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WHAT IT IS AND HOW TO USE IT

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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.

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

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Title 3—

The President

Proclamation 5972 of May 8, 1989

Asian/Pacific American Heritage Week, 1989

By the President of the United States of America

A Proclamation

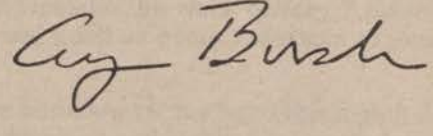
The millions of refugees and immigrants from Asia and the Pacific who braved the unknown and ventured to our Nation's shores have helped to write the story of America's success. Their legacy is a proud one, marked by significant achievements in the arts, science, education, and business.

Today, Asian and Pacific Americans continue to enrich our life as a Nation. Through their efforts to preserve the traditions of their ancestral homelands, they greatly enhance the beauty and color of American culture. Their faith, determination, and hard work and their devotion to family life inspire men and women throughout the United States.

The celebration of Asian/Pacific American Heritage Week provides a welcome opportunity to acknowledge the many contributions that Asian and Pacific Americans have made to American society and to express our appreciation for them.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning May 7, 1989, as Asian/Pacific American Heritage Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

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



[FR Doc. 89-11424
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Billing code 3195-01-M

Editorial note: For the President's remarks of May 8 on signing Proclamation 5972, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 19).

Presidential Documents

Proclamation 5973 of May 8, 1989

Small Business Week, 1989

By the President of the United States of America

A Proclamation

America is a nation founded on imagination and courage; our history is a record of the entrepreneurial spirit of our people. This bold, creative spirit is clearly embodied by the 19 million small business men and women across the United States today.

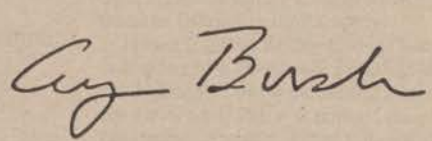
Small businesses lead the way in developing new technologies and products and in creating opportunities for young and unskilled workers. They are a driving force behind our Nation's record economic expansion. More than half of the U.S. labor force is employed by small business, and most first-job opportunities are in the small business community. In fact, small businesses are responsible for two out of three jobs created in the private sector. These tremendous contributions to our society send a message to the rest of the world that individual freedom and initiative breed innovation and economic productivity.

The small business owners of our Nation understand their leadership role and accept no boundaries or limits to their potential. Increasingly, there are no borders to their commerce. Small business people are now significant players in the international marketplace. Their determined, independent spirit and far-reaching influence will continue to ensure our Nation's growth into the 21st century, and will allow us to enhance our competitiveness in the global arena.

Enthusiastic and confident, the small business community is the cornerstone of America's economy—and it is an inspiration to people around the world.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of May 7 through May 13, 1989, as Small Business Week, and I call on every American to join me in this very special tribute.

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



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Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-ASW-55; Amendment 39-6211]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 206A and 206B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which revises the FAA-approved Rotorcraft Flight Manual and Flight Manual Supplements to require that the particle separator engine air induction kit and snow deflectors be used on Bell Model 206A and 206B helicopters for operations in snow. The AD is prompted by reports of in-flight engine flameouts in falling and/or blowing snow with only the particle separator installed which could result in subsequent loss of the helicopter.

DATES: *Effective Date:* June 8, 1989.
Compliance: As indicated in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Mr. Tyrone D. Millard, FAA, Helicopter Certification Branch, ASW-170, Fort Worth, Texas 76193-0170, telephone (817) 624-5177.

SUPPLEMENTARY INFORMATION: The Bell Model 206A and 206B helicopters have been operating in snow conditions, with specified limitations, with either the particle separator installed or with the particle separator and snow deflectors in combination. There have been numerous reports, however, of engine flameouts in falling and/or blowing snow when only the particle separator was installed. Since this condition is likely to exist or develop on helicopters of the same type design, an AD is being issued which requires that both the snow deflectors and particle separator be installed on all Bell Model 206A and 206B helicopters when operating in falling and/or blowing snow.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron, Inc.: Applies to Bell Helicopter Textron, Inc., Model 206A and 206B helicopters certificated in any category.

Compliance is required as indicated, unless already accomplished.

To prevent possible in-flight engine flameout, which could result in the loss of the helicopter, accomplish the following:

(a) Within the next 20 days after the effective date of this AD, revise the following Rotorcraft Flight Manual and Rotorcraft Flight Manual Supplements, as applicable.

(1) For Model 206A helicopters, revise the FAA approved Rotorcraft Flight Manual (RFM) No. BHT-206A-FM-1 Operating Limitations, Section 1, Type of Operation, by adding the following:

The following equipment shall be installed when conducting flight operations in falling and/or blowing snow to prevent possibility of engine flameout:

The Particle Separator Engine Air Induction System Kit and the Deflector Kit. (See BHT-206A-FMS-18 and BHT-206A-FMS-24.) or

The Snow Winterization Air Induction System. (See BHT-206A-FMS-11.)

(2) For Model 206A helicopters, revise the FAA approved Rotorcraft Flight Manual Supplement (RFMS) Nos. BHT-206A-FMS-18 and BHT-206A-FMS-24 Operating Limitations, Section 1, Type of Operation, by adding the following:

The FAA approved Engine Air Induction Deflector Kit No. 206-706-136 shall be installed in conjunction with the Particle Separator Air Inducting Kit No. 206-706-201-17 or 206-706-200-9 when conducting flight operations in falling and/or blowing snow, and the following limits apply:

Hover flight in falling and/or blowing snow is limited to a 20-minute duration after which the helicopter must be landed and checked for snow and/or ice accumulation. Flight operations are prohibited when visibility in falling and/or blowing snow is less than one-half (½) statute mile.

(3) For Model 206B (206B II) helicopters, revise the FAA approved RFM No. BHT-206B-FM-1 Operating Limitations, section 1, Type of Operation, by adding the following:

The following equipment shall be installed when conducting flight operations in falling

and/or blowing snow to prevent possibility of engine flameout:

The Particle Separator Engine Air Induction System Kit and the Deflector Kit. (See BHT-206B-FMS-15 and BHT-206B-FMS-18.)

(4) For Model 206B (206B II) helicopters, revise FAA approved RFMS Nos. BHT-206B-FMS-15 and BHT-206B-FMS-18 Operating Limitations, section 1, Type of Operation, by adding the following:

The FAA approved Engine Air Induction Deflector Kit No. 206-706-136 shall be installed in conjunction with the Particle Separator Air Induction Kit No. 206-706-200-5 or 206-706-201-11 when conducting flight operations in falling and/or blowing snow, and the following limits apply:

Hover flight in falling and/or blowing snow is limited to a 20-minute duration after which the helicopter must be landed and checked for snow and/or ice accumulation. Flight operations are prohibited when visibility in falling and/or blowing snow is less than one-half (½) statute mile.

(5) For Model 206B (206B III) helicopters, revise the FAA approved RFM No. BHT-206B3-FM-1 Operating Limitations, section 1, Type of Operation, by adding the following:

The following equipment shall be installed when conducting flight operations in falling and/or blowing snow to prevent possibility of engine flameout:

The Particle Separator Engine Air Induction System Kit and the Deflector Kit. (See BHT-206B3-FMS-10 and BHT-206B3-FMS-12.)

(6) For Model 206B (206B III) helicopters, revise the FAA approved RFMS Nos. BHT-206B3-FMS-10 and BHT-206B3-FMS-12 Operating Limitations, section 1, Type of Operations, by adding the following:

The FAA approved Engine Air Induction Deflector Kit No. 206-706-136 shall be installed in conjunction with the Particle Separator Air Induction Kit No. 206-706-201 or 206-706-200 when conducting flight operations in falling and/or blowing snow, and the following limits apply:

Hover flight in falling and/or blowing snow is limited to a 20-minute duration after which the helicopter must be landed and checked for snow and/or ice accumulation. Flight operations are prohibited when visibility in falling and/or blowing snow is less than one-half (½) statute mile.

(b) Adding the following RFM and RFMS revisions to the basic RFM manual, as applicable, is an approved alternate method of compliance with paragraph (a) of this AD:

BHT-206A-FM-1, Rev. D-39
BHT-206A-FMS-18, Rev. 6
BHT-206A-FMS-24, Rev. 3
BHT-206B-FM-1 Rev. B-39
BHT-206B-FMS-15, Rev. 4
BHT-206B-FMS-18, Rev. 3
BHT-206B3-FM-1, Rev. 19
BHT-206B3-FMS-12, Rev. 1
BHT-206B3-FMS-10, Rev. 1

(c) An alternate method of compliance, which provides an equivalent level of safety, may be used when approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, Fort Worth, Texas 76193-0170.

This amendment becomes effective June 8, 1989.

Issued in Fort Worth, Texas, on April 27, 1989.

L. B. Andriesen,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-11196 Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-11-AD; Amdt. 39-6213]

Airworthiness Directives; Boeing Models 757; 767; 737-200, -300, and -400; and 747-200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises, publishes in the **Federal Register**, and makes effective as to all persons, an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 757; Model 767; Models 737-200, -300, and -400; and Models 747-200 and -300 series airplanes; by individual telegrams. This amendment requires inspections and/or functional checks for improperly installed wiring and plumbing in the engine and cargo compartment fire protection systems, and modification, if necessary. This amendment is prompted by numerous reports of improperly installed plumbing or wiring in several Boeing airplanes of differing models. These conditions, if not corrected, could result in severe damage to an airplane in the event of a cargo or engine fire. This amendment revises the previously-issued telegraphic AD by referencing additional service information.

DATES: May 26, 1989.

Portions of this AD were effective earlier to those recipients of Telegraphic AD T89-03-51, dated January 31, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: On cargo compartment fire protection and extinguishing system requirements, contact Mr. Henry A. Jenkins, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, telephone (206) 431-1947; on engine fire detection and extinguishing system requirements, contact Mr. Michael E. Dostert, ANM-140S, telephone (206) 431-1974. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On January 11, 1989, the FAA issued telegraphic AD T89-01-51, applicable to Boeing Models 737-300 and -400 airplanes equipped with CFM International CFM 56-3 engines, to require a functional check of the engine fire detection system and airborne vibration monitoring system, and correction, if necessary. That action was prompted by reports that improper installation of the wiring in those systems may have existed on a Model 737-400 series airplane, and was taken as a precautionary measure. Improper installation of the wiring, if not detected and corrected, could result in severe damage to the airplane in the event of an engine overheat or engine fire.

On January 13, 1989, the FAA issued telegraphic AD T89-01-52, applicable to Boeing Model 757 series airplanes, to require a functional check of the cargo compartment fire protection system wiring, and modification, if necessary. That action was prompted by reports of improper installation of that wiring on two Model 757 airplanes. This condition, if not corrected, could result in the discharge of halon into the wrong compartment, which could then result in an unsuppressed fire, causing severe damage to the airplane.

On January 19, 1989, the FAA issued telegraphic AD T89-02-51, applicable to Boeing Model 767 airplanes, to require a functional check of the cargo compartment fire protection system wiring, and modification, if necessary. This action was prompted by the FAA's determination that similarities between the configuration of the cargo compartment fire protection systems on the Boeing Model 757 and 767 make the latter subject to the potential for the same incorrect installation.

Each of those AD's contained a requirement for operators to submit a report to the FAA of the findings of each check from which it was determined that the wiring and/or plumbing was not configured correctly.

On January 31, 1989, the FAA issued telegraphic AD T89-03-51, applicable to all Boeing Models 757 and 767 series airplanes; Models 737-200, -300, and -400, and Models 747-200 and -300 series

airplanes, manufactured after December 31, 1980. This AD superseded the three previously-issued AD's described above, but it retained the requirements of those AD's, added requirements for additional functional checks, and added certain Model 737 and 747 series airplanes to the applicability.

This action was taken because reports of incorrectly installed plumbing or wiring in the engine and cargo compartment fire protection systems, submitted in response to the previous telegraphic AD's, indicated that other models of Boeing airplanes manufactured during the same time span may also have incorrectly installed wiring and/or plumbing. In analyzing the reports received, the earliest production date of airplanes reported with these problems was 1982. Therefore, the FAA determined that these conditions are likely to exist on other airplanes manufactured within that time period, and that, as a precautionary measure, checks must be performed on the specified airplanes manufactured after December 31, 1980. If problems are subsequently reported on airplanes manufactured prior to that date, the FAA may consider additional rulemaking action to address those airplanes.

This AD also requires that an appropriate functional check be conducted on the engine fire detection system, engine fire extinguishing system, cargo fire detection system, and/or cargo fire extinguishing system when any maintenance action is taken on these systems which could cause mis-wiring and/or mis-plumbing. This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking to address it.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on January 31, 1989, to all known U.S. owners and operators of Boeing Models 757; 767; 737-200, -300, and -400; and 747-200 and -300 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Paragraphs A., B, C., and D. of this final rule have been revised to include references to revised Boeing telexes (released subsequent to the issuance of AD T89-03-51), which describe procedures to be used for accomplishing certain functional checks. These revisions to the originally-released telexes are merely clarifying or correcting in nature, and operators who have previously accomplished the required functional checks in accordance with the originally-issued service telexes are considered to have complied with the requirements of this amendment. The FAA has determined that this change to the final rule will neither increase the economic burden on any operator nor increase the scope of the AD.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the paperwork reduction act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by revising Telegraphic AD T89-03-51, issued January 31, 1989, as follows:

Boeing: Applies to all Boeing Model 757 and 767 series airplanes, and Models 737-200, -300, and -400, and Models 747-200 and -300 series airplanes, manufactured after December 31, 1980, certificated in any category. Compliance required within 25 days after the effective date of this AD, unless previously accomplished; and thereafter, compliance is required immediately following any maintenance action which could cause mis-wiring and/or mis-plumbing.

To detect incorrectly installed fire protection system plumbing and/or wiring, accomplish the following:

A. For Model 737-200, -300, and -400 series airplanes, line number 726 and subsequent:

1. Engine overheat, fire detection, and fire extinguishing systems: conduct a functional check of each system in accordance with the appropriate airplane model Boeing Telex as follows:

—For Boeing Model 737-200: Telex M-7272-89-0532, dated February 8, 1989.

—For Boeing Models 737-300 and -400: Telex M-7272-89-0530, dated February 6, 1989.

Note: Operators of Model 737-300 and 737-400 series airplanes that have previously completed a functional check of one engine's overheat and fire detection system, and a continuity check of the second engine's overheat and fire protection system to comply with AD T89-01-51, dated January 11, 1989, are only required to complete the functional check on the second engine and the fire extinguishing wiring portion of the functional test procedure identified above.

Note: Operators who have previously accomplished the functional checks required by this paragraph in accordance with Boeing Telex M-7272-89-0532, dated January 31, 1989 (for Model 737-200 series airplanes), or Telex M-7272-89-0516, dated January 31, 1989 (for Model 737-300 and 737-400 series airplanes), which were the service information telexes specified in telegraphic AD T89-03-51, issued January 31, 1981, are considered to have complied with the requirements of this paragraph.

B. For Model 747 series airplanes, line number 489, 494 through 496, 500 through 695, 697 through 699, 701 through 704, 706, 707, 709 through 714, 716, 718 through 720, and 724:

1. Engine fire/overheat detection and warning systems: Conduct a functional check in accordance with Boeing Telex M-7201-89-0194, dated January 31, 1989.

2. Engine fire extinguishing system wiring and plumbing: Conduct a functional check of the wiring and plumbing in accordance with Boeing Telex M-7201-89-0200, dated January

31, 1989, as corrected by Boeing Telex M-7201-89-0284, dated February 14, 1989, for Pratt and Whitney engines; as corrected by Boeing Telex M-7201-89-0285, dated February 14, 1989, for GE CF6-45/50 engines; and as corrected by Boeing Telex M-7201-89-0290, dated February 15, 1989, for GE CF6-80C2 engines. The plumbing functional check applies only to airplanes equipped with General Electric CF6 engines.

3. Cargo compartment smoke detection system: Conduct a functional check in accordance with Boeing Telex M-7201-89-0197, dated January 31, 1989, as corrected by Boeing Telex M-7201-89-0304, dated February 17, 1989.

4. Cargo compartment fire extinguishing system: Conduct a functional check of the wiring in accordance with Boeing Telex M-7201-89-0195, dated January 31, 1989; and of the plumbing in accordance with Boeing Telex M-7201-89-0195, dated January 31, 1989.

Note: Operators who have previously accomplished the functional checks required by this paragraph, in accordance with Boeing Telex M-7201-89-0200, dated January 31, 1989; Telex M-7201-89-0200, dated January 31, 1989; Telex M-7201-89-0197, dated January 31, 1989; or Telex M-7201-89-0195, dated January 31, 1989; as appropriate, which were the service information telexes specified in telegraphic AD T89-03-51, issued January 31, 1981, are considered to have complied with the requirements of this paragraph.

C. For all Model 757 series airplanes:

1. Engine overheat, fire detection, and fire extinguishing systems: Conduct a functional check of each system in accordance with Boeing Telex M-7272-89-0531, dated February 8, 1989.

2. Cargo compartment smoke detection system: Conduct a functional check in accordance with Boeing Telex M-7272-89-0531, dated February 8, 1989.

3. Cargo compartment fire extinguishing system: Conduct a functional check of the wiring in accordance with Boeing Telex M-7272-89-0185, dated January 13, 1989, or Boeing Telex M-7272-89-0531 dated February 8, 1989; and of the plumbing in accordance with Boeing Telex M-7272-89-0531, dated February 8, 1989.

