurance premium to B.

Comments: A and B are violating Section 8 of RESPA. Here, A's clients are being double billed because the work A performs as a "title agent" is that which he already performs for his client in his capacity as an attorney. For A to receive a separate payment as a title agent, A must perform necessary core title work and may not contract out the work. To receive additional compensation as a title agent for this transaction, A must provide his client with core title agent services for which he assumes liability, and which includes, at a minimum, the evaluation of the title search to determine insurability of the title, and the issuance of a title commitment where customary, the clearance of underwriting objections, and the actual issuance of the policy or policies on behalf of the title company. A may not be compensated for the mere re-examination of work performed by B. Here, A is not performing these services and may not be compensated as a title agent under Section 8(c)(1)(B). Referral fees or splits of fees may not be disguised as title agent commissions when the core title agent work is not performed. Further, because B created the program and gave A the opportunity to collect fees (a thing of value) in exchange for the referral of settlement service business, it has violated Section 8 of RESPA.

5. *Facts:* A, a "mortgage originator," receives loan applications, funds the loans with its own money or with a wholesale line of credit for which A is liable, and closes the loans in A's own name. Subsequently, B, a mortgage lender, purchases the loans and compensates A for the value of the loans, as well as for any mortgage servicing rights.

Comments: Compensation for the sale of a mortgage loan and servicing rights constitutes a secondary market transaction, rather than a referral fee, and is beyond the scope of Section 8 of RESPA. For purposes of Section 8, in determining whether a *bona fide* transfer of the loan obligation has taken place, HUD examines the real source of funding, and the real interest of the named settlement lender.

6. *Facts.* A, a credit reporting company, places a facsimile transmission machine (FAX) in the office of B, a mortgage lender, so that B can easily transmit requests for credit reports and A can respond. A supplies the FAX machine at no cost or at a reduced rental rate based on the number of credit reports ordered.

Comments: Either situation violates Section 8 of RESPA. The FAX machine is a thing of value that A provides in exchange for the referral of business from B. Copying machines, computer terminals, printers, or other like items which have general use to the recipient and which are given in exchange for referrals of business also violate RESPA.

7. *Facts:* A, a real estate broker, refers title business to B, a company that is a licensed title agent for C, a title insurance company. A

owns more than 1% of B. B performs the title search and examination, makes determinations of insurability, issues the commitment, clears underwriting objections, and issues a policy of title insurance on behalf of C, for which C pays B a commission. B pays annual dividends to its owners, including A, based on the relative amount of business each of its owners refers to B.

Comments: The facts involve a controlled business arrangement. The payments of a commission by C to B is not a violation of Section 8 of RESPA if the amount of the commission constitutes reasonable compensation for the services performed by B for C. The payment of a dividend or the giving of any other thing of value by B to A that is based on the amount of business referred to B by A does not meet the controlled business agreement exemption provisions and such actions violate Section 8. Similarly, if the amount of stock held by A in B (or, if B were a partnership, the distribution of partnership profits by B to A) varies based on the amount of business referred or expected to be referred, or if B retained any funds for subsequent distribution to A where such funds were generally in proportion to the amount of business A referred to B relative to the amount referred by other owners such arrangements would violate Section 8. The exemption for controlled business arrangements would not be available because the payments here would not be considered returns on ownership interests. Further, the required disclosure of the controlled business arrangement and estimated charges have not been provided.

8. *Facts:* Same as illustration 8, but B pays annual dividends in proportion to the amount of stock held by its owners, including A, and the distribution of annual dividends is not based on the amount of business referred or expected to be referred.

Comments: If A and B meet the requirements of the CBA exemption there is not a violation of RESPA. Since the payment is a return on ownership interests, A and B will be exempt from Section 8 if (1) A also did not require anyone to use the services of B, and (2) A disclosed its ownership interest in B on a separate disclosure form and provided an estimate of B's charges to each person referred by A to B (see Appendix D of this part), and (3) B makes no payment (nor is there any other thing of value exchanged) to A other than dividends.

9. *Facts:* A, a franchisor for franchised real estate brokers, owns B, a provider of settlement services. C, a franchisee of A, refers business to B.

Comments: This is a controlled business arrangement. A, B and C will all be exempt from Section 8 if C discloses its franchise relationship with the owner of B on a separate disclosure form and provides an estimate of B's charges to each person referred to B (see appendix D of this part) and C does not require anyone to use B's services and A gives no thing a value to C under the franchise agreement (such as an adjusted level of franchise payment based on the referrals), and B makes no payments to A other than dividends representing a return on ownership interest (rather than, *e.g.*, an adjusted level of payment being based on the referrals). Nor may B pay C anything of value for the referral.