Note: Operators who have previously accomplished the functional checks required by this paragraph in accordance with Boeing Telex M-7272-89-0531, dated January 31, 1989, which was the service information telex specified in telegraphic AD T89-03-51, issued January 31, 1989, are considered to have complied with the requirements of this paragraph.

D. For all Model 767 series airplanes:

1. Engine overheat and fire detection systems: Conduct a functional check in accordance with Boeing Telex M-7201-89-0196, dated January 31, 1989, as corrected by Boeing Telex M-7201-89-0271, dated February 13, 1989.

Note: Operators who have previously accomplished the functional checks required by this paragraph in accordance with Boeing Telex M-7201-89-0196, dated January 31, 1989, which was the service information telex specified in telegraphic AD T89-03-51, issued January 31, 1989, are considered to have complied with the requirements of this paragraph.

2. Engine fire extinguishing system: Conduct a functional check of the wiring in accordance with Boeing Telex M-7201-89-0199, dated January 31, 1989; and of the plumbing in accordance with Boeing Telex M-7201-89-0199, dated January 31, 1989.

3. Lower cargo compartment smoke detection system: Conduct a functional check in accordance with Boeing Telex M-7201-89-0201, dated January 31, 1989.

4. Cargo compartment fire extinguishing system: Conduct a functional check of the wiring in accordance with Boeing Telex M-7201-89-0198, dated January 31, 1989; and of the plumbing in accordance with AD 88-13-04, Amendment 39-5947.

E. Within 10 days after accomplishing the initial checks required by paragraphs A. through D., above, submit a report of the complete description of findings of each check from which it is determined that the wiring and/or plumbing is not configured correctly, to: Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; rapid fax: (206) 431-1913; telex 756366.

F. If any discrepancy is detected during the functional tests required by paragraphs A. through D., above, correction of the anomaly must be completed prior to further flight.

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

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

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for accomplishment of the inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes telegraphic AD T89-01-51, issued January 11, 1989; telegraphic AD T89-01-52, issued January 13, 1989; and telegraphic AD T89-02-51, issued January 19, 1989.

This amendment becomes effective May 26, 1989.

Portions of this amendment were effective earlier to all recipients of Telegraphic AD T89-03-51, dated January 31, 1989.

Issued in Seattle, Washington, on May 1, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-11197 Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-61-AD; Amdt. 39-6212]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 125-800 series airplanes, which requires inspection of the electrical cable looms for chafing and adequate clearances from adjacent equipment, and repair, if necessary. This amendment is prompted by reports of chafing of the electrical cable looms due to interference between the cable loom and adjacent equipment. This condition, if not corrected, could lead to loss of electrical power and could create a potential fire hazard.

EFFECTIVE DATE: May 26, 1989.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on British Aerospace Model

BAe 125–800 series airplanes. There have been reports of chafing of the electrical cable looms due to interference between the cable looms and adjacent equipment. This condition, if not corrected, could lead to loss of electrical power and could create a potential fire hazard.

British Aerospace has issued Service Bulletin 24–270, dated March 20, 1989, which describes procedures to inspect for chafed electrical cable looms and adequate clearances from adjacent equipment, and repair, if necessary. The United Kingdom CAA has classified the service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires inspection of the electrical cable looms for chafing and inadequate clearance from adjacent equipment, and repair, if necessary, in accordance with the service bulletin previously described.

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

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

The FAA has determined that this regulation is an emergency regulation and is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 125–800 series airplanes, Serial Numbers 8091 to 8147, certificated in any category. Compliance is required within 7 days after the effective date of this AD, unless previously accomplished.

To prevent loss of electrical power and eliminate a potential fire hazard, due to chafed cable looms, accomplish the following:

A. Perform a one-time inspection of the electrical cable looms above panel DA–E for cable chafing and adequate clearance from adjacent equipment, in accordance with British Aerospace Service Bulletin 24–270, dated March 20, 1989. If any cable is chafed or if clearance is insufficient, prior to further flight, repair in accordance with the service bulletin.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may concur or comment, and then send it to the Manager, Standardization Branch, ANM–113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 26, 1989.

Issued in Seattle, Washington, on May 1, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–11198 Filed 5–9–89;8:45am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–11]

Alteration of Transition Area—St. Joseph, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the St. Joseph, Missouri, transition area by deleting therefrom the 4,500-foot transition area designation. Since the Kansas and Missouri transition areas already provide for that airspace, it is redundant to repeat it in the St. Joseph, Missouri, transition area description.

EFFECTIVE DATE: 0901 u.t.c., September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp. Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:—The Rule—purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the transition area at St. Joseph, Missouri. This transition area presently includes a 4,500-foot airspace description. Since the Kansas and Missouri transition areas already provide for that airspace, it is unnecessary to have it reiterated at the St. Joseph, Missouri, transition area designation. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

Accordingly, action is taken herein to make this deletion. Since this action eliminates a redundancy, does not require charting changes, and decreases the size of the transition area, it is an amendment in which the public would not be particularly interested. Therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

2. By amending § 71.181 as follows:

St. Joseph, Missouri [Revised]

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Rosecrans Memorial Airport (lat. 39°46'25" N., long. 94°54'45" W.) and within 5 miles east and 8 miles west of the St. Joseph ILS localizer south course, extending from the 8-mile radius area to 12 miles south of the OM.

This amendment becomes effective at 0901 u.t.c., September 21, 1989.

Issued in Kansas City, Missouri, on April 24, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89-11201 Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 88-AGL-22]

Alteration of Jet Routes; IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Routes J-19, J-35, J-71, J-73, J-87, J-96 and J-101 located in the state of Illinois. The realignment of these jet routes is necessary to improve the flow of traffic in the metropolitan Chicago area. This action is one of a number of measures implemented on an expedited basis to increase the efficiency of air traffic flow and reduce arrival/departure delays in the Chicago area. This action enhances safety, improves traffic flow and reduces controller coordination.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 28, 1989, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of J-19, J-35, J-71, J-73, J-87, J-96 and J-101 located in the Pontiac, IL, area. These changes will substantially increase the efficiency of arrival and departure routes to and from O'Hare International Airport and other airports in the Chicago metropolitan area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Due to the air safety requirement for this action, it will become effective in less than 30 days after publication. No comments objecting to the proposal were received. Except for editorial changes and Jet Route J-18 being removed from this docket, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of Jet Routes J-19, J-35, J-71, J-73, J-87, J-96 and J-101 located in the State of Illinois. The realignment of these jet routes is necessary to improve the flow of traffic in the metropolitan Chicago area. This action is one of a number of measures implemented on an expedited basis to increase the efficiency of air traffic flow and reduce arrival/departure delays in the Chicago area. This action enhances safety, improves traffic flow and reduces controller coordination.

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.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—[AMENDED]

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-19 [Amended]

By removing the words "to St. Louis, MO." and substituting the words "St. Louis, MO; Roberts, IL; to Northbrook, IL."

J-35 [Amended]

By removing the words "the INT of the Capital 036° and the Joliet, IL, 204° radials; Joliet," and substituting the words "Pontiac, IL; Joliet, IL;"

J-71 [Amended]

By removing the words "INT Centralia 019° and Northbrook, IL, 186° radials; to Northbrook." and substituting the words "Roberts, IL; to Northbrook, IL."

J-73 [Amended]

After the words "Terre Haute, IN;" insert "Danville, IL;"

J-87 [Amended]

By removing the words "Bradford, IL;" and substituting the words "Moline, IL;"

J-96 [Amended]

By removing the words "Bradford, IL." and substituting the words "Peoria, IL;"

J–101 [Amended]

By removing the words "INT of the Capital 036° and the Joliet, IL, 204° radials; Joliet;" and substituting the words "Pontiac, IL; Joliet, IL;"

Issued in Washington, DC, on May 1, 1989.

Harold W. Becker,

Manager, Airspace–Rules and Aeronautical Information Division.

[FR Doc. 89–11200 Filed 5–9–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 60

[Order No. 1344–89]

Authorization of Federal Law Enforcement Officers To Request the Issuance of a Search Warrant

AGENCY: U.S. Department of Justice.

ACTION: Final rule.

SUMMARY: Rule 41(h) of the Federal Rules of Criminal Procedure authorizes the Attorney General to designate categories of federal law enforcement officers who may request issuance of search warrants.

This Order amends 28 CFR Part 60 by adding the Office of Criminal Investigations of the Environmental Protection Agency to the government organizations listed in 28 CFR 60.3(a) which have law enforcement officers who are authorized to request the issuance of search warrants under Rule 41, Federal Rules of Criminal Procedure.

EFFECTIVE DATE: April 28, 1989.

FOR FURTHER INFORMATION CONTACT: Roger B. Cubbage, Deputy Chief, or Donald B. Nicholson, Attorney, General Litigation and Legal Advice Section, Criminal Division, Department of Justice, Washington, DC 20530 (202–786–4827).

SUPPLEMENTARY INFORMATION: This Order adds a new § 60.3(a)(17) to 28 CFR Part 60 to add the Office of Criminal Investigations of the Environmental Protection Agency. Because the material contained herein is a matter of Department of Justice practice and procedure, the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date is inapplicable.

The Department of Justice has determined that this Order is not a major rule for purposes of either Executive Order 12291, or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 28 CFR Part 60

Search warrants.

By virtue of the authority vested in me by Rule 41(h) of the Federal Rules of Criminal Procedure, Part 60 of Chapter I of Title 28, Code of Federal Regulations, is hereby amended as follows:

PART 60—[AMENDED]

1. The authority for Part 60 continues to read as follows:

Authority: Rule 41(h), Fed.R.Crim.P.

2. Section 60.3 is amended by adding a new paragraph (a)(17) to read as follows:

§ 60.3 Agencies with authorized personnel.

* * * * *

(a) * * *

(17) Environmental Protection Agency: Office of Criminal Investigations.

* * * * *

Date: April 28, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89–11023 Filed 5–9–89; 8:45 am]

BILLING CODE 4410–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and Local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Fort Dodge—Webster County (Iowa) Human Rights Commission as a 706 Agency.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, State and Local Branch, 2401 E Street, NW., Washington, DC, 20507, Telephone 202–634–6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

1. The authority citation for Part 1601 continues to read as follows:

Authority: Sections 709, 713, 78 Statutes 263, 265; 42 U.S.C. 2000e–8, 2000e–12.

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.74(a) by adding in alphabetical order, the Fort Dodge—Webster County (Iowa) Human Rights Commission.

Signed in Washington, DC, this 2d day of May 1989.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 89–11157 Filed 5–9–89; 8:45 am]

BILLING CODE 6570–01–M

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and Local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Hillsborough County, Florida Equal Opportunity and Human Relations Department as a 706 Agency.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, State and Local Branch, 2401 E Street, NW., Washington DC 20507, Telephone 202–634–6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

1. The authority citation for Part 1601 continues to read as follows:

Authority: Sections 709, 713, 78 Statutes 263, 265; 42 U.S.C. 2000e-8, 2000e-12.

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in §1601. 74(a) by adding in alphabetical order, the Hillsborough County, Florida Equal Opportunity and Human Relations Department.

Signed in Washington DC this 1st day of May 1989.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 89–11158 Filed 5–9–89; 8:45 am]

BILLING CODE 6570–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300197; FRL–3566–5]

Various Pesticide Tolerances; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: This document amends various sections in 40 CFR Part 180 for tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities. These are technical amendments that merely clarify or correct previously issued regulations appearing in the Code of Federal Regulations (CFR). These amendments impose no new regulatory requirements; therefore, advance notice and public comment are unnecessary.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow, Registration Division (H–7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1806.

SUPPLEMENTARY INFORMATION: This document amends pesticide tolerance regulations in Title 40 of the Code of Federal Regulations (CFR), Parts 150 to 189, in § 180.106 (diuron), § 180.215 (naled), § 180.225 (aluminum phosphide), § 180.249 (alachlor), § 180.298 (methidathion), § 180.351 (bifenox), § 180.359 (methoprene), § 180.364 (glyphosate), and § 180.408 (metalaxyl) to correct errors in the CFR. A discussion of each amendment follows.

1. Section 180.106

In § 180.106 the current tolerance for papayas appears incorrectly as .05 part per million (ppm). The correct tolerance of 0.5 ppm was issued in the **Federal Register** of November 2, 1972 (37 FR 2334), but was incorrectly carried in the CFR of 1973 and subsequent issues. The amendment below reinstates the correct tolerance, 0.5 ppm.

2. Section 180.215.

In § 180.215 in the list of commodities, the entry "Pears (succulent)" is a typographical error. The entry should read "Peas (succulent)."

3. Section 180.225

In § 180.225 in the list of commodities, the tolerance of 0.01 ppm for walnuts and wheat is incorrect. The correct tolerance, 0.1 ppm, was published in the **Federal Register** of October 21, 1977 (42 FR 56114), but was carried incorrectly as 0.01 ppm in the CFR of 1979 and subsequent issues. The amendment below reinstates the correct tolerance, 0.1 ppm.

4. Section 180.249

In § 180.249 in the list of commodities, the entry "Beans, hay * * * 0.2 ppm" is being reinstated. This entry was added in the **Federal Register** of August 15, 1974 (39 FR 29359), but was inadvertently omitted when the list of commodities was reissued in a table format in the **Federal Register** of February 9, 1983 (48 FR 5921). Also, the entry "Horses, mbyp * * * 0.02 ppm" is being reinstated. This entry was issued in the **Federal Register** of November 29, 1973 (38 FR 32909) and appears in the CFR of 1974 and subsequent issues, but was inadvertently omitted in the February 9, 1983 (48 FR 5921) revision.

5. Section 180.298

In § 180.298(b) in the list of commodities, the tolerance entry for sheep, mbyp is corrected from 00.5 to 0.05 ppm. The entry was added in the **Federal Register** of January 9, 1985 (50 FR 1054), and the preamble of that document makes clear that the intended and correct tolerance is 0.05 ppm.

6. Section 180.351

In § 180.351 in the list of commodities, the current tolerance for wheat, straw is changed from 0 to 0.05 ppm. The correct entry, 0.05 ppm, was added in the **Federal Register** of September 18, 1978 (43 FR 41394), but was carried incorrectly in the CFR of 1979 and subsequent issues.

7. Section 180.359

In § 180.359 in the list of commodities, the current tolerance for mushrooms is changed from 0 to 1.0 ppm. The correct entry, 1.0 ppm, was added in the **Federal Register** of October 15, 1980 (45 FR 68392), but was carried incorrectly in the CFR of 1981 and subsequent issues.

8. Section 180.364

In § 180.364(a) in the list of commodities, the entry "Bananas * * * 0.2 ppm" is being added. The entry was published in the **Federal Register** of August 5, 1980 (45 FR 51782) for bananas (including plantains) but was inadvertently omitted from the CFR revision of 1981 and subsequent editions. The description "including plantains" is no longer necessary, as the definition for bananas in 40 CFR 180.1(h) has been amended to include plantains; hence, "including plantains" is redundant and is dropped. Also, in paragraph (c) in the last sentence, the word "no" is incorrect and unintended as it makes the sentence illogical. The sentence is corrected by deleting "no."

9. Section 180.408

In § 180.408(a) in the list of commodities, the entry "Cattle, liver * * * 0.4 ppm" is being reinstated and the entry "Sheep, mbyp * * * 0.05 ppm" is being corrected to read "Sheep, mbyp (except kidney and liver) * * * 0.05 ppm." These tolerances were published in the **Federal Register** of January 26, 1983 (48 FR 3600), but a revision of the commodities listing in the **Federal Register** of December 4, 1985 (50 FR 49692) inadvertently omitted the entry for cattle, liver and dropped the phrase "(except kidney and liver)" in the entry for sheep, mbyp. The amendments below reinstate the correct entries. Also, the source note at the end of the section is corrected by revising the entry "50 FR 49692, Nov. 4, 1985" to read "50 FR 49692; Dec. 4, 1985."

No new regulatory requirements are being added. The changes being made are merely technical amendments that correct typographical errors, reinsert inadvertently omitted entries, or correct other obvious errors; therefore, advance notice and public comment are not necessary prerequisites for the issuance of this document, and it is effective upon publication in the **Federal Register.**

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 21, 1989

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, the following technical amendments are made to 40 CFR Part 180:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.106 [Amended]

2. In § 180.106 *Diuron; tolerances for residues,* the tolerance of .05 part per million (ppm) for papayas is changed to 0.5 ppm.

§ 180.215 [Amended]

3. In § 180.215 *Naled; tolerances for residues* in the list of commodities, the entry "Pears (succulent)" is changed to "Peas (succulent)."

§ 180.225 [Amended]

4. In § 180.225 *Aluminum phosphide; tolerances for residues* in the list of commodities, the tolerance of 0.01 ppm for walnuts and wheat is changed to 0.1 ppm.

§ 180.249 [Amended]

5. In § 180.249 *Alachlor; tolerances for residues* in the list of commodities, add in alphabetical order entries for beans, hay at 0.2 ppm and horses, mbyp at 0.02 ppm.

§ 180.298 [Amended]

6. In § 180.298 *Methidathion; tolerances for residues* in paragraph (b) in the list of commodities, the tolerance entry for sheep, mbyp is changed from 00.5 ppm to 0.05 ppm.