10. *Facts:* A is a real estate broker who refers business to its affiliate title company B. A makes all required written disclosures to the homebuyer of the arrangement and estimated charges and the homebuyer is not required to use B. B refers or contracts out business to C who does all the title work and splits the fee with B. B passes its fee to A in the form of dividends, a return on ownership interest.

Comments: The relationship between A and B is a controlled business arrangement. However, the controlled business arrangement exemption does not provide exemption between a controlled entity, B, and a third party, C. Here, B is a mere "shell" and provides no substantive services for its portion of the fee. The arrangement between B and C would be in violation of Section 8(a) and (b). Even if B had an affiliate relationship with C, the required exemption criteria have not been met and the relationship would be subject to Section 8.

11. *Facts:* A, a mortgage lender is affiliated with B, a title company, and C, an escrow company and offers consumers a package of mortgage title and escrow services at a discount from the prices at which such services would be sold if purchased separately. Neither A, B, nor C, requires consumers to purchase the services of their sister companies and each company sells such services separately and as part of the package. A also pays its employees (i.e., loan officers, secretaries, etc.,) a bonus for each loan, title insurance or closing that A's employees generate for A, B, or C respectively. A pays such employee bonuses out of its own funds and receives no payments or reimbursements for such bonuses from B or C. At or before the time that customers are told by A or its employees about the services offered by B and C and/of the package of services that is available, the customers are provided with a controlled business disclosure form.

Comments: A's selling of a package of settlement services at a discount to a settlement service purchaser does not violate Section 8 of RESPA. A's employees are making appropriate controlled business disclosures and since the services are available separately and as part of a package, there is not "required use" of the additional services. A's payments of bonuses to its employees for the referral of business to A or A's affiliates, B and C, are exempt from Section 8 under Section 3500.14(g)(2). However, if B or C reimbursed A for any bonuses that A paid to its employees for referring business to B or C, such reimbursements would violate Section 8. Similarly, if B or C paid bonuses to A's employees directly for generating business for them, such payments would violate Section 8.

12. *Facts.* A is a mortgage broker who provides origination services to submit a loan to a Lender for approval. The mortgage broker charges the borrower a uniform fee for the total origination services, as well as a direct up-front charge for reimbursement of credit reporting, appraisal services or similar charges.

Comment. The mortgage broker's fee must be itemized in the Good Faith Estimate and on the HUD–1 Settlement Statement. Other charges which are paid for by the borrower and paid in advance are listed as P.O.C. on the HUD–1 Settlement Statement, and reflect the actual provider charge for such services. Also, any other fee or payment received by the mortgage broker from either the lender or the borrower arising from the initial funding transaction, including a servicing release premium or yield spread premium, is to be noted on the Good Faith Estimate and listed in the 800 series of the HUD–1 Settlement Statement.

BILLING CODE 4210-27-M

APPENDIX C TO PART 3500 -

SAMPLE FORM OF GOOD FAITH ESTIMATE

[NAME OF LENDER][1]

The information provided below reflects estimates of the charges which you are likely to incur at the settlement of your loan. The fees listed are estimates - the actual charges may be more or less. Your transaction may not involve a fee for every item listed.

The numbers listed beside the estimates generally correspond to the numbered lines contained in the HUD-1 settlement statement which you will be receiving at settlement. The HUD-1 settlement statement will show you the actual cost for items paid at settlement.

ITEM [2/]	HUD-1	Amount or Range
Loan Origination Fee	801	$______________
Loan Discount Fee	802	$______________
Appraisal Fee	803	$______________
Credit Report	805	$______________
Inspection Fee	805	$______________
Mortgage Broker Fee	[Use blank line in 800 Section]	$______________
CLO Access Fee	"	$______________
Tax Related Service Fee	"	$______________
Interest for [X] days at $___________ per day	901	$______________
Mortgage Insurance Premium	902	$______________
Hazard Insurance Premiums	1001	$______________
Tax and Assessment Reserves		$______________
Settlement Fee	1101	$______________
Abstract or Title Search	1102	$______________
Title Examination	1103	$______________
Document Preparation Fee	1105	$______________
Attorney's Fee	1107	$______________

Title Insurance	1108	$______
Recording Fees	1201	$______
City/County Tax Stamps	1202	$______
State Tax	1203	$______
Survey	1301	$______
Pest Inspection	1302	$______
[Other fees - list here]	____	$______

______________________ ______________________
Applicant Authorized Official

____
Date

These estimates are provided pursuant to the Real Estate Settlement Procedures Act of 1974, as amended (RESPA). Additional information can be found in the HUD Special Information Booklet, which is to be provided to you by your mortgage broker or lender.