§ 180.351 [Amended]

7. In § 180.351 *Bifenox; tolerances for residues* in the list of commodities, the tolerance entry for wheat, straw of 0 ppm is changed to 0.05 ppm.

§ 180.359 [Amended]

8. In § 180.359 *Methoprene; tolerances for residues* in the list of commodities, the tolerance entry for mushrooms of 0 ppm is changed to 1.0 ppm.

§ 180.364 [Amended]

9. In § 180.364 *Glyphosate; tolerances for residues* in the list of commodities in paragraph (a), add in alphabetical order an entry for bananas at 0.2 ppm. Also, in paragraph (c) in the last sentence, the word "no" is removed.

§ 180.408 [Amended]

10. In § 180.408 *Metalaxyl; tolerances for residues* in paragraph (a) in the list of commodities, alphabetically add an entry for cattle, liver at 0.4 ppm; change the entry for sheep, mbyp to read "Sheep, mbyp (except kidney and liver)".

[FR Doc. 89-10722 Filed 5-9-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 7E3473/R1011; FRL 3569-2]

Pesticide Tolerance for Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the fungicide sulfur dioxide in or on grapes. Uvas Quality Packaging, Inc., Snowden Enterprises, Inc., Frupac International Corp., and Quimica Osku, Ltda., requested the establishment of maximum permissible levels for residues of the fungicide.

EFFECTIVE DATE: May 10, 1989.

ADDRESS: Written objections, identified by the document control number (PP 7E3473/R1011), may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Walter C. Francis, Product Manager (PM) 32, Registration Division (H-7505C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-3964.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of January 5, 1989 (54 FR 384), in which it was announced that EPA had received a pesticide petition (7E3473) from Uvas Quality Packaging Inc., P.O. Box 369, Antioch, CA 94509, Snowden Enterprises, Inc., P.O. Box 751, Fresno CA 93712, Frupac International, Corp., 400 Market Street, Suite 500, Philadelphia, PA 19106, and Quimica Osku, Ltda, 853, Agustinas Street, Office No. 831, Santiago, Chile, proposing to amend 40 CFR Part 180 by establishing a tolerance to permit residues of the fungicide sulfur dioxide in or on grapes at 20 parts per million (ppm).

The petitioners subsequently amended the petition, proposing to establish a tolerance to permit residues of sulfur dioxide in or on grapes at 10 parts per million, the current level of detection determined by the modified Monier-William Method used by the Food and Drug Administration (FDA) for its enforcement procedures.

Fifty-seven commenters, representing the California grape growing, shipping, and packing industry as well as Chilean grape importers and sodium metabisulfite pad manufacturers, supported the establishment of a tolerance to permit residues of sulfur dioxide in or on grapes at 10 ppm. There were no requests for referral to an advisory committee received in response to the proposed rule.

One commenter contended that there are no scientific studies which report any adverse health effects resulting from ingestion of table grapes with sulfite levels at or below 20 ppm.

EPA disagrees with the commenter. EPA has evaluated the data which prompted FDA to announce in the **Federal Register** of July 9, 1986 (51 FR 25021), that the use of sulfiting agents as preservatives on raw fruits and vegetables served or sold to consumers was no longer deemed to be generally recognized as safe. EPA has concluded that these data demonstrate that a tolerance level in excess of 10 ppm would pose an unacceptable risk to sulfite-sensitive individuals.

The commenter also argued that the establishment of a 10-ppm tolerance for sulfur dioxide residues would be unnecessarily restrictive to trade and urged EPA to adopt a higher level of 20 ppm.

Based on an evaluation of the data developed during the California and Chilean certification programs, EPA has determined that with appropriate industry controls involving the use of sulfur dioxide, the majority of, if not all, shipments of imported and domestic grapes can maintain the proposed 10-ppm tolerance level. Therefore, EPA has concluded that the establishment of a 10-ppm tolerance for sulfur dioxide residues in or on grapes would not be restrictive to trade nor offer a competitive advantage for either foreign or domestic suppliers of grapes.

Several commenters discussed the analytical methodology to be used for enforcement of the final rule. Specifically, one commenter recommended an alternative methodology for determining sulfite residues, one commenter recommended retention of the modified Monier-Williams Method currently used by FDA for its enforcement purposes, and one commenter requested that EPA consider revising the tolerance level if more sensitive levels of detection are developed.

Currently, the only validated analytical methodology for determining sulfur dioxide residues on grapes is the modified Monier-Williams Method as

published in the **Federal Register** of July 9, 1986 (51 FR 25017). The industry may use an analytical methodology of its choice for determining sulfur dioxide residues as long as it is confident that the results obtained from this method are compatible with those obtained by the modified Monier-Williams Method. However, EPA will not accept such data as supporting a tolerance for sulfur dioxide residues in or on grapes until the method has been validated and submitted to EPA for review. If a more sensitive analytical method has been developed and can be validated, EPA will consult with FDA to consider its appropriateness for enforcement purposes. At the same time, EPA will also consider revising the tolerance level.

Two commenters argued that collecting and sampling for sulfur dioxide residues be conducted under actual use conditions rather than on a worst-case basis.

Since FDA is responsible for determining if sulfur dioxide residues in or on grapes are in compliance with the tolerance, EPA does not believe it would be appropriate to comment on the collecting and sampling methods used by FDA in FDA's enforcement procedures. Instead, commenters who wish to propose revisions to the methods used by FDA in its enforcement of the tolerance should direct their proposals for consideration by FDA to the following address: Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St., SW., Washington, DC 20204.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below. Establishment of this tolerance will supersede all interim policy requirements, including certification, which will no longer be a permissible means of enforcement for detection of sulfur dioxide residues.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 4, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding new § 180.444, to read as follows:

§ 180.444 Sulfur dioxide; tolerances for residues.

A tolerance is established as follows for sulfite residues of the fungicide sulfur dioxide (determined as (SO_2)) in or on the following raw agricultural commodity(ies):

Commodities	*Parts per million*
Grapes, post-H	10.0

[FR Doc. 89–11284 Filed 5–9–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6830]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency

Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Alabama: Muscle Shoals, city of, Colbert County	010047	Jan. 30, 1974, Emerg.; Dec. 15, 1977, Reg.; Sept. 30, 1988, Susp.; Mar. 2, 1989, Rein.	Dec. 15, 1977.
Pennsylvania: Burgettstown, Borough of, Washington County	420847	Feb. 18, 1976, Emerg.; Feb. 17, 1989, Reg.; Feb. 17, 1989, Susp.; Mar. 3, 1989, Rein.	Feb. 17, 1989.
Missouri: Forest City, city of, Holt County	290161	Oct. 24, 1975, Emerg.; Jan. 6, 1988, Reg.; Jan. 6, 1988, Susp.; March 7, 1989, Rein.	Jan. 6, 1988.
Delaware: Harrington, city of, Kent County	100010	May 17, 1974, Emerg.; June 1, 1977, Reg.; November 18, 1988, Susp.; Mar. 7, 1989, Rein.	June 1, 1977.
California:[1] Big Bear Lake, city of, San Bernardino County	060731	Mar. 7, 1989, Emerg.; Mar. 7, 1989, Reg.	
Vermont: Hartford, town of, Windsor County	500148	Feb. 11, 1972, Emerg.; Feb. 17, 1989, Reg.; Feb. 17, 1989, Susp.; Mar. 8, 1989, Rein.	Feb. 17, 1989.
Pennsylvania:			
Windham, township of, Wyoming County	422208	Dec. 30, 1975, Emerg.; Sept. 4, 1987, Reg.; Sept. 4, 1987, Susp.; Mar. 10, 1989, Rein.	Sept. 4, 1987.
Grugan, township of, Clinton County	421539	Apr. 6, 1977, Emerg.; Dec. 1, 1986, Reg.; Dec. 1, 1986, Susp.; Mar. 13, 1989, Rein.	Dec. 1, 1986.
Oneida, township of, Huntingdon County	421697	Mar. 14, 1975, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.; Mar. 16, 1989, Rein.	Mar. 2, 1989.
Kentucky: Gratz, city of, Owen County	210321	June 18, 1976, Emerg.; Aug. 19, 1986, Reg.; Aug. 19, 1986, Susp.; Mar. 9, 1989, Rein.	Aug. 19, 1986.
Missouri: Mound City, city of, Holt County	290691	July 16, 1976, Emerg.; Jan. 6, 1988, Reg.; Jan. 6, 1988, Susp.; Mar. 20, 1989, Rein.	Jan. 6, 1988.
Pennsylvania: Perry, township of, Armstrong County	422301	May 6, 1975, Emerg.; May 4, 1988, Reg.; May 4, 1988, Susp.; Mar. 20, 1989, Rein.	May 4, 1988.
Michigan:			
Broomfield, township of, Isabella County	260815	Mar. 22, 1989, Emerg	
Deerfield, township of, Isabella County	260816	Mar. 22, 1989, Emerg	
Denver, township of, Isabella County	260817	Mar. 22, 1989, Emerg	
Fremont, township of, Isabella County	260818	Mar. 22, 1989, Emerg	
Texas: Burnet County, unincorporated areas	481209	Jan. 12, 1982, Emerg.; Jan. 18, 1989, Susp.; Mar. 21, 1989, Rein.	Nov. 22, 1977.
Washington: Grant County, unincorporated areas	530049	Mar. 8, 1989, Emerg.; Mar. 8, 1989, Reg	Sept. 30, 1988.
California:[2] Santa Clarita, city of, Los Angeles County	060729	Mar. 23, 1989, Emerg.; Mar. 23, 1989, Reg	
Pennsylvania:			
Juniata, Township of, Huntingdon County	421692	Feb. 4, 1976, Emerg.; Feb. 17, 1989, Reg.; Feb. 17, 1989, Susp.; Mar. 24, 1989, Rein.	Feb. 17, 1989.
Miller, township of, Huntingdon County	421695	Feb. 17, 1977, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.; Mar. 24, 1989, Rein.	Mar. 2, 1989.
Kentucky: Perryville, city of, Boyle County	210020	July 21, 1975, Emerg.; Dec. 3, 1987, Reg.; Dec. 3, 1987, Susp.; Mar. 27, 1989, Rein.	Dec. 3, 1987.
Minnesota: Carlton County, unincorporated areas	270039	Aug. 16, 1974, Emerg.; Sept. 1, 1988, Reg.; Sept. 1, 1988, Susp.; Mar. 27, 1989, Rein.	Sept. 1, 1988.
North Carolina: Cherokee County, unincorporated areas	370059	July 18, 1979, Emerg.; Feb. 2, 1989, Reg.; Feb. 2, 1989, Susp.; Mar. 30, 1989, Rein.	Feb. 2, 1989.
Pennsylvania: Minersville, borough of, Schuylvkill County	420778	Apr. 4, 1974, Emerg.; Mar. 2, 1989, Reg.; Mar. 2, 1989, Susp.; Mar. 31, 1989, Rein.	Mar. 2, 1989.

[1] The City of Big Bear Lake has adopted San Bernardino County's Flood Insurance Study and accompanying Flood Insurance Rate Map (FIRM) dated September 29, 1978 for flood insurance and floodplain management purposes. Note that the County's latest FIRM revision is effective August 5, 1985.

[2] The City of Santa Clarita has adopted by reference Los Angeles County's Flood Insurance Study and FIRM dated December 2, 1980 for floodplain management and insurance purposes.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: March 4, 1989.

[FR Doc. 89-11212 Filed 5-9-89; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 88-19]

Rule on Effective Date of Tariff Changes

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is adopting a Final Rule that requires common carriers to publish in their tariffs a rule specifying that the rates, rules and charges applicable to a given shipment must be those published and in effect on the date the cargo is received by the carrier or its agent,

including a connecting carrier in the case of an intermodal through movement. The Final Rule will foreclose an avenue for retroactive ratemaking and avoid the discriminatory and detrimental effects of such rates and practices both as to shippers and carriers.

EFFECTIVE DATE: July 10, 1989.

FOR FURTHER INFORMATION CONTACT:
Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5796.
Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5783.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on August 30, 1988 ("Proposed Rule"), the Commission proposed to amend its foreign tariff filing regulations at 46 CFR Part 580, to require common carriers to publish in their tariffs a rule on the effective date of rate and other tariff changes, 53 FR 33153. The rule proposed would require that all carrier and conference tariffs provide that: ". . . the tariff rates, rules and charges applicable to a given shipment be those published and in effect when the cargo is received by the ocean carrier or its agent (including originating carriers in the case of rates for through transportation)." The Proposed Rule sought to foreclose the use of so-called "pocket rates" by prescribing an effective date for rating purposes which is uniform and consistent with the date on which the carrier assumes its contractual and regulatory obligations with regard to the shipment.[1] Interested persons were asked to comment on the Proposed Rule.

Comments

Twenty-six comments were received by the Commission to the Proposed Rule. The two comments received from shipper organizations,[2] and the four comments filed by the non-vessel operating common carrier ("NVOCC") industry,[3] argue that the Proposed Rule is unnecessary and anticompetitive, in that it would impair carrier "flexibility" to respond to shippers or changing market conditions. These shipper and NVOCC interests oppose any change in the tariff regulations in 46 CFR 580.5(d). One shipper group, Chemical Manufacturers Association, suggests that should an effective date rule be required, the "bill of lading date" be established as the relevant date for rating purposes under the carriers' tariffs. The bill of lading date is said to be commercially significant, easily accessible to both shipper and carrier, and easily verifiable.

Seven comments were filed on behalf of individual vessel operators ("VOCCs").[4] The VOCCs assert that the Proposed Rule, if implemented, would act to deprive shippers of rate flexibility and deprive carriers of the ability to compete by offering the lowest available rate to their shippers. These commenters believe that the proposed Commission action would result in an increase in rate malpractices; an unmanageable rise in tariff filings of all carrier rate quotations; and a reduction in the use of intermodal services because of the later "receipt" date inherent in port-to-port services.

Those VOCCs supporting a rule to prescribe an effective date for tariff rates and rules [5] generally suggest that the relevant date for tariff rating purposes should be the sailing date of the vessel from the loading port.[6] They assert that carriers are often unable to determine the date of receipt of cargo by their agents and participating inland carriers; that carriers often find that they have received cargo *prior* to the publication of a negotiated rate due to failings in the cargo booking process; and that the carriers have not experienced problems in application of the current rate effectiveness rule and do not perceive any discrimination or malpractice arising therefrom.

The largest group of comments received were from conferences. Thirteen comments were filed on behalf of twenty-two conferences and ratemaking agreements.[7] These comments reflect a diversity of positions with three comments filed in opposition to the Proposed Rule, seven voicing their apparent support for the concept and need for an effective date rule (but not necessarily the Proposed Rule) and three comments favoring both the Proposed Rule and its underlying rationale.

Conferences opposing the Proposed Rule assert that there exists "no demonstrated need for" the rule,[8] that an effective date rule would burden conference carriers disproportionately vis-a-vis independent lines, and that such a rule would be inappropriate to particular trades or particular services.

Other conferences endorse the concept of an effective date rule as an appropriate remedy to retroactive ratemaking and pocket rate practices. These conferences nonetheless assert that the Proposed Rule would create administrative difficulties and could result in similarly situated shippers being treated differently. They differ, however, on what date should be prescribed for the effectiveness of tariff rates, rules or charges.[9]

Three comments filed by conferences support the Proposed Rule. These include comments by conferences in two of the most active U.S. trades: the North Europe-U.S. Gulf Freight Conference and North Europe-U.S. Atlantic Conference and the Trans-Pacific Westbound Rate Agreement.[10] Conferences supporting the Proposed Rule argue that it is necessary to eliminate a "loophole" in the tariff publication requirements by which carriers engage in practices which are discriminatory as between shippers, and competitively unfair as between carriers.

Discussion

The Commission has determined to publish a Final Rule specifying the date of receipt by the carrier (or its agent) as the effective date for tariff rating purposes. As set forth in greater detail below, the promulgation of a Final Rule is found to be appropriate and necessary (1) to prescribe an effective

[1] Pocket rates are described by one commenter as a tariff practice whereby the carrier negotiates a rate, receives the cargo from the shipper, but only publishes the agreed rate in its tariff after the transportation has begun.

[2] These shipper groups are identified in Appendix A.

[3] These NVOCC commenters are identified in Appendix B.

[4] Comments filed by VOCCs are identified in Appendix C.

[5] *See, e.g.*, P&O Containers (TFL) Ltd. Comments on Proposed Rulemaking, at 1; Comments of Waterman Steamship Corporation, at 1–2; and Comments of Ocean Star Container Line, A.G., at 1–2.

[6] Two VOCCs, Forest Lines, Inc. and Crowley Maritime Corp., prefer date of loading aboard the vessel, as distinguished from the date the vessel sails. Certain VOCCs expressed a preference for tariff alternatives based on date of receipt or date of sailing/loading, whichever benefits the cargo.

[7] Comments filed by conference organizations are identified in Appendix D.

[8] Comments of Inter-America Freight Conference, at 2.

[9] *See, e.g.*, comments filed by the Australian and New Zealand Conferences; and by the U.S. Atlantic and Gulf/Western Mediterranean Rate Agreement, South Europe/U.S.A. Freight Conference, and Greece Westbound Conference. In virtually identical comments, these conferences conclude with mutually exclusive alternatives to the Proposed Rule, *viz:* date of sailing from *last port* of loading vs. date of sailing from *port* of loading, respectively.

[10] Supporting comments also were filed by the Mediterranean North Pacific Coast Freight Conference.

date which is uniform and consistent with the date on which the carrier assumes its other contractual and regulatory obligations with respect to the transportation, (2) to foreclose a potential avenue for discriminatory ratemaking, and (3) to maintain the integrity of the tariff filing system. Maintenance of the regulatory *status quo*, or adoption of any of the several tariff rule formulations suggested by the commenters as alternatives to the Proposed Rule, would have the effect of sanctioning carrier rate practices which embody retroactive ratemaking and inadequate notice to the public of rates statutorily required to be set forth in the carrier's or conference's tariff.

The Commission regulations at 46 CFR 580.5(d)[11] currently allow a carrier or conference unilaterally to provide one or more effective dates for rating and compliance purposes, which dates may differ from the time at which the transportation process commences. Tariff Rule 3 thus may operate to establish two rates applicable at the same time to the same commodity—one being the rate currently published and made effective in the tariff at the time of tender of the goods, and the second being an unpublished rate actually applied to the cargo. Consistent with the tariff filing requirements of section 8(a) of the Shipping Act of 1984, 46 U.S.C. app. 1707 ("1984 Act"), the Proposed Rule seeks to address this situation by prescribing a uniform effective date for rating purposes, based on the date of delivery to the carrier (or its agent) for purposes of transport.

With the enactment of the 1984 Act, Congress defined the boundaries of the Commission's jurisdiction as to matters such as through rates. The provisions of section 8(a) of the 1984 Act give the Commission jurisdiction over "through transportation"[12] for tariff rate purposes from port or point of receipt to port or point of destination so long as the carrier "assumes responsibility"[13] for transportation between such ports or points. The Commission's jurisdictional authority over the provision of through transportation thus begins at the port or point of receipt, whether the cargo is tendered directly to the ocean carrier or to another carrier under arrangement for through transport to destination.[14]

The date transportation commences is the primary date on which federal regulation may begin pursuant to the commerce clause of the United States Constitution, U.S. CONST. art. 1, section 8, cl. 3. *See Joy Oil Co.* v. *State Tax Comm.*, 337 U.S. 286 (1949); *Champlain Realty Co.* v. *Brattleboro*, 260 U.S. 366 (1922); *Coe* v. *Errol*, 116 U.S. 517 (1886) (tax cases). *See also Baltimore & O.S.W.R. Co.* v. *Settle*, 260 U.S. 166 (1922); *Railroad Comm. of Louisiana* v. *Texas & P.R. Co.*, 229 U.S. 336 (1913); *Texas & N.O.R. Co.* v. *Sabine Tram Co.*, 227 U.S. 111 (1913) (transportation cases). This occurs when the goods have been delivered or tendered to a common carrier for transportation beyond the state, or for transportation to another carrier for export. *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918), *overruled on other grounds, United States* v. *Darby* 312 U.S. 100 (1941); *United States* v. *Freeman*, 239 U.S. 117 (1915); *Southern Railroad Co.* v. *Reid*, 222 U.S. 424 (1912).

In today's intermodal environment, the carrier's obligation is viewed as commencing upon receipt of the shipper's cargo, whether that event occurs at a port or at an inland point. It is at the point of receipt that a bill of lading generally issues, representing the contract of carriage. The mutual obligations of the carrier to perform the transportation requested and of the shipper to pay the freight costs thereof, accrue on the former's acceptance of the goods. It is also at this point that insurance coverage may begin, and title to the goods may pass between shipper and consignee. Adoption of the Proposed Rule would therefore conform carrier practices as to rate effectiveness with the many commercial and regulatory incidents of the carrier's undertaking, which begin upon the receipt of the goods for transportation.[15]

As currently structured, Tariff Rule 3 may render uncertain the shipper's charges under its contract with the carrier because one or more "effective dates" may be established as the points of reference for calculating the applicable freight rate.[16] In such cases, the actual amount of the shipper's financial obligation for the freight is effectively unknown at time of tender, as it remains subject to (1) the transportation operations or exigencies of the carrier in moving any given shipment from port or point of receipt to the vessel for loading; and (2) the carrier's tariff activities in the interim period between the date of receipt by carrier (or originating carrier) and the date of loading aboard vessel. *See. e.g.*, Comments of Forest Lines, Inc., at 2 (carrier's standard practice is to make tariff rate effective on date of loading on ocean-going vessel); Comments of Ocean Star Container Line, A.G., at 4 (carrier proposes uniform rule that date of rate effectiveness be fixed as date vessel sails from port of loading).

In these instances, the absence of a clear and definite statement of the rate applicable to the shipment at the time the transportation commences may render doubtful the validity of the contract. 17 Am. Jur. 2d *Contracts* section 82 (agreement which leaves price for future determination or agreement by parties is not binding); *Id. Contracts* section 83 (reservation to one party of future right to determine price renders contract too indefinite to be enforceable).

Rates made applicable to cargo after transportation has already commenced appear to be a form of retroactive ratemaking which is prohibited by section 8 of the 1984 Act. As the Commission's jurisdiction over the transportation begins on the date the transportation commences, its jurisdiction over the *rate* for such transportation also attaches from the date of tender to the carrier. Tariff Rule 3, however, currently permits the carrier to establish a date for rating purposes which may, but need not, be the same date on which the carrier assumes its

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[11] This regulation requires each carrier to publish tariff rules governing its practices on specified subjects. As relevant, the regulation requires tariff notice of the following:

(3) Rate applicability rule. A clear and definite statement of the time at which a rate becomes applicable to any given shipment.

46 CFR 580.5(d)(3) (1988) (hereinafter referred to as "Tariff Rule 3"). Commission requirements in this regard have remained virtually unchanged since 1975.

[12] Defined in section 3(26) of the 1984 Act to mean:

* * * continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port.

[13] *See* definition of "common carrier" set forth in section 3(6) of the 1984 Act.

[14] The Commission was not, however, given jurisdiction over the underlying inland carriers.

[15] Additional precedent for the action taken here can be found in the Commission's domestic offshore tariff requirements, 46 CFR Part 550. The Commission requires that the rates applicable to joint through movements in the domestic offshore trades be the rates published and in effect on the day the initiating carrier takes possession of the shipment, 46 CFR 550.5(b)(8)(ii). These provisions were implemented without significant controversy, or subsequent problems in their enforcement.

[16] Tropical Shipping and Construction Co. Ltd.'s tariff provides an exemplar of the effective date rule as implemented by numerous ocean common carriers under the current regulation:

Effective date of rate changes. Rates and charges herein are those in effect on the date the vessel sails from the port of loading or the date the cargo is received at carrier's terminal, whichever benefits the cargo.

Tropical Shipping & Construction Co. Ltd. Comments, attachment at 1.

contractual obligations to the shipper and its regulatory obligations to the Commission. This is no longer acceptable. The Commission's jurisdiction should be construed in a manner that is uniform and consistent for all purposes, and not be subject to variance as to time in the matter of rate applicability.

Further, section 8(a) of the 1984 Act obligates the carrier to show in its tariffs "all" its rates, charges and practices applicable to cargo tendered thereunder. We do not believe that this obligation is met where a carrier, already in the process of transporting cargo subject to a rate agreed to with a shipper, does not actually file that rate in an FMC tariff until some later point in the cargo's journey, *e.g.*, immediately prior to vessel loading. The carrier thus may have two rates applicable to the same commodity—one being the rate currently published in the carrier's tariff at the time of tender; and the second being an unpublished rate, which in fact will ultimately be applied to the cargo. The carrier's tariff operates to permit a future act of tariff publication to "relate back" to shipments already in transit, imposing a new rate over the rate then applicable."[17]

Several commenters assert that tariff policy should be to permit the "immediate" effectiveness of all rate reductions to shippers.[18] Nothing in the statute or its legislative history, however, even suggests that rate reductions were intended to apply retroactively. In fact, the contrary is true.

Section 18(b) of the Shipping Act, 1916 ("1916 Act"), *formerly* 46 U.S.C. 817, is the predecessor to the tariff filing provisions of section 8(a) of the 1984 Act.[19] The original version of section 18(b), which was the subject of lengthy hearings,[20] prescribed a 30-day notice for all rate changes, whether increases or decreases. In response to shipper and carrier testimony, the bill was amended to delete the 30-day notice for rate decreases. The primary concern appears to have been that requiring such notice in U.S. export trades would give an unfair advantage to foreign competitors of U.S. manufacturers who were not constrained by a similar requirement.[21] It was made clear during this testimony however, that rate reductions were intended to be prospective from the date of filing.[22]

In its report urging that the tariff filing and notice requirements of section 18(b) be carried forward into section 8(a) of the 1984 Act, the House Committee on Merchant Marine and Fisheries said:

> A clear objective of H.R. 1878 is to enable American carriers and shippers to conduct international ocean commerce transportation in a stable, efficient, and competitive manner within a fair trade environment in which malpractices can be found and punished. Shippers support that need and emphasize their own *need for knowledge of all available ocean rates in planning their cargo movements* [23] (emphasis added).

Citing the action of the former Shipping Board Bureau in requiring the filing of all export rates, the Committee also stated:

> On the basis of shipper complaints that rate secrecy and instability hampered them in competing in foreign markets, the Board found that filed tariffs would "afford equal opportunity to all shippers to avail themselves of such rates and full opportunity to competing carriers to meet such rates." [24]

The legislative histories of both former section 18(b) of the 1916 Act and present section 8(a) of the 1984 Act, therefore, support a rule which would preclude the retroactive application of rate changes to cargo previously received by the carrier.

Certain precedents established under section 8(e) of the 1984 Act, 46 U.S.C. app. section 1707(e), as to the Commission's remedial authority over clerical and administrative tariff filing errors, underscore the legislative purpose in requiring adequate notice of available freight rates through tariff publication. In these cases the Commission established the principle that, to merit the grant of rate relief, the evidence must demonstrate that the misfiled rate was agreed upon prior to the date of shipment. In *Munoz y Cabrero* v. *Sea-Land Service, Inc.*, 20 F.M.C. 152, 153 (1977), the Commission stated:

> [I]t is clear that "the new tariff" is expected to reflect a prior intended rate, not a rate agreed upon after the shipment.

Likewise, in *Application of Sea-Land Service, Inc. for the Benefit of Alimenta (USA) Inc.*, 22 F.M.C. 347 (1979), the Commission found that the date of delivery of an intermodal shipment to an originating inland carrier was the critical date beyond which a new tariff rate could not be negotiated, and stated:

> If, for example, a shipment has already commenced before a lower rate is negotiated, * * * the carrier cannot publish, *post hoc*, a tariff rate which would apply to that shipment. *Id.* at 347.

The date of delivery to the originating carrier thus serves to define when ratemaking is prohibited as *post hoc*. *Alimenta, supra. Accord, Application of Gulf European Freight Association and Sea-Land Corp. for the Benefit of Arthur J. Fritz & Co.*, 23 SRR 401 (I.D.) *aff'd in part, rev'd in part* 23 SRR 786 (F.M.C. 1986); *Application of Seawinds Ltd. for the Benefit of Red Spot Paint and Varnish Co.*, 22 SRR 517 (I.D., administratively final January 10, 1984).[25]

The Commission believes that either maintenance of the tariff status quo or adoption of a rule permitting rate changes to become effective as of the date of sailing would defeat the underlying Congressional purposes for the filing of tariffs. A tariff rule based on any of the several alternative formulations offered by the commenters would continue retroactive ratemaking practices and sanction inadequate notice to the shipping public of the rates at which the carrier is holding out, to some, to provide transportation.

During the period between agreement upon the commodity rate and its subsequent publication, the unpublished (but agreed to) rate remains for all

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[17] By analogy, Commission tariff regulations prohibit the publication of any rate which would "duplicate or conflict with" existing rates in the same tariff on the same commodity. 46 CFR 580.6(k)(1).

[18] *See, e.g.*, Opposition of International Association of NVOCCs, at 1–3; and Comments of National Industrial Transportation League, at 6–7, *citing* Informal Docket No. 1601(F), *3M Company* v. *Inter-American Freight Conference* 24 SRR 728 (ALJ, 1987).

[19] Prior to the 1961 amendments to the 1916 Act, requiring tariff filing by carriers and conferences operating in U.S. international trades, the Commission's predecessors had, by rule, required the filing of tariffs of export rates pursuant to the authority of section 19 of the Merchant Marine Act, 1920 (46 U.S.C. app. 876). Changes in those rates were required to be filed within 30 days *after* their effective date. See *Section 19 Investigation, 1935*, 1 U.S.S.B.B. 470, 502, 503 (1935).

[20] Hearings on H.R. 4299 Before the Special Subcommittee on Steamship Conferences of the House Committee on Merchant Marine and Fisheries, 87th Cong., 1st Sess. (1961).

[21] *Id.*, at 39, 82, 97, 302, 323–324, 365–366 *et al.*

[22] *Id.* at 187.

[23] H.R. REP. NO. 98–53, 98th Cong., 1 Sess. 18–19 (1983).

[24] *Id.* at 19, *citing Section 19 Investigation, 1935, supra*, 1 U.S.S.B.B. at 498.

[25] These cases also provide convincing evidence of a carrier's ability to determine its date of cargo receipt, a matter of some dispute among the carrier commenters. *E.g.*, Special Docket No. 1692, *Application of Ocean Star Container Line A.G. for the Benefit of Novistar International Transportation Corp.* (Supplemental Initial Decision, February 6, 1989) (on remand, carrier provides contemporaneous Transit Report evidencing date of cargo receipt). In the cited decision, the Administrative Law Judge remarked upon the conflict between Commission precedent in the area of section 8(e) "special docket" proceedings and Tariff Rule 3 as implemented by the carrier.

intents a secret rate between that shipper and carrier. Only the shipper party to the rate agreement can access that rate, *i.e.*, tender cargo in the knowledge of the intended rate filing. In *Ghiselli Bros.* v. *Micronesia Interocean Line Inc.*, 13 F.M.C. 179 (1969), the Commission stated:

> The "filing" of a schedule with the Commission evidences that the rates and charges contained therein have been put in force or established *for the future.* The purpose of requiring the submission of tariff schedules * * * is to secure uniformity and equality of treatment in rates and services to all shippers. Requiring *the public establishment of tariff schedules prevents special and secret agreements* thereby suppressing unjust discrimination and undue preferences.

13 F.M.C. at 181 (emphasis added), *citing United States* v. *Illinois Terminal R. Co.* 168 F. 546, 549 (S.D. Ill. 1909) ("Secret rates will inevitably become discriminating rates. Whenever discriminating rates or practices are made public, a thousand forces of self-interest and of public policy will be set to work to reduce them to fairness and equality"). *See also, C.H. Leavell & Co,* v. *Hellenic Lines Ltd.*, 13 F.M.C. 76, 85 (1969) (purpose of section 18(b) is to provide shipping public with advance notice of rates, certainty of transport charges, and assurance of equal treatment to shippers).

Several of the commenters assert that they can perceive no discriminatory effects in the current rate practices sought to be addressed in this rulemaking, because other shippers have access to the negotiated rate once it is published,[26] and other shippers have not complained to the carriers of the use of such rate practices.[27] We disagree. We believe there is a clear potential for discrimination between shippers in situations where one shipper has access to rates not yet filed in any tariff, while a second shipper does not. Any such discrimination would be no less real for the fact that the second shipper remains unaware of the rate arrangement, and thus cannot complain. The fact is similar shippers would not be receiving like treatment.

One of the principal arguments asserted in opposition to a "date of receipt" rule is that any change in the tariff subsequent to receipt of some cargo may result in two shippers paying different rates for the same commodity on the same vessel. This argument is raised in nine of the twenty-six comments, and generally assumes that the earlier shipper will be prejudiced because it would not obtain the benefit of a subsequent rate reduction. These commenters generally favor an alternative to the Proposed Rule based on the date of vessel loading or of sailing.

A rule of the type suggested by these commenters, permitting rate changes to apply to all cargo on the same voyage, is itself subject to shipper discrimination. For example, a rule establishing the date of sailing as the effective date would permit rate reductions to apply retroactively to cargo already received by the carrier and in the process of being transported.[28] Likewise, rate increases which become effective as of the date of sailing would apply retroactively to cargo already received by the carrier and in transit. This result would appear to be inconsistent with the spirit, if not the language, of the statute's 30-day notice requirement for rate increases. We also expect it would not be any better received by the shipper community in general.

The competitive consequences of pocket rate practices directly affect the carrier industry as well. A carrier cannot market its services effectively on a rate basis when the cargo is already moving at the time a competing carrier publishes the applicable new rate. Competition is therefore diminished (or alternatively, the carriers may respond in kind through undisclosed rate arrangements with other shippers, in a rapidly proliferating carrier practice). Similarly, a carrier who is approached for a rate reduction based on a competitor's rate quote is left without a basis to gauge the real or apparent accuracy of the quoted rate, or to assess the true competitive need for equal (or greater) rate reductions.

Rate flexibility alone is not a reason to forgo regulation of this aspect of carrier ratemaking, given its potential for rate instability and discrimination. The rule which the Commission is adopting is intended to restrict those tariff practices which may give rise to unlawful methods of competition. *See e.g.*, sections 10(b) (6), (10), (11) and (12) of the 1984 Act. *See also, Rates, Charges and Practices of L. & A. Garcia & Co.*, 2 U.S.M.C. 615, 617-19 (1941) (discounting of tariff rate pursuant to "confidential" arrangement with shipper held violation of sections 16 and 17 of Shipping Act, 1916); *Section 19 Investigation, 1935, supra*, 1 U.S.S.B.B. at 502 (statutory prohibitions against undue and unreasonable preferences give rise to obligation on every common carrier to make all its rates public and available on equal terms).