FOOTNOTES

1/ The name of the lender shall be placed at the top of the form. Additional information identifying the loan application and property may appear at the bottom of the form or on a separate page. Exception: If the disclosure is being made by a mortgage broker who is not an exclusive agent of the lender, the lender's name will not appear at the top of the form, but the following legend must appear:

> This Good Faith Estimate is being provided by ______________, a mortgage broker, and no lender has yet been obtained. A lender will provide you with an additional Good Faith Estimate within three Business Days of the receipt of your loan application.

2/ Items for which there is estimated to be no charge to the borrower are not required to be listed. Any additional items for which there is estimated to be a charge to the borrower shall be listed if required on the HUD-1.

APPENDIX D TO PART 3500 -

CONTROLLED BUSINESS ARRANGEMENT DISCLOSURE STATEMENT FORMAT

Notice

To: Buyer or Seller ______________________ Property:

____

From: [Entity Making ______________________ Statement] Date:

This is to give you notice that ___[referring party]___ has a business relationship with ___[provider]___. [Describe the nature of the relationship between the referring party and the provider, including ownership and financial interests.]

Set forth below is the estimated charge or range of charges by _[provider]_ for the following settlement services:

______________________: $______________________

______________________: $______________________

______________________: $______________________

You are not required to use ___[provider]___ as a condition for [settlement of your loan on] [or] [purchase or sale of] the subject property. You may be able to get these services at a lower rate by shopping with other settlement service providers.

A lender is allowed to require the use of an attorney, credit reporting agency or real estate appraiser chosen to represent the lender's interest.

APPENDIX E TO PART 3500 -

CLO FEE DISCLOSURE

Instructions: Whenever it is anticipated that a fee will be paid by the borrower for CLO access and related services, a disclosure form must be fully completed and delivered to the borrower itemizing the services provided and the specified fee to be charged as well as the other information set forth below. The form must provide a place for the purchaser to acknowledge its receipt. The disclosure format set forth below is satisfactory to the Secretary.

CLO FEE DISCLOSURE

To: [Potential Borrower] From: [Person Making Disclosure]

NOTICE: I am proposing to charge you a fee in the amount of $______________ for the following services:

[ ] Displaying a variety of mortgage loans and rates which may be available to you.

[ ] Counseling you regarding the different types of loans available and the relative rates in a fair and equitable manner.

[ ] Relating your personal housing needs with available loan programs; and assisting you in deciding which, if any, loan meets your needs.

[ ] Entering information regarding you into the Computer Loan Origination System (CLO).

[ ] Other____

____

THIS IS TO INFORM YOU THAT YOU ARE PAYING THIS FEE DIRECTLY TO [Person or Company Making Disclosure].

YOU ARE ADVISED THAT YOU MAY AVOID THIS FEE ENTIRELY IF YOU APPROACH A LENDER OR MORTGAGE BROKER DIRECTLY. ADDITIONALLY, LOWER MORTGAGE RATES OR OTHER LOWER FEES MAY BE AVAILABLE FROM OTHER MORTGAGE LENDERS WHO ARE NOT LISTED ON THIS COMPUTER SYSTEM.

I hereby pay [commit to pay] a CLO Fee in the amount of $__________.

Borrower

Received by:______________________________

BILLING CODE 4210-27-C

(Approved by the Office of Management and Budget under control number 2502-0265.)