Upon consideration of the comments, the 1984 Act and its legislative history, and existing case law, the Commission has determined to adopt the Proposed Rule as a Final Rule,[29] so as to prescribe an effective date for rating purposes which is uniform and consistent with the date on which the carrier assumes its contractual and regulatory obligations with respect to the transportation.[30] This Final Rule is intended to foreclose a potential avenue for *post hoc* ratemaking and to avoid the potential discriminatory and detrimental effects of such rates and practices both as to shippers and carriers. The Final Rule should also serve to provide a fairer, more open and informed competitive environment.

The Commission has determined that this regulation is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, because it will not result in:

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

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

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

The Commission finds that the Final Rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601. Section 601(2) of that Act excepts from its coverage any "rule of particular applicability to rates or practices relating to such rates * * *" As the Final Rule relates to particular applications of rates and rate practices, the Regulatory Flexibility Act requirements are inapplicable.

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[26] Comments of National Industrial Transportation League, at 5; Comments of Chemical Manufacturers Association, at 4.

[27] Letter comments of Israel Eastbound Conference, at 2; Comments of Waterman Steamship Corp., at 1.

[28] One commenter, the International Association of NVOCCs (IANVOCC), asserts that shippers are "entitled" to benefit from any rate reductions filed by the carrier subsequent to shipment, notwithstanding their retroactive effect. Opposition of IANVOCC, at 1.

[29] One language clarification has been made in the Final Rule. The reference in the Proposed Rule to "ocean carrier" has been changed to "common carrier." Use of the term "common carrier," which is defined earlier in Part 580, makes it abundantly clear that the requirements of the rule apply equally to NVOCCs and VOCCs.

[30] Comments not specifically addressed herein were nonetheless considered by the Commission and found to be either irrelevant, without merit or subsumed within other comments expressly addressed.

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, as amended, and have been assigned OMB control number 3072–0009.

Public reporting burden for complying with this amendment regarding the effective date of tariff changes is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be sent to Federal Maritime Commission, Bureau of Domestic Regulation; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 46 CFR Part 580

Maritime carriers; Rates and fares; Reporting and record keeping requirements.

Therefore, pursuant to 5 U.S.C. 553; secs. 8, 9, 10 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1708, 1709, and 1716, the Federal Maritime Commission amends Part 580 of Title 46 of the Code of Federal Regulations as follows:

PART 580—[AMENDED]

1. The authority citation for Part 580 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707–1709, 1712, 1714–1716 and 1718.

2. In § 580.5 revising paragraph (d)(3) to read as follows:

§ 580.5 Tariff contents.

* * * * *

(d) * * *

(3) *Effective date rule.* All tariffs shall provide that the tariff rates, rules and charges applicable to a given shipment must be those published and in effect when the cargo is received by the common carrier or its agent (including originating carriers in the case of rates for through transportation).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

Appendix A—Comments Received From Shippers

(1) Chemical Manufacturers Association.
(2) National Industrial Transportation League.

Appendix B—Comments Received From NVOCCs

(3) International Association of NVOCCs.
(4) Hemisphere Forwarding Inc.
(5) Carolina Freight Carriers Corporation.
(6) Grace Navigation Inc.

Appendix C—Comments Received From VOCCs

(7) Forest Lines, Inc.
(8) Ocean Star Container Line, A.G.
(9) Tropical Shipping & Construction Co., Ltd.
(10) P & O Containers (TFL) Ltd.
(11) Waterman Steamship Corp.
(12) EAC Lines Trans Pacific Service, Ltd.
(13) Crowley Maritime Corporation.

Appendix D—Comments Received From Conferences

(14) Calcutta, East Coast of India and Bangladesh/U.S.A. Conference;
(15) U.S./South and East Africa Conference, and South and East Africa/U.S. Conference;
(16) Inter-American Freight Conference;
(17) Australia/Eastern U.S.A. Shipping Conference, Australia-Pacific Coast Rate Agreement, New Zealand/U.S. Atlantic and Gulf Shipping Lines Rate Agreement, and New Zealand/Pacific Coast North America Shipping Lines Rate Agreement;
(18) U.S. Atlantic and Gulf/Western Mediterranean Rate Agreement, South Europe/U.S.A. Freight Conference, and Greece Westbound Conference;
(19) Israel Eastbound Conference;
(20) United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference;
(21) United States Atlantic and Gulf/Venezuela Freight Conference;
(22) Atlantic & Gulf/West Coast of South America Conference, U.S. Atlantic & Gulf/Central America Freight Association, and U.S./Central America Liner Association;
(23) North Europe-U.S. Pacific Freight Conference;
(24) Mediterranean North Pacific Coast Freight Conference;
(25) North Europe-U.S. Gulf Freight Conference, and North Europe -U.S. Atlantic Conference;
(26) Transpacific Westbound Rate Agreement.

[FR Doc. 89–11159 Filed 5–9–89; 8:45 am]
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Proposed Rules

Federal Register
Vol. 54, No. 89
Wednesday May 10, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-88-206]

United States Standards for Grades of Pickles

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule-modified.

SUMMARY: This proposed rule is a modification of the proposed rule published in the **Federal Register** on December 8, 1987. In compliance with the requirements for periodic review of existing regulations and in response to a petition from the pickle industry, the Agricultural Marketing Service (AMS) reviewed and proposed to revise the United States Standards for Grades of Pickles. The December 8, 1987, proposed rule would change the U.S. grade standards for pickles by: (1) Removing minimum salt requirements; (2) establishing, under "Types of Pack," the "Refrigerated" type; (3) changing size designations; (4) reducing or eliminating the analytical requirements for acid, sugar, or salt for some types of pack; (5) eliminating the "length variation" in determining uniformity of size for whole style; (6) expanding the table for sizes of whole pickles in gallon containers to include other container sizes; (7) increasing the allowance for stems by changing the classifications; (8) simplifying the U.S. grade standards by condensing the various tables; (9) replacing dual grade nomenclature with single letter grade designations; and (10) incorporating minor editorial changes. This modification proposes to require the continued use of vinegar as the sole acidic agent in pickling solutions. In addition, non-substantive changes to the original proposed rule are made for the sake of clarity. The effect of this proposed rule would be to improve the standards and encourage uniformity in commercial practices which would facilitate the trading of pickles.

DATE: Comments must be received on or before July 10, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2085, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agriculture Marketing Service, U.S. Department of Agriculture, Room 0709, South Building, P.O. Box 96456, Washington, DC 20090–6456, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more.

There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Agencies are required to periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601 et seq.), because it reflects current marketing practices. In addition these standards are voluntary. A small entity may avoid incurring any additional economic impact by not applying for an inspection.

The United States Department of Agriculture (USDA) received a petition from Pickle Packers International, Incorporated (PPI), a trade association of the pickle industry, requesting changes in the United States Standards for Grades of Pickles. The PPI requested these changes to reflect procedural, processing, and marketing changes in the pickle industry during the last thirty years. In addition, AMS conducted a market survey for pickles distributing it to several associations and industry members.

The U.S. grade standards for pickles were last revised, except for minor changes, in 1954. Consumer patterns have indicated preferences for foods containing lower levels of sodium. In response to these preferences, the pickle industry is producing lower-salt pickles. The proposed standards would permit lower-salt pickles to receive a higher grade by eliminating the minimum salt requirements in the standards. During the last decade, a new type of pickles known as "Refrigerated Type" has become popular among American consumers. The industry has requested a revision of the grade standards to include this type of pack.

PPI has also requested that the requirements in the grade standards for salt, acid, and Baume' (density) levels be changed to meet consumer preferences for a milder pickle, both in terms of salinity and acidity. The pickle industry has expressed concern about the public health aspects of sodium and has responded to consumer preference for reduced sodium levels in foods. In review of the pickle industry, there is no reason to require that pickles contain the minimum salt, and there is a need to allow for production of pickles containing as little sodium as is technologically feasible.

The pickle industry believes the acid level should also be minimal but should be sufficient to achieve an equilibrated pH of 4.6 or below as required by the Food and Drug Administration (FDA) Good Manufacturing Practices for acidified foods. PPI proposed Baume' levels should also be reduced since the components which affect Baume' (salt, acid, and sugar) are balanced by each manufacturer to maintain the desired characteristics for taste and flavor.

These changes are reflected in Table V of the proposed standards.

PPI states that in most modern pickle processing plants, pickles are being sized solely by diameter rather than by length and diameter. Hand sorting pickles by length is not economically feasible and would add to processing costs. Data indicate that pickles are being marketed efficiently without hand sorting by length and therefore "length" should not be part of the criteria for determining uniformity of size. PPI also requested that the table designating sizes for whole pickles in gallon containers be expanded to include other common containers sizes.

PPI also recommended that stems not be considered a defect in these U.S. grade standards, citing that stems are not listed as a defect in the USDA grade standards for fresh cucumbers. Presently, the PPI states, the industry makes no effort to remove stems from cucumbers except when preparing pickles for acceptance by the military of the school lunch program. PPI stated that one member, in reviewing complaint letters dating back 10 years, found no letters concerning attached stems affecting the quality of pickles. They also claim that, with the advent of mechanical harvesting, a restrictive requirement on stems is not economical and places an unreasonable burden on the processor. According to data reviewed by the USDA, consumer demand for pickles has been increasing over the last five years even though most processors are not attempting to remove stems. Current standards require stems longer than three-eighths of an inch to be scored as a defect.

In reviewing this request, the USDA has determined that stems are a defect and affect the appearance and eating quality when they exceed a specified length. For this reason, the USDA proposes that stems of 2.5 centimeters (.98 inch) in length be considered a minor defect. Stems that are 2.5 centimeters or less in length would be considered "insignificant" for the purposes of these grade standards.

A proposal to revise the U.S Standards for Grades of Pickles was published in the **Federal Register** on December 8, 1987 (52 FR 46486). An extension of the comment period was published on March 9, 1988 to allow for comments to be received on or before April 7, 1988.

Six comments were received regarding the proposal to revise the U.S. grade standards. Five comments were from vinegar manufacturers and one comment was from the Vinegar Institute which represents the vinegar industry. The comments were critical of the substitution of the term, "acidic solution" for the term "vinegar solution" throughout the proposal. The Vinegar Institute cited the Food and Drug Administration's (FDA) Compliance Policy Guide 7120.11 stating that FDA policy provides that "Acetic acid should not be substituted for vinegar in pickled products which consumers customarily expect to be prepaed with vinegar". A 1984 letter from the Food Safety and Inspection Service, USDA to the commenter also was cited in support of their position. However, FDA published a regulation in 21 CFR 114.3(b), regarding acidified foods, that we believe could be subject to a contrary interpretation. The FDA also published as an Advanced Notice of Proposed Rulemaking, the international Codex Standards for Pickles permitting the use of food grade acids. The USDA therefore requested a clarification from FDA regarding its policy for the use of approved food grade acid as an alternative to vinegar.

In a letter dated July 28, 1988 and sent to USDA from the Deputy Director, Division of Regulatory Guidance, Center for Food Safety and Applied Nutrition, Food and Drug Administration, FDA confirmed its policy that only vinegar may be used in producing pickles and pickled foods and recommended that the phrase "packed in a vinegar solution" replace the terms "acid medium solution", "acidic solution", and "other food grade acids" as written in the December 8, 1987 USDA proposed rule. FDA cited a paper published in the Journal of Food Science which differentiated between the characteristics of vinegar and glacial acetic acid. Aqueous solutions of glacial acetic acid were found to have a sharp unpleasant taste. The characteristic flavors of vinegar were found to be dependent on the constituents formed during the fermentation of the raw materials as well as subsequent acetous fermentation. FDA also provided additional recommendations for clarity which have merit. In § 52.1683(a), the modification specifies that cured-type pickles are fermented in salt brine. In § 52.1685(a)(2), the modification clarifies that the instrument used to determine Brix value is a sugar scale Brix hydrometer. The heading in Table IV is modified to specify container volume, and "large seeds, detached seeds, and tough skins" are added as texture defects in Tables VI, VII, and VIII. In view of this, USDA has determined that reproposal of these U.S. grade standards for pickles based on a vinegar solution as the packing medium is well founded. The term "vinegar solution" has been used to replace "acid medium solution" and "other food grade acids" throughout the entire proposal.

For the reasons outlined above, a modified proposal of the revision of the U.S. grade standards for pickles is being published to offer interested parties the opportunity to comment.

The modified proposed rule follows a uniform format consistent with recent revisions of other U.S. grade standards. The proposed format is designed to provide industry personnel and USDA Agricultural Commodity Graders with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables replace, where appropriate, some of the textual description in existing standards.

These changes would promote better understanding and more uniform application of the standards. Modifications to appropriate sections of the current standards have been proposed to conform with these changes.

As was proposed, this modified proposal also replaces dual grade nomenclature with single letter designations. Under this proposal, "U.S. Grade A" (or U.S. Fancy) and "U.S. Grade B" (or U.S. Extra Standard) become "U.S. Grade A" and "U.S. Grade B" respectively.

After reviewing all the information, the USDA has determined that this proposed rule would facilitate trade between processors and buyers and improve the marketing of pickles.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food grades and standards.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

2. The Subpart—United States Standards for Grades of Pickles, 7 CFR 52.1681–52.1702 is revised as §§ 52.1681–52.1692 to read as follows:

Subpart—United States Standards for Grades of Pickles

Sec.

52.1681 Product description.
52.1682 Styles of pickles.
52.1683 Types of pack.
52.1684 Sizes of whole pickles.
52.1685 Definitions of terms.
52.1686 Recommended fill of container
52.1687 Quantity of pickle ingredient.
52.1688 Sample unit size
52.1689 Grades.
52.1690 Factors of quality.
52.1691 Requirements for grades.
52.1692 Determining the grade of a lot.

§ 52.1681 Product description.

Pickles means the product prepared entirely or predominantly from cucumbers (Cucumis sativus L). Clean, sound ingredients are used that may or may not have been previously subjected to fermentation and curing in a salt brine. The prepared pickles are packed in a vinegar solution that may contain other vegetables, nutritive sweeteners, seasonings, flavorings, spices, and other ingredients permissible under the Federal Food, Drug, and Cosmetic Act. The product is packed in commercially suitable containers and may be heat treated, or otherwise processed, to assure preservation.

§ 52.1682 Styles of pickles.

(a) *Whole style* means the pickles are whole and are relatively uniform in diameter as indicated in Table II of § 52.1684.

(b) *Whole, mixed sizes style* means the pickles are whole pickles of mixed sizes.

(c) *Sliced lengthwise style* means the pickles are cut longitudinally into halves, quarters, or other triangular shapes (spears, strips, or fingers), or otherwise into units with parallel surfaces with or without ends removed.

(d) *Sliced crosswise, Crosscut, or Waffle cut style* means the pickles are cut into slices transversely to the longitudinal axis. The cut surfaces may have flat-parallel or corrugated-parallel surfaces.

(e) *Cut style* means the pickles are cut into chunks or pieces that are of various sizes and shapes.

(f) *Relish style* means finely cut or finely chopped pickles containing no less than 60 percent of cucumber ingredient and may contain other vegetable ingredients (cauliflower, onions, pepper, tomatoes, cabbage, olives, mustard or any other suitable vegetable)

§ 52.1683 Types of pack.

(a) *Cured type.* The pickles are cured by natural fermentation in a salt brine solution and may contain the dill herb or extracts thereof. The pickle ingredient may be partially desalted and then processed or preserved in a vinegar solution with other ingredients (spices, flavorings, firming and preserving agents) that constitute the characteristics of the particular type of pickle. The characteristics of the various types of cured pickles are as follows:

(1) *Dill pickles* (natural or genuine) are cucumbers that are cured in a brine solution with dill herb and other flavoring agents.

(2) *Dill pickles* (processed) are brine-cured pickles that have undergone a freshening process and are packed in a vinegar solution with dill flavoring and other flavoring agents.

(3) *Sour pickles* are cured pickles that are packed in a vinegar solution with or without spices.

(4) *Sweet pickles and mild sweet pickles* are cured pickles that are packed in a vinegar solution with suitable nutritive sweetening ingredient(s).

(5) *Sour mixed pickles* are cured pickles that are packed in a vinegar solution. The pickles may be of any style or combination of styles other than relish and may contain other vegetable ingredients as outlined in Table I of this section or any other suitable vegetable.

(6) *Sweet mixed pickles and mild sweet mixed pickles* are cured pickles that are packed in a vinegar solution with suitable nutritive sweetening ingredient(s). The pickles may be of any style or combination of styles other than relish and may contain other vegetable ingredients as outlined in Table I of this section or any other suitable vegetable.

(7) *Sour mustard pickles or sour chow chow pickles* are cured pickles of the same styles and ingredients as sour mixed pickles except the pickles are packed in a prepared mustard saucse of proper consistency with or without spices and flavorings.

(8) *Sweet mustard pickles or sweet chow chow pickles* are cured pickles of the same styles and ingredients as sweet mixed pickles except the pickles are packed in a sweetened, prepared mustard sauce of proper consistency with or without spices and flavorings.