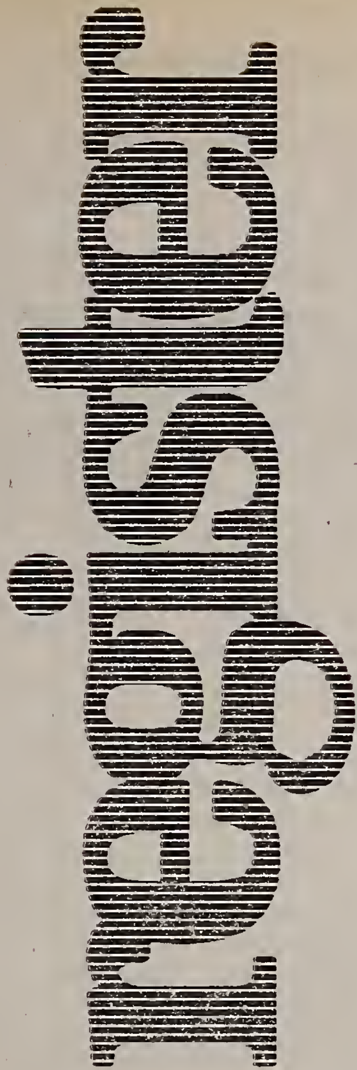
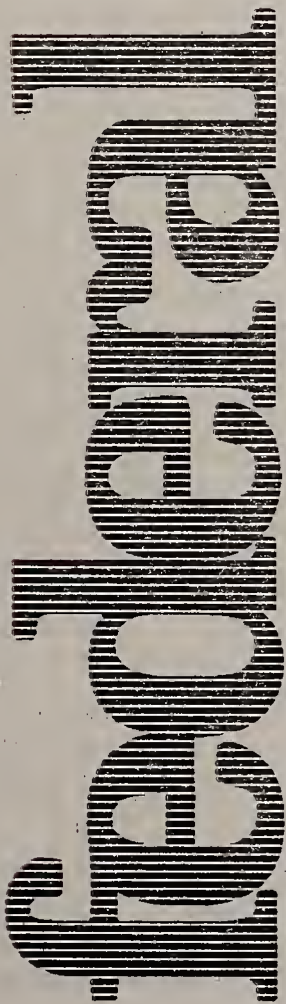
Dated: October 26, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92-26547 Filed 10-30-92; 8:45 am]

BILLING CODE 4210-27-M

Monday
November 2, 1992

Part VI

The President

Proclamation 6500—National Medical Staff Services Awareness Week, 1992

Federal Register
Vol. 57, No. 212
Monday, November 2, 1992

Presidential Documents

Title 3—

The President

Proclamation 6500 of October 29, 1992

National Medical Staff Services Awareness Week, 1992

By the President of the United States of America

A Proclamation

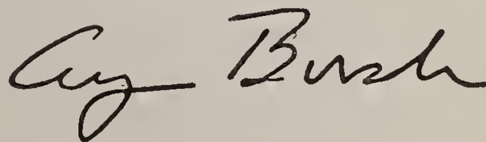
The professionals who direct or manage medical staff services, from hospital communications to the accreditation of physicians and nurses, play an important role in our Nation's health care system. In addition to serving in hospitals and other primary care facilities, these professionals also work in health maintenance organizations, medical societies, State licensing boards, and consulting firms. By administering rules and regulations, by ensuring accreditation compliance, and by providing a wide range of support to physicians, medical staff coordinators help to promote the quality and efficiency of health care.

Today many medical staff services professionals are striving to promote efficiency and professionalism in health care by working through the legal, financial, and regulatory requirements that have increased along with new challenges and opportunities in the health care industry. This week, we acknowledge the value of such efforts.

The Congress, by House Joint Resolution 399, has designated the week of November 1 through November 7, 1992, as "National Medical Staff Services Awareness Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 1 through November 7, 1992, as National Medical Staff Services Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-26724
Filed 10-30-92; 10:53 am]
Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 57, No. 212

Monday, November 2, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	512-1557

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
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Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