(9) *Sour pickle relish* consists of finely cut or chopped cured pickles that are packed in a vinegar solution. Sour pickle relish may contain other chopped or finely cut vegetable ingredients as listed in Table I of this section, and may contain a stabilizer such as a starch or gum.

(10) *Sweet pickle relish and mild sweet pickle relish* are finely cut or chopped cured pickles that are packed in a vinegar solution with a suitable nutritive sweetening ingredient(s) Sweet pickle relish and mild sweet pickle relish may contain other chopped or finely cut vegetable ingredients as listed in Table I of this section and may contain a stabilizer such as a starch or gum.

(11) *Hamburger relish* consists of relish style pickles and other chopped or finely cut vegetable ingredients as listed in Table I of this section with tomato product added.

(12) *Mustard relish* consists of sweet pickle relish with mustard and other chopped or finely cut vegetable ingredients as listed in Table I of this section.

(13) *Dill relish* consists of relish style pickles containing dill flavoring and other chopped or finely cut vegetable ingredients as listed in Table I of this section.

(b) *Fresh-pack type.* The pickles are prepared from uncured, unfermented cucumbers and are packed in a vinegar solution with other ingredients to produce the characteristics of the particular type of pack. The pickles are sufficiently processed by heat to assure preservation of the product in hermetically sealed containers. The distinguishing characteristics of the various types of fresh-pack pickles are as follows:

(1) *Fresh-pack dill pickles are pickles that are packed in a vinegar solution with dill flavoring.*

(2) *Fresh-pack sweetened dill pickles* are pickles that are packed in a vinegar solution with nutritive sweetening ingredient(s) and dill flavoring.

(3) *Fresh-pack sweetened dill relish* consists of finely cut or chopped pickles packed in a vinegar solution with suitable nutritive sweetening ingredient(s) and dill flavoring. The relish may contain other finely cut or chopped vegetable ingredients as listed in Table I of this section.

(4) *Fresh-pack sweet pickles and fresh-pack mild sweet pickles* are pickles that are packed in a vinegar solution with nutritive sweetening ingredient(s).

(5) *Fresh-pack sweet pickle relish and fresh-pack mild sweet pickle relish* consists of finely cut or chopped pickles that are packed in a vinegar solution with suitable nutritive sweetening ingredient(s). The relish may contain other finely cut or chopped vegetable ingredients as listed in Table I of this section.

(6) *Fresh-pack hamburger relish* consists of relish style pickles and other chopped or finely cut vegetable ingredients as listed in Table I of this section with tomato product added.

(7) *Fresh-pack mustard relish* consists of sweet pickle relish with mustard and

other chopped or finely cut vegetable ingredients as listed in Table I of this section.

(8) *Fresh-pack dill relish* consists of relish style pickles containing dill flavoring and other chopped or finely cut vegetable ingredients as listed in Table I of this section.

(9) *Fresh-pack dietetic pickles* are pickles that are packed with or without the addition of sweetening ingredient(s), salt (NaCl), or other suitable ingredient(s), as declared and permitted under the Federal Food, Drug, and Cosmetic Act for foods purporting to be for special dietary uses.

(c) *Refrigerated type.* The pickles are prepared from fresh cucumbers and are packed in a vinegar solution with other ingredients to produce the fresh crisp characteristic of refrigerated type pack. The pickles are preserved by acidification to a pH of 4.6 or below. They are stored, distributed, and displayed under refrigeration and may or may not contain one or more chemical preservatives. The various types of refrigerated pickles are the same as the types listed for fresh-pack type in paragraph (b) of this section with respect to ingredients except that they conform to the requirements for refrigerated type.

TABLE I.—PROPORTIONS OF PICKLE INGREDIENTS IN CERTAIN TYPES AND STYLES

Pickle ingredients and style	Cured; fresh-pack; and refrigerated types	
	Sour mixed; sweet mixed; and mild sweet mixed; sour mustard or sour chow chow; sweet mustard or sweet chow chow	Sour pickle relish; sweet pickle relish; dill relish; hamburger relish; mustard relish
	Percent by weight of drained weight of product	
Cucumbers, any style other than relish	60 to 80 percent	
Cucumbers, chopped or finely cut		60 to 100 percent.
Cauliflower, pieces	10 to 30 percent	
Cauliflower, chopped or finely cut		30 percent maximum (Optional).
Onions, whole (maximum diameter of 1¼ inch), sliced or cut	5 to 12 percent	
Onions, chopped or finely cut		12 percent maximum (Optional).
Green tomatoes, whole or pieces	10 percent maximum (Optional)	
Green tomatoes, chopped or finely cut		10 percent maximum (Optional).
Red, green, or yellow peppers, or pimientoes, cut, finely cut or pieces	Optional	Optional
Celery	Optional	
Cabbage	Optional	Optional
Olives	Optional	Optional
Tomato Paste	Optional	Required in hamburger relish.
Mustard or prepared mustard	Required in chow chow and mustard pickles	Required in mustard relish, optional in hamburger relish.

§ 52.1684 Sizes of whole pickles.

Sizes of whole pickles are based on the diameter and the relationship of diameter to the count per gallon. Size designations, applicable counts, and diameters are outlined in Table II of this subpart. The diameter of a whole cucumber in the shortest diameter at the greatest circumference measured at right angles to the longitudinal axis of the cucumber.

TABLE II.—SIZES OF PROCESSED WHOLE PICKLES

Word Designation	Approximate counts in—					
	Diameter	Glass			Metal	
		1 qt.	½ gal.	1 gal.	No. 10	No. 12 (1 gal.)
Midget	19 mm. (75 in) or less	67 or more	135 or more	270 or more	202 or more	270 or more.
Small gherkin	Up to 2.4 cm. (.94 in)	33 to 66	67 to 134	135 to 269	101 to 201	135 to 269.
Large gherkin	Up to 2.7 cm (1.06 in)	16 to 32	32 to 66	65 to 134	48 to 100	65 to 134.
Small	Over 2.7 cm (1.06 in) but not over 3.5 cm (1.38 in).	10 to 15	20 to 31	40 to 64	30 to 47	40 to 64.
Medium	Over 3.5 cm but not over 3.8 cm (1.50 in).	6 to 9	13 to 19	26 to 39	19 to 29	26 to 39.
Large	Over 3.8 cm but not over 4.4 cm (1.73 in).	4 to 5	9 to 13	18 to 25	13 to 18	18 to 25.
Extra large	Over 4.4 cm (1.73 in)	2 to 3	6 to 8	12 to 17	9 to 12	12 to 17.

§ 52.1685 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Analytical definitions* refer to analytical laboratory requirements.

(1) *Acid* means total acidity of a safe and suitable organic acid(s) calculated as acetic acid in accordance with the Official Methods of Analysis of the Association of Official Analytical Chemists.

(2) *Brix value (Brix)* means the percent sugar, by weight, corrected to 20 ° C.(68° F.), as determined with a sugar scale Brix hydrometer or other instrument that gives equivalent results.

(3) *Degrees Baume'* means the density of the packing medium determined with a Baume' hydrometer (modulus 145) corrected to 20 ° C.(68° F.).

(4) *Equalization* means the natural (osmotic) or simulated blending between the soluble solids of the pickle ingredient and the packing medium.

(i) *Natural equalization* means equalization brought about after a period of time has elapsed after processing as follows:

(A) Sweetened pickles are considered to be equalized 15 days or more after processing. If the pickles have been sweetened in a tank prior to packing, the pickles will be considered equalized 15 days after the sweetening process begins.

(B) Sour and dill pickles are considered to be equalized 10 days or more after processing.

(ii) *Simulated equalization* means a method of simulating equalization by comminuting the finished product in a mechanical blender, filtering the suspended material from the comminuted mixture and making the required test on the filtrate.

(5) *Total chlorides* of *salt* means the salt content expressed as grams NaCl (sodium chloride) per 100 milliliters packing medium; except that total chlorides in mustard pickles and chow chow is determined and expressed in grams NaCl per 100 grams of product.

(b) *Blemished* means any unit that is affected by discoloration, pathological injury, insect injury, or similar causes to the extent that the appearance or edibility of the product is adversely affected:

(1) *Slightly*—those blemishes which detract only slightly from the appearance of the unit;

(2) *Seriously*—those blemishes which strongly detract from the appearance or edibility of the unit.

(c) *Color.*

(1) *Good color in cured type* means the typical skin color of the pickles ranges from a translucent light green to dark green and is practically free from bleached areas. Not more than 10 percent, by weight, of the pickles may vary markedly from such typical color. In mixed pickles, chow chow pickles, and pickle relish, all of the ingredients possess a practically uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

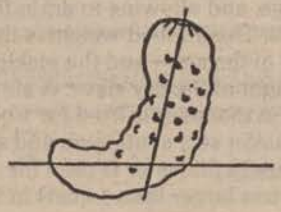
(2) *Good color in fresh-pack and refrigerated types* means the typical skin color of the pickles ranges from an opaque yellow-green to green. Not more than 15 percent, by weight, of the pickles may vary markedly from such typical color. In pickle relish, all of the ingredients possess a good uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

(3) *Reasonably good color in cured type* means the typical skin color of the pickles ranges from light green to dark green and is reasonably free from bleached areas. Not more than 25 percent, by weight, of the pickles may vary markedly from such typical color. In mixed pickles, chow chow pickles, and pickle relish, all of the ingredients possess a reasonably uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free from off-colors.

(4) *Reasonably good color in fresh-pack and refrigerated types* means the typical skin color of the pickles ranges from light yellow-green to green. Not more than 30 percent, by weight, of the pickles may vary markedly from such typical color. In pickle relish, all of the ingredients possess a good, fairly uniform color typical for the respective ingredient. The pickles and other vegetable ingredients shall be free of off-colors.

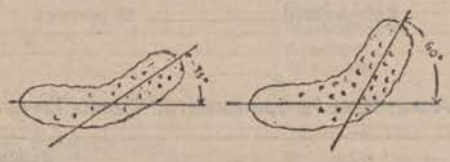
(5) *Poor color in all types of pickles* means the pickles fail to meet the requirements for good or reasonably good color for the respective type.

(d) *Crooked pickles* mean whole pickles that are curved at an angle greater than 60 degrees as illustrated by the following:



Also see the definition of misshapen.

(e) *Curved pickles* mean whole pickles that are curved at an angle of 35 to 60 degrees when measured as illustrated by the following:



(f) *Diameter* in whole style means the shortest diameter measured transversely to the longitudinal axis at the greatest circumference of the pickle. Diameter in cross-cut style is the shortest diameter of the largest cut surface.

(g) *Defect* means an imperfection such as curved, misshapen, mechanically damaged, discolored, and other imperfection that affects the appearance of edibility of the product.

(h) *End cut* means a pickle unit intended for crosscut (sliced crosswise) style that has only one cut surface.

(i) *Extraneous Vegetable Material (EVM)* means any harmless vegetable material, other than stems, that is not normally part of the pickle ingredient. EVM such as leaves or other vegetable material not associated with proper pickle preparation or packaging is considered a defect if it affects the appearance or edibility of the product either:

(1) *Slightly*—Practically free of EVM and does not more than slightly affect the appearance or edibility; or

(2) *Materially*—Reasonably free of EVM and does not more than materially affect the appearance or edibility.

(j) *Flavor and odor.*

(1) *Good flavor and odor* means characteristic flavor and odor (e.g, characteristic dill flavor or the like) typical of properly processed pickles, for the type, that is free from objectionable flavor and odor of any kind.

(2) *Reasonably good flavor and odor* means flavor and odor that may be lacking in characteristic flavor for the type but is free from objectionable flavor and odor.

(3) *Poor flavor and odor* means flavor and odor that fails to meet the requirements for reasonably good flavor.

(k) *Length* in sliced lengthwise style means the longest measurement at the approximate longitudinal axis.

(l) *Mechanical damage* refers to crushed or broken units that affect the appearance of the units. In relish, mechanical damage refers to units which are poorly cut and have a ragged or torn appearance.

(m) *Misshapen pickles* mean whole pickles that are crooked or otherwise deformed (such as nubbins). Also see the definition for crooked pickles.

(n) *Nubbin* is a misshapen pickle that is not cylindrical in form, is short and stubby, or is not well developed.

(o) *Texture* means the firmness, crispness, and condition of the pickles and any other vegetable ingredient(s) and freedom from large seeds, detached seeds, and tough skins that may be present. The following terms also relate to texture:

(1) *Hollow centers* in whole style, means the pickles, when cut transversely to the longitudinal axis, are missing ⅓ or more of the seed cavity.

(2) *Soft, shriveled, and slippery units* refers to pickles that are wrinkled, not crisp, slick, flabby, or lack firmness.

(3) *Good texture* means the pickle units have been properly processed and possess a texture that is firm and crisp.

(4) *Reasonably good texture* means the pickle units have been properly processed but lack some of the firmness and crispness that is characteristic for the style and type of pack.

(5) *Poor texture* means the pickle units do not meet the requirements for reasonably good texture.

(p) *Uniformity of size (relish style only).*

(1) *Practically uniform in size* means the size of the units may vary moderately in size but not to the extent that the appearance or the eating quality is seriously affected.

(2) *Poor uniformity of size* means the units fail the requirements for practically uniform.

(q) *Unit* means one whole, half, slice, or piece of pickle as applicable for the style.

(r) *Units missing ⅓ or more of the seed cavity* in crosscut style means pickles that have lost a substantial portion of the seed cavity such as a crosscut unit missing ⅓ or more of the seed cavity portion.

§ 52.1686 Recommended fill of container.

The recommended fill of container is not a factor of quality for the purposes of these grades. Each container of pickles should be filed with pickle ingredient, as full as practicable, without impairment of quality. The product and packing medium should occupy not less than 90 percent of the total capacity of the container.

§ 52.1687 Quantity of pickle ingredient.

(a) The recommended minimum quantity of pickle ingredient is designated as the percentage of the declared volume of product in the container for all items except pickle relish. Minimum quantity of pickle relish is designated as a relationship of the drained weight of the pickle ingredient to the declared volume of the container. The minimum quantities recommended in Tables III and IV of this section are not factors of quality for the purposes of these grades.

(b) The percent volume of pickle ingredient is determined for all styles, except relish, by one of the following methods in accordance with the procedures prescribed by the Processed Products Branch, Fruit and Vegetable Division:

(1) Direct displacement (overflow-can method);

(2) Displacement in a graduated cylinder;

(3) Measurement of pickle liquid;

(4) Any other method that gives equivalent results and is approved by the Processed Products Branch, Fruit and Vegetable Division.

(c) Drained weight/volume. The percent weight/volume (w/v) of relish shown in Table IV of this section, is determined as follows: The drained weight of pickle relish of all types is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937 inch ±3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for 2 minutes. The drained weight is the weight of the sieve and the pickles less the weight of the dry sieve. A sieve 8 inches in diameter is used for 1 quart and smaller size containers and a sieve 12 inches in diameter is used for containers larger than 1 quart in size.

Table III.—*Recommended Pickle Ingredient, All Styles Except Relish*

Type of Pack:	*Minimum fill (volume)*
Cured	55 percent.
Fresh-Pack	57 percent.
Refrigerated	57 percent.

Table IV.—*Recommended Drained Weight To Container Volume, Relish*

Type of Pack:	*Minimum fill (weight/volume)*
Cured:	
Sweet	92 percent.
Other than sweet	88 percent.
Fresh-pack:	
Sweet	85 percent.
Other than sweet	80 percent.

§ 52.1688 Sample unit size.

For all styles of pickles and types of pack, the sample unit used in analyzing the quality factors is the entire contents of the container unless otherwise specified in 7 CFR Part 52.1–52.83.

§ 52.1689 Grades.

(a) *U.S. Grade A* is the quality of pickles that meets the applicable requirements of Tables, V, VI, VII, VIII, IX, X, and XI of § 52.1691 and scores not less than 90 points.

(b) *U.S. Grade B* is the quality of pickles that meets the applicable requirements of Tables, V, VI, VII, VIII, IX, X, or XI of § 52.1691 and scores not less than 80 points.

(c) *Substandard* is the quality of pickles that fails the requirements of U.S. Grade B.

§ 52.1690 Factors of quality.

The grade of pickles is based on the following quality factors:

(a) Analytical requirements in Table V of § 52.1691;

(b) Flavor and odor;

(c) Color;

(d) Uniformity of size;

(e) Defects; and

(f) Texture.

§ 52.1691 Requirements for grades.

TABLE V.—ANALYTICAL REQUIREMENTS,[1] CURED TYPE, ALL STYLES

	Total acidity expressed as acetic acid g/100 ml, unless otherwise indicated Maximum	Total chlorides expressed as NaCl grams/100 ml, unless otherwise indicated Maximum	Degrees Brix Minimum	Degrees Baumé Minimum
Dills (natural, genuine, or processed)	1.1	5.0		
Sour, sour mixed, dill pickle relish, sour relish	2.7	5.0		
Sweet whole, sweet mixed, and sweet relish	2.7	3.0	27.0	15.0
Mild sweet, mild sweet mixed, mild sweet relish			20.0	12.0
Sour mustard or sour chow chow	[2] 2.7	[2] 3.0		
Sweet mustard or sweet chow chow	[2] 2.7	[2] 3.0	28.0	15.5

[1] All pickle products must have an equilibrated pH of 4.6 or below.
[2] Expressed as "grams/100 grams'."