49373–49630

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List October 30, 1992

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** Service for Public Law Numbers is available on 202-275-1538 or 275-0920.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[3] Jan. 1, 1992
4	(869-017-00003-5)	16.00	Jan. 1, 1992
5 Parts:			
1-699	(869-017-00004-3)	18.00	Jan. 1, 1992
700-1199	(869-017-00005-1)	14.00	Jan. 1, 1992
1200-End, 6 (6 Reserved)	(869-017-00006-0)	19.00	Jan. 1, 1992
7 Parts:			
0-26	(869-017-00007-8)	17.00	Jan. 1, 1992
27-45	(869-017-00008-6)	12.00	Jan. 1, 1992
46-51	(869-017-00009-4)	18.00	Jan. 1, 1992
52	(869-017-00010-8)	24.00	Jan. 1, 1992
53-209	(869-017-00011-6)	19.00	Jan. 1, 1992
210-299	(869-017-00012-4)	26.00	Jan. 1, 1992
300-399	(869-017-00013-2)	13.00	Jan. 1, 1992
400-699	(869-017-00014-1)	15.00	Jan. 1, 1992
700-899	(869-017-00015-9)	18.00	Jan. 1, 1992
900-999	(869-017-00016-7)	29.00	Jan. 1, 1992
1000-1059	(869-017-00017-5)	17.00	Jan. 1, 1992
1060-1119	(869-017-00018-3)	13.00	Jan. 1, 1992
1120-1199	(869-017-00019-1)	9.50	Jan. 1, 1992
1200-1499	(869-017-00020-5)	22.00	Jan. 1, 1992
1500-1899	(869-017-00021-3)	15.00	Jan. 1, 1992
1900-1939	(869-017-00022-1)	11.00	Jan. 1, 1992
1940-1949	(869-017-00023-0)	23.00	Jan. 1, 1992
1950-1999	(869-017-00024-8)	26.00	Jan. 1, 1992
2000-End	(869-017-00025-6)	11.00	Jan. 1, 1992
8	(869-017-00026-4)	17.00	Jan. 1, 1992
9 Parts:			
1-199	(869-017-00027-2)	23.00	Jan. 1, 1992
200-End	(869-017-00028-1)	18.00	Jan. 1, 1992
10 Parts:			
0-50	(869-017-00029-9)	25.00	Jan. 1, 1992
51-199	(869-017-00030-2)	18.00	Jan. 1, 1992
200-399	(869-017-00031-1)	13.00	[4] Jan. 1, 1987
400-499	(869-017-00032-9)	20.00	Jan. 1, 1992
500-End	(869-017-00033-7)	28.00	Jan. 1, 1992
11	(869-017-00034-5)	12.00	Jan. 1, 1992
12 Parts:			
1-199	(869-017-00035-3)	13.00	Jan. 1, 1992
200-219	(869-017-00036-1)	13.00	Jan. 1, 1992
220-299	(869-017-00037-0)	22.00	Jan. 1, 1992
300-499	(869-017-00038-8)	18.00	Jan. 1, 1992
500-599	(869-017-00039-6)	17.00	Jan. 1, 1992
600-End	(869-017-00040-0)	19.00	Jan. 1, 1992
13	(869-017-00041-8)	25.00	Jan. 1, 1992

Title	Stock Number	Price	Revision Da
14 Parts:			
1-59	(869-017-00042-6)	25.00	Jan. 1, 199
60-139	(869-017-00043-4)	22.00	Jan. 1, 199
140-199	(869-017-00044-2)	11.00	Jan. 1, 199
200-1199	(869-017-00045-1)	20.00	Jan. 1, 199
1200-End	(869-017-00046-9)	14.00	Jan. 1, 199
15 Parts:			
0-299	(869-017-00047-7)	13.00	Jan. 1, 199
300-799	(869-017-00048-5)	21.00	Jan. 1, 199
800-End	(869-017-00049-3)	17.00	Jan. 1, 199
16 Parts:			
0-149	(869-017-00050-7)	6.00	Jan. 1, 199
150-999	(869-017-00051-5)	14.00	Jan. 1, 199
1000-End	(869-017-00052-3)	20.00	Jan. 1, 199
17 Parts:			
1-199	(869-017-00054-0)	15.00	Apr. 1, 199
200-239	(869-017-00055-8)	17.00	Apr. 1, 199
240-End	(869-017-00056-6)	24.00	Apr. 1, 199
18 Parts:			
1-149	(869-017-00057-4)	16.00	Apr. 1, 1992
150-279	(869-017-00058-2)	19.00	Apr. 1, 1992
280-399	(869-017-00059-1)	14.00	Apr. 1, 1992
400-End	(869-017-00060-4)	9.50	Apr. 1, 1992
19 Parts:			
1-199	(869-017-00061-2)	28.00	Apr. 1, 1992
200-End	(869-017-00062-1)	9.50	Apr. 1, 1992
20 Parts:			
1-399	(869-017-00063-9)	16.00	Apr. 1, 1992
400-499	(869-017-00064-7)	31.00	Apr. 1, 1992
500-End	(869-017-00065-5)	21.00	Apr. 1, 1992
21 Parts:			
1-99	(869-017-00066-3)	13.00	Apr. 1, 1992
100-169	(869-017-00067-1)	14.00	Apr. 1, 1992
170-199	(869-017-00068-0)	18.00	Apr. 1, 1992
200-299	(869-017-00069-8)	5.50	Apr. 1, 1992
300-499	(869-017-00070-1)	29.00	Apr. 1, 1992
500-599	(869-017-00071-0)	21.00	Apr. 1, 1992
600-799	(869-017-00072-8)	7.00	Apr. 1, 1992
800-1299	(869-017-00073-6)	18.00	Apr. 1, 1992
1300-End	(869-017-00074-4)	9.00	Apr. 1, 1992
22 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 30, 1992. The CFR volume issued April 1, 1991, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1992. The CFR volume issued July 1, 1991, should be retained.

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

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A new table will be published in the first issue of each month.

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November 9	November 24	December 9	December 24	January 8	February 8
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