FRESH PACK AND REFRIGERATED TYPES, ALL STYLES

	Maximum	Maximum
Dills	1.1	4.25
Sweetened dills	1.1	4.25
Sweetened dill relish	1.1	4.25

FRESH PACK AND REFRIGERATED TYPES, ALL STYLES—Continued

	Maximum	Maximum
Sweet and Mild sweet relish	1.65	2.75
Sweet and Mild sweet pickles	1.65	2.75

FRESH PACK AND REFRIGERATED TYPES, ALL STYLES—Continued

	Maximum	Maximum
Dietetic		

TABLE VI.—QUALITY REQUIREMENTS WHOLE STYLE

	Grade A		Grade B	
	Maximum (by count)	Score (points)	Maximum (by count)	Score (points)
Flavor and Odor	Good		Reasonably good [1]	
Color	Good	18–20	Reasonably good [1]	16–17
Uniformity of Size [2]		18–20		16–17
Diameter variation:				
Midget & Gherkin [over 8 mm (.31 in)]	10 percent		20 percent	
Small & Medium [over 10 mm (.39 in)]	10 percent		20 percent	
Large & Extra Large [over 12 mm (.47 in)]	10 percent		20 percent	
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	
Curved pickles	10 percent		20 percent	
Misshapen	5 percent		15 percent	
Mechanical damage	10 percent		15 percent	
Attached stems [over 2.5 cm (.98 in)]	10 percent		20 percent	
EVM	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Large seeds, detached seeds, tough skins	Practically free		Reasonably free	
Soft, shriveled, & slippery units	5 percent		10 percent	
Hollow centers	15 percent		25 percent	
Total Score (minimum)		90		80

[1] Cannot be graded above U.S. Grade B, regardless of the total score.
[2] Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score.

TABLE VII.—QUALITY REQUIREMENTS WHOLE STYLE, MIXED SIZES

	Grade A		Grade B	
	Maximum (by count)	Score (points)	Maximum (by count)	Score (points)
Flavor and Odor	Good		Reasonably good [1]	
Color	Good	18–20	Reasonably good [1]	16–17
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	
Curved pickles	10 percent		20 percent	
Misshapen	5 percent		15 percent	
Mechanical damage	10 percent		15 percent	
Attached stems [over 2.5 cm (.98 in)]	10 percent		20 percent	
EVM	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Large seeds, detached seeds, tough skins	Practically free		Reasonably free	
Soft, shriveled, & slippery units	5 percent		10 percent	
Hollow centers	15 percent		25 percent	
Total Score (minimum) [2]		90		80

[1] Cannot be graded above U.S. Grade B, regardless of the total score.
[2] Total score is adjusted by dividing the total score by .80 to allow for the absence of the quality factor of uniformity of size in whole mixed sizes style.

TABLE VIII.—QUALITY REQUIREMENTS SLICED LENGTHWISE STYLE

	Grade A		Grade B	
	Maximum (By Count)	Score (points)	Maximum (By Count)	Score (points)
Flavor and Odor		Good [1]	Reasonably good [1]	
Color	Good	18–20	Reasonable good [1]	16–17
Uniformity of Size [2]	Good	18–20		16–17
Length variation over 2.6 cm (1.02 in)	10 percent		20 percent	
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	

TABLE VIII.—QUALITY REQUIREMENTS SLICED LENGTHWISE STYLE—Continued

	Grade A		Grade B	
	Maximum (By Count)	Score (points)	Maximum (By Count)	Score (points)
Mechanical damage	10 percent		15 percent	
Attached stems [over 2.5 cm (.98 in)]	10 percent		20 percent	
EVN	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Large seeds, detached seeds, tough skins	Practically free		Reasonably free	
Soft, shriveled, & slippery units	5 percent		10 percent	
Total score (minium)		90		80

[1] Connect be graded above U.S. Grade B, regardless of the total score.
[2] Pickles that are Substandard for uniformity of size cannot be graded above U.S Grade B, regardless of the total score

TABLE IX.—QUALITY REQUIREMENTS SLICED CROSSWISE OR CROSSCUT STYLE

	Grade A		Grade B	
	Maximum (by count)	Score (points)	Maximum (by count)	Score (points)
Flavor and Odor	Good		Reasonably good [1]	
Color	Good	18–20	Reasonably good [1]	16–17
Uniformity of Size [2]		18–20		16–17
Diameter over 5.4 cm (2.13 in)	10 percent		20 percent	
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	
Mechanical damage	15 percent		25 percent	
Broken pieces & end cuts	10 percent		15 percent	
Thickness over 10 mm (.38 in)	10 percent		15 percent	
Attached stems over 2.5 cm (.98 in)	10 percent		15 percent	
Units missing ⅓ seed cavity	10 percent		15 percent	
EVM	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Soft, shriveled, & slippery units	5 percent		10 percent	
Large objectionable seeds, detached seeds, & tough skins	Practically free		Reasonably free [1]	
Total Score (minimum)		90		80

[1] Cannot be graded above U.S. Grade B, regardless of the total score
[2] Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score

TABLE X.—QUALITY REQUIREMENTS CUT STYLE

	Grade A		Grade B	
	Maximum (by count)	Score (points)	Maximum (by count)	Score (points)
Flavor and Odor	Good		Reasonably good [1]	
Color	Good	18–20	Reasonably good [1]	16–17
Uniformity of size [2]		18–20		16–17
Small pieces 5 g or less	5 percent		10 percent	
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	
Mechanical damage	10 percent		15 percent	
Attached stems over 2.5 cm (.98 in)	10 percent		15 percent	
EVM	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Soft, shriveled, & slippery units	5 percent		10 percent	
Large objectionable seeds, detached seeds, & tough skins	Practically free		Reasonably free [1]	
Total Score (minimum)		90		80

[1] Cannot be graded above U.S. Grade B, regardless of the total score
[2] Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score

TABLE XI.—QUALITY REQUIREMENTS RELISH

	Grade A		Grade B	
	Maximum (By Weight)	Score (points)	Maximum (By Weight)	Score (points)
Flavor and Odor	Good		Reasonably good [1]	
Color	Good	18–20	Reasonably good [1]	16–17

TABLE XI.—QUALITY REQUIREMENTS RELISH—Continued

	Grade A		Grade B	
	Maximum (By Weight)	Score (points)	Maximum (By Weight)	Score (points)
Uniformity of Size [2]		18–20		16–17
Overall appearance	Good		Reasonably good [1]	
Defects	Practically free	27–30	Reasonably free [1]	24–26
Blemished (Slightly & Seriously)	15 percent		25 percent	
Blemished (Seriously)	5 percent		10 percent	
Poorly cut	10 percent		15 percent	
Loose stems over 3 mm (.12 in)	10 percent		15 percent	
FVM	Practically free		Reasonably free [1]	
Texture	Good	27–30	Reasonably good [1]	24–26
Soft, shriveled, & slippery units	5 percent		10 percent	
Large objectionable seeds, detached seeds, & tough skins	Practically free		Reasonably free [1]	
Total Score (minimum)		90		80

[1] Cannot be graded above U.S. Grade B, regardless of the total score.
[2] Pickles that are Substandard for uniformity of size cannot be graded above U.S. Grade B, regardless of the total score

§ 52.1692 Determining the grade of a lot.

The grade of a lot of pickles covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, and Related Products (7 CFR 52.1 through 52.83).

Dated: May 4, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89–11147 Filed 5–9–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 917

[Docket No. FV–89–036]

Fresh Pears, Plums, and Peaches Grown In California; Modification of a Proposed Rule Redefining Producer Representation Areas and Changing the Representation on the Peach Commodity Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule-modified.

SUMMARY: This proposed rule modifies a proposal published in the **Federal Register** on March 7, 1989, which made changes in representation areas and producer representation on the Peach Commodity Committee (committee). Such changes reduced the number of representation areas from six to five by combining two areas ("f" and "d") and assigning the combined area nine member positions on the committee. The modification is being issued based on a comment received from the committee. In its comment, the committee indicated that Area "f" should have been combined with Area "e", not Area "d". The modified proposal is needed to provide equitable representation on the committee based upon the proportionate quantity of fruit shipped from each representation area.

DATE: Comments must be received by May 22, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Order No. 917 (7 CFR Part 917) regulating the handling of fresh pears, plums and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Department Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small business will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 325 peach handlers currently regulated under Marketing Order 917 and approximately 840 peach producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers of California peaches may be classified as small entities.

The production area for California peaches is divided into six representation areas for the purpose of producer representation on the 13-member committee. The current representation areas and committee representation for those areas are specified in paragraphs (a) through (f) of § 917.22 as follows:

(a) South Coast District and Southern California District: one nominee.

(b) Tehachapi District and Kern District: one nominee.

(c) Tulare District: one nominee.

(d) Fresno District: eight nominees.

(e) Stanislaus District and Stockton District: one nominee.

(f) All of the production area not included in paragraphs (a) through (e) of this section: one nominee.

Paragraph (g) of § 917.35 of the order authorizes each commodity committee, with the approval of the Secretary, to

change the representation of any representation area. Any such change must be based, so far as practicable, upon the proportionate quantity of peaches shipped from the respective representation area during the three preceding fiscal periods. In addition, and again so far as practicable, a member position should be assigned to any representation area from which five percent of regulated shipments have originated during such periods.

On November 17, 1988, the committee unanimously recommended that Area "f" (the balance of the State) be combined with Area "e" (Stanislaus and Stockton Districts) and that the member position serving Area "f" be assigned to Area "d" (Fresno District). The original proposed rule published on March 7, 1989 [54 FR 9457], incorrectly combined Area "f" with Area "d". The original proposal provided a 30-day comment period ending April 6, 1989. The committee submitted a written comment on this proposal indicating that Area "f" should have been combined with Area "e", not Area "d". The requested change would be made in new § 917.120 to provide representation that is more nearly based upon the proportionate quantity of peaches shipped from each representation area during the preceding three fiscal periods.

During the three year period 1986–1988, peach production totaled 41,683,000 packages. During that period, Area "d" (Fresno District), with eight members, accounted for 35,590,000 packages or 85.4 percent of the total production. Area "e", with one member, accounted for 1,008,000 packages or 2.4 percent of the total production and Area "f", also with one member, accounted for 221,000 packages or only one-half of one percent of the total production.

Basing representation for the 13-member committee solely on the proportionate quantity of peaches shipped from each representation area would mean that every 7.69 percent of the total production shipped should be represented by one member of the committee. On this basis, Area "d", which accounted for 85.4 percent of the total production shipped during the past three years, would be entitled to 11 positions on the committee and the remaining two positions would be allocated among the other five production areas. Allocating positions on the committee in this manner was considered, but the committee concluded that it was not in the program's best interest to allocate 11 positions to Area "d" because doing so would cause the committee to lose valuable input in deliberations from a large part of the production area. Combining the minimal production from Area "e" and Area "f" would create a representation area with an increased amount of production (approximately 2.9 percent of the total production), but not enough to justify more than one position on the committee. This would free one member position to be allocated to Area "d" in order to increase its representation. In its original recommendation, the committee further indicated that growers from Area "f" have had limited interest in program matters in recent years and that the persons currently representing this small region are no longer interested in serving on the committee.

In recognition of these considerations, the modified proposal is warranted and would not impose any additional costs on producers or handlers.

Based on the above, the Administrator of the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

A comment period of 10 days after the date of publication of this proposal in the **Federal Register** is deemed appropriate. The original proposal, which was published in the **Federal Register** on May 7, 1989, provided a 30-day comment period ending April 6, 1989. One comment from the committee was received concerning the proposal and that comment is addressed in this action. This modified proposal does not change the overall number of positions allocated to representation area. It only modifies the original proposal to accurately reflect the committee's recommendation with respect to combining the existing representation areas. Accordingly, a 10-day comment period is deemed adequate so that any change to the regulations, if adopted pursuant to this action, may be implemented as soon as possible.

Lists of Subjects in 7 CFR Part 917

Marketing agreements and order, Pears, Plums, Peaches, California.

For the reasons set forth in the preamble, 7 CFR Part 917 is proposed to be amended as follows:

PART 917—FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 917 continues to read as follows:

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

2. New § 917.120 is added to read as follows:

§ 917.120 Changes in nomination of Peach Commodity Committee members.

Nominations for membership on the Peach Commodity Committee shall be made by growers of peaches in the respective representation areas, as follows:

(a) South Coast District and Southern California District: one nominee.

(b) Tehachapi District and Kern District: one nominee.

(c) Tulare District: one nominee.

(d) Fresno District: nine nominees.

(e) Stanislaus District, Stockton District and all of the production area not included in paragraphs (a) through (d) of this section: one nominee.

Dated: May 4, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–11146 Filed 5–9–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–53–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes, which would require inspection of the thrust reverser cables, and replacement, if necessary. This proposal is prompted by reports of inadvertent operation of the thrust reverser due to improper routing of the thrust reverser cable during production. This condition, if not corrected, could lead to an uncommanded thrust reverser selection, either on the ground or immediately prior to touchdown when the throttles are closed.

DATES: Comments must be received no later than July 3, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–53–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The

applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-53-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model BAC 1-11 200 and 400 series airplanes. There have been two reports of uncommanded thrust reverser selection while on the ground, due to damaged or worn cables. In both cases, inspection of the control system revealed that the thrust reverser cable in the stub wing had been incorrectly routed over a guard pin in the throttle control drive shaft assembly and the cable had worn through over a period of time. This condition, if not corrected could lead to an uncommanded thrust reverser selection, either on the ground or immediately prior to touchdown when the throttles are closed.

British Aerospace has issued Alert Service Bulletin 76-A-PM5978, Issue No. 1, dated November 14, 1988, which describes procedures for inspection of the thrust reverser cables to determine correct installation, and replacement of cables, if necessary. The CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection of the thrust reverser cables to determine proper installation, and replacement of the cables, if necessary, in accordance with the service bulletin previously described.

It is estimated that 60 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,400.

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

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent uncommanded thrust reverser selection, accomplish the following:

A. Prior to the accumulation of 1,500 landings or within 3 months after the effective date of this AD, whichever occurs first, inspect the thrust reverser cables to determine correct installation, in accordance with British Aerospace Alert Service Bulletin 76-A-PM5978, Issue No. 1, dated November 14, 1988.

B. If thrust reverser cables are found to be worn or damaged, or if cables are found to be incorrectly routed, replace prior to further flight, in accordance with the maintenance manual referenced in British Aerospace Alert Service Bulletin 76-A-PM5978, Issue No. 1, dated November 14, 1988.

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

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

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport,

Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 2, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-11202 Filed 5-9-89; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-29-AD]

Airworthiness Directives; CASA C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to all CASA Model C-212 series airplanes, which would require modification or removal of right rear passenger seats adjacent to the emergency exit and restriction of mounting location for the forward left passenger seat. This proposal is prompted by reports that passenger seat backs and arm rests intrude into the emergency door exit path, and passenger seats at the front of the airplane are located too close to a bulkhead. This condition, if not corrected, could impede the egress of passengers during an emergency evacuation or result in injuries to passengers from striking their heads on the bulkhead.

DATES: Comments must be received no later than June 30, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-29-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-29-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: Following an accident involving a CASA Model C-212 airplane, the National Safety Transportation Board (NTSB) investigation revealed that both the seat back and the armrest attached to the seat adjacent to the right rear emergency exit extended into the passenger exit path. The NTSB investigation also revealed that there was insufficient space between the passenger seats at the front of the airplane and the bulkhead. This condition could impede the egress of passengers during an emergency evacuation, or result in injuries to passengers from striking their heads against the bulkhead located in front of the forward passenger seat.

This airplane model is manufactured in Spain and Indonesia and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist on airplanes of this model registered in the United States, an AD is proposed that would require removal or modification of the right rear passenger seats and a restriction on the location of the left forward passenger seat to preclude mounting the seat too close (less than 35-inch clearance) to the bulkhead.

It is estimated that 43 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $8,600.

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

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, CASA Model C-212 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

CASA: Applies to all Model C-212 series airplanes, certificated in any category. Compliance is required within the next 180 days after the effective date of this AD, unless previously accomplished.

To prevent injury to passengers in the event of an emergency evacuation, accomplish the following:

A. Remove the right rear passenger seats adjacent to the emergency exit or modify the seat installation so that the projected opening of the exit is not obstructed by any part of the seat, including the seat back or armrests, in any position, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

B. Ensure that the left forward seat is installed in a position that provides clearance from the intersection of the plane of the seat cushion and the front of the seat back to hard structure, such as the bulkhead, of 35 inches or greater.

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

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

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements of this AD.

Issued in Seattle, Washington, on May 1, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-11203, Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ANM-02]

Amendment, Salt Lake City Transition Area, Salt Lake City, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Salt Lake City, Utah, 1,200 foot transition area. Additional controlled airspace is necessary to provide low altitude holding outside of Salt Lake City approach control airspace.

DATES: Comments must be received on or before June 30, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 89-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, ANM-535, Federal Aviation Administration, Docket No. 89-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ANM-02". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional controlled airspace for the low altitude holding outside of Salt Lake City Approach Control's existing airspace. The airspace is intended to segregate aircraft operating in visual flight rules conditions from other aircraft operating in instrument flight rules conditions. The area will be depicted on appropriate aeronautical charts, thereby enabling pilots to circumnavigate the area or otherwise comply with instrument flight rules procedures. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 13, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

2. Section 71.181 is amended as follows:

Salt Lake City, Utah [Amended]

On the seventh line after "to the point of beginning" remove the words "that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 41°00'00" N., on the east by long. 111°25'30" W., on the south by lat. 39°56'30" N., and on the west by the east edge of R-6402A, R-6402B, and R-6406B and long. 113°00'00" W." and replace with the following:

"That airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 41°00'00" N., on the east by longitude 111°25'30" W., on the south by latitude 39°56'30" N., to longitude 111°55'00" W., thence south to latitude 39°48'00" N., and on the west by the east edge of R-6402A, R-6402B and R-6406 and longitude 113°00'00" W."

Issued in Seattle, Washington, on April 21, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-11204 Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AEA-2]

Proposed Alteration of VOR Federal Airways; Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Federal Airway V-12 located in the state of Pennsylvania. The increase in air traffic between Philadelphia and Reading, PA, has dictated the need to realign V-12. This action would increase air safety, reduce controller workload and improve flight planning.

DATES: Comments must be received on or before June 21, 1989.

ADDRESSES: Send comments on the proposal in triplicate to:Manager, Air Traffic Division, AEA-500, Docket No. 89-AEA-2, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

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

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

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No 89-AEA-2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-12 located in the state of Pennsylvania. Due to the increase in air traffic between Philadelphia and Reading, PA, V-12 needs to be realigned. The realignment of V-12 would also facilitate air traffic control clearances thereby reducing controller workload. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

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

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

2. Section 71.123 is amended as follows:

V-12 [Amended]

By removing the words "INT Harrisburg 092° and East Texas, PA, 225° radials; to East Texas." and substituting the words "INT Harrisburg 092°T(102°M) and Pottstown, PA, 278°T(287°M) radials; to Pottstown."

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

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89-11205 Filed 5-9-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 864 and 880

[Docket No. 87P-0336]

Medical Devices; Specimen Transport and Storage Container; Proposed Exemption From Most Current Good Manufacturing Practice Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to exempt the generic type of device specimen transport and storage container from most of the current good manufacturing practice (CGMP) requirements for devices. FDA has tentatively determined that compliance with all of the CGMP requirements is unnecessary to assure that this device is safe and effective. This proposed action is being taken in response to a citizen petition.

DATES: Comments by July 10, 1989. FDA is proposing that any final rule based on this proposed rule become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Alicia B. Abbott, Center for Devices and Radiological Health (HFZ-330), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7194.

SUPPLEMENTARY INFORMATION: On September 28, 1987, Richard-Allan Medical Industries, Richland, MI 49083 submitted to FDA a petition (87P-0336) requesting that FDA exempt the petitioner's dry (empty) and prefilled specimen transport and storage containers from the CGMP regulations in 21 CFR Part 820, with the exception of §§ 820.180 and 820.198. FDA requested additional information from the petitioner, and that information was submitted on February 4, 1988.

The petitioner said that it prefills some of its specimen transport and storage containers with 10 percent neutral buffered formalin (volume-to-volume), while it repackages some dry specimen transport and storage containers for direct sale to customers. The petitioner said that none of its specimen transport and storage containers are labeled or represented as sterile devices.

The petitioner stated, and FDA agrees, that its dry and prefilled specimen transport and storage containers are encompassed by the generic type of device specimen transport and storage container classified into class I at 21 CFR 864.3250.

The petitioner believes, and FDA agrees, that the formalin fixative used to prefill some of its specimen transport and storage containers is encompassed by the generic type of device, general purpose reagent, classified into class I at 21 CFR 864.4010. According to § 864.4010(b), if a general purpose reagent is not labeled or represented as sterile, the device is exempt from the CGMP regulations, with the exception of § 820.180, with respect to the general requirements concerning records, and § 820.198, with respect to complaint files.

Further, FDA believes that the petitioner's dry specimen transport and storage containers are also encompassed by the generic type of device, specimen container, classified into class I at 21 CFR 880.6175. According to § 880.6175(b), if the device is not labeled or represented as sterile, it is exempt from the CGMP regulations, with the exception of §§ 820.180 and 820.198.

Thus, as a result of submission of the petition, FDA has identified an inconsistency in its classification regulations. The dry (empty) specimen transport and storage containers are identified in both § 864.3250 and § 880.6175. The empty specimen containers are exempt from most CGMP requirements under § 880.6175(b), but not exempt from CGMP requirements under § 864.3250. FDA believes that the petitioner's dry specimen transport and storage container is already exempt from most CGMP requirements under § 880.6175.

FDA's Proposed Response to the Petition

FDA has determined that, based upon information available to the agency and information submitted by the petitioner about current practices used in the manufacture and use of the generic type of device specimen transport and storage container (§ 864.3250), compliance with all of the requirements of the CGMP regulations is not required to assure that the device will be safe and effective and otherwise in compliance with the Federal Food, Drug, and Cosmetic Act (the act).

Accordingly, under section 520(f)(2)(C) of the act (21 U.S.C. 360j(f)(2)(C)), FDA is proposing to grant the petitioner and all other manufacturers of the generic type of device, specimen transport and storage container, classified under § 864.3250, an exemption from the CGMP regulations, with the exception of such devices labeled or represented as sterile, and with the exception of 21 CFR 820.180, with respect to general requirements concerning records, and 21 CFR 820.198, with respect to complaint files.

The agency believes that granting exemptions from these two CGMP sections would not be in the public interest, and compliance with these two sections is not unduly burdensome for device manufacturers. The requirements of §§ 820.180 and 820.198 are necessary to ensure that manufacturers have an adequate system for complaint investigation and followup. The requirements of § 820.180 are necessary to ensure that records are accessible for review and copying by authorized FDA employees. By requiring continued access to complaint files, device-related injury reports, and complaints about product defects, FDA willl be able to evaluate whether the exemption granted from the other sections of the CGMP regulations is still appropriate.

FDA believes that no device that is labeled or represented as sterile should be exempted from the device CGMP regulations. A sterile device must be subject to the entire CGMP regulations to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished during adherence to a comprehensive quality assurance program as is required by the CGMP regulations, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, and other quality assurance measures.

Although the specimen transport and storage container would, under the proposal, be exempt from most CGMP requirements, manufacturers would continue to be required to assure that the device is safe and effective and that the device is otherwise in compliance with the act and regulations. A device that is exempt from CGMP requirements would still be subject to inspection by

FDA and subject to regulatory action if the device is determined to be a hazard to health or otherwise adulterated or misbranded. FDA may amend or revoke an exemption if it determines that such action is necessary to assure that the device is safe and effective.

Additionally, to clarify and simplify its classification regulations, FDA is proposing minor clarifications of the identification of the generic type of device specimen transport and storage container and is proposing to remove § 880.6175 in its entirety, because the devices subject to § 880.6175 are also subject to § 864.3250.

Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has carefully analyzed the economic effects of this proposed rule and has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that the proposed rule does not constitute a major rule as defined in section 1(b) of the Executive Order. The effect of the proposed rule will be only to relieve an unnecessary burden on the manufacturers of the devices subject to § 864.3250.

Interested persons may, on or before July 10, 1989, submit to the Dockets Management Branch (address above) written comments regarding this proposal. 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 found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 864

Blood, Medical devices, Packaging and containers.

21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended in Parts 864 and 880 to read as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR Part 864 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

2. Section 864.3250 is revised to read as follows:

§ 864.3250 Specimen transport and storage container.

(a) *Identification.* A specimen transport and storage container, which may be empty or prefilled, is a device intended to contain biological specimens during storage and transport in order that the specimen can be used effectively for diagnostic examination. If prefilled, the device contains a fixative solution or other general purpose reagent (§ 864.4010) to preserve the condition of a biological specimen added to the container.

(b) *Classification.* Class I (general controls). If the device is not intended for over-the-counter (OTC) distribution, it is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820 of this chapter, with the exception of § 820.180, with respect to the general requirements concerning records, and § 820.198, with respect to complaint files.

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

3. The authority citation for 21 CFR Part 880 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

§ 880.6175 [Removed]

4. Section 880.6175 *Specimen container* is removed.

Dated: April 20, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-11171 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Regulatory Program; Remining

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

ACTION: Proposed rule; withdrawal.

SUMMARY: By a letter dated February 23, 1989, Kentucky withdrew an amendment to Kentucky regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) that would have established alternate permitting and performance standards for operations proposing to mine on previously mined areas (remining). These regulations were intended to implement statutes enacted by the 1986 Kentucky General Assembly. OSMRE is announcing the suspension of formal processing and will commence processing when Kentucky resubmits a formal amendment.

DATE: The proposed program amendment is withdrawn as of May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background

The Kentucky program was conditionally approved by the Secretary of the Interior effective upon publication in the May 18, 1983, **Federal Register** (47 FR 21404–21435). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register**. Other actions concerning the approval, subsequent program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16, and 30 CFR 917.17.

II. Submission and Discussion of Amendments

On September 16, 1987 Administrative Record Number KY–762), OSMRE

announced receipt and solicited public comment on the program amendment for remining. By a letter to Kentucky on January 14, 1988 (Administrative Record Number KY–789), OSMRE identified deficiencies in the program amendment as submitted. Kentucky informally submitted modified remining regulations on November 18, 1988. OSMRE provided comments to this informal amendment on January 11, 1989. By a letter dated February 23, 1989 (Administrative Record Number KY–855) Kentucky notified OSMRE that the proposed program amendment on remining is withdrawn.

The Director is announcing this withdrawal of the proposed program amendment and suspension of processing.

III. Procedural Determinations

1. National Environmental Policy Act

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

2. Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 917

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

Date: May 1, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89–11183 Filed 5–9–89; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1–89–023]

Temporary Drawbridge Operation Regulations; Kennebec River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Proposed temporary rule.

SUMMARY: At the request of the Maine Department of Transportation (Maine DOT), the Coast Guard is considering a change to the regulations governing the Carlton drawbridge over Kennebec River, at mile 14.0, between Bath and Woolwich, Maine, to extend the closure period for the evening rush hour 45 minutes and to limit the openings for recreational vessels between 6 a.m. and 6 p.m. to twice a day at 10 a.m. and 2 p.m. This temporary regulation is being proposed to examine the effect of the contemplated change on vehicular and marine traffic for 60 days from 1 June through 30 July 1989. This action should accommodate the needs of vehicular traffic, while providing for the reasonable needs of navigation.

DATE: Comments must be received on or before 25 May 1989.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, NY, 10004–5073. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, comments, data or arguments. A shortened comment period has been implemented in order to put a temporary regulation in effect on 1 June. Additionally, though the temporary regulation is in effect for only 60 days the regulation is presented in total for clarity and public comment on the entire regulation. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, First Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in light of comments received.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr., Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

Discussion of Proposed Regulations

This proposed temporary rule is being issued under 33 CFR 117.43 to evaluate suggested changes to the drawbridge regulations (33 CFR 117.525) to reduce vehicular traffic congestions caused by the opening of the bridge during the summer months. On 2 August 1988, the Coast Guard published a final temporary rule to limit the bridge openings within 30 minutes of each other and to extend the evening rush hour forty-five minutes for 60 days commencing 8 August through 6 October 1988. The Commander, First Coast Guard District published the proposal as a Public Notice 1–669 dated 8 August 1988. Implementation of the first temporary regulation was conducted after the peak of the boating season which did not permit a complete evaluation of the situation. Statistics provided by Maine DOT indicated that the first temporary regulation did not significantly improve the traffic problem. As a result, the State and local officials requested that the proposed temporary regulation be evaluated during the summer months to determine if the changes will substantially improve vehicular traffic without restricting marine traffic.

Economic Assessment and Certification

These proposed temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The intent of this temporary regulation is to collect information to assess how the regulations would accommodate vehicular traffic to and from Bath Iron Works and local parks in the summer when tourist traffic is at its peak. The draw will continue to open on signal for inbound commercial fishing vessels.

Since the economic impact of this proposal is expected to be minimal the Coast Guard certifies that, if adopted, it will not have a significant economic

impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.525(a) is revised for the period of June 1, 1989 through July 30, 1989 to read as follows:

§ 117.525 Kennebec River.

(a) The draw of the Carlton highway-railroad bridge, mile 14.0 between Bath and Woolwich shall open as follows:

(1) On signal as soon as possible at all times for vessels owned or operated by the United States Government, State and local vessels used for public safety, vessels in distress, and inbound loaded commercial fishing vessels.

(2) Year-round the draw need not open from 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 5:30 p.m., Monday to Friday excluding holidays except for vessels noted in paragraph (a)(1) of this section.

(3) From 1 June through 30 September:

(i) On signal at all times for commercial vessels except as noted in paragraph (a)(2) of this section;

(ii) For recreational vessels on signal except that from 6 a.m. to 6 p.m. openings only at 10 a.m. and 2 p.m.

(4) From 15 April through 30 May and 1 October through 15 November open on signal:

(i) From 3 a.m. to 7 p.m., except as noted in (a)(2);

(ii) From 7 p.m. to 3 a.m. if four hours notice is given.

(5) From 16 December through 14 February open on signal, except as noted in paragraph (a)(2) of this section, if 24 hours notice is given.

* * * * *

Dated: May 2, 1989.

R.O. Buttrick,

Captain, U.S. Coast Guard Acting Commander, First Coast Guard District.

[FR Doc. 89–11128 Filed 5–9–89; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3560–3]

Approval and Promulgation of Air Quality Implementation Plans, Texas; Disapproval of Alternate Means of Control for General Motors-Arlington Assembly Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposed to disapprove an Alternate Means of Control (AMOC) adopted by the Texas Air Control Board (TACB) for the control of volatile organic compound (VOC) emissions from the surface coating operations at the General Motors Corporation (GM) facility in Arlington, Tarrant County, Texas. The AMOC was submitted by the State of Texas on May 1, 1987, as a revision to the Tarrant County Ozone State Implementation Plan (SIP). The intended effect of this action is to propose disapproval of the SIP revision for GM-Arlington under section 110 of the Clean Air Act (CAA).

This AMOC was adopted by Texas per TACB Rule 115.401. It defines the procedure GM-Arlington will use to demonstrate that it is meeting the requirements of TACB Rule 115.191(8) which is an approved part of the Texas Ozone SIP. This is termed an equivalency demonstration. EPA is disapproving this equivalency demonstration because of the following four major flaws: (1) The AMOC incorrectly allows the averaging of topcoat and final repair coating process emissions together to demonstrate compliance with the emission limits in Rule 115.191(8) when these two lines are considered to be separate and distinct, (2) the AMOC incorrectly allows computing daily emissions from the plant's primer-surfacer coating operation as an average over a 30-day period rather than requiring daily compliance, (3) the AMOC does not fully implement EPA's protocol for determining the daily compliance of the topcoat coating operation, and (4) the AMOC fails to provide for sufficient testing to quantify the VOC emissions captured in the spray booths and ovens and destroyed through incineration.

DATE: Comments must be received on or before June 9, 1989.

ADDRESSES: Written comments should be sent to Thomas H. Diggs, Chief, SIP/New Source Section (6T–AN), U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the SIP and EPA's evaluation report (EPA Evaluation Report for Disapproval of Alternate Means of Control for the General Motors-Arlington Assembly Plant, Revised November 1988) are available for public inspection during normal business hours at the following locations: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, (512) 451–5711; and U.S. Environmental Protection Agency, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202. Those wishing to view the document at the EPA office are requested to contact the person named below at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Jim Callan, Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 655–7214 or FTS 255–7214.

SUPPLEMENTARY INFORMATION:

Background

On March 25 1980, (45 FR 19231), EPA approved TACB Regulation V, Rule 115.191, "Surface Coating Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties," as a revision to the Texas SIP. Rule 115.191(8) (A) and (B) prohibit operation of certain automobile and light-duty truck coating (painting) facilities unless they limit emissions of volatile organic compounds (VOC) on the basis of solvent content per gallon of coating (minus water), or by the use of "add-on" control equipment such as carbon adsorption systems or incineration systems. Automobile surface coating operations are a Group I Control Technique Guideline (CTG) source of VOC emissions. Sources subject to the Rule such as GM-Arlington were to be in compliance by December 31, 1986.

Arlington is in Tarrant County, Texas, an ozone nonattainment area originally planned to reach attainment by December 31, 1982, but which failed to do so. Due to this failure to reach attainment, EPA in 1984 required TACB to develop an acceptable control strategy for attainment in Tarrant County by December 31, 1987 (This action by EPA is called a "SIP Call").

TACB submitted a revised control strategy for Tarrant County during late 1985 and early 1986 to EPA as a revision to the SIP. EPA reviewed this proposed SIP control strategy revision ("Post–82 SIP"), but found that it was inadequate to attain the ozone standard by December 31, 1987. In an action on July 14, 1987 (52 FR 26421), EPA proposed disapproval of SIPs for fourteen ozone nonattainment areas needing but lacking approved attainment demonstrations. One area in this group was Tarrant County. Such a disapproval might impose sanctions in those areas.

In an attempt to correct this deficient SIP, TACB approved on December 18, 1987, additional VOC emission controls and a revised control strategy to demonstrate attainment by December 31, 1991, in Tarrant County. This revised strategy is called the Post–82 "Interim SIP". In spite of these additional control measures, this revised ozone control strategy for Tarrant County is not fully approvable due to a variety of reasons, including the use of a 1983 VOC emission inventory as the baseline for the attainment demonstration and of past air quality data. The Administrator determined that Texas made a good effort in developing the Interim SIP, and therefore deferred imposition of sanctions in Tarrant County. This deferral was addressed in the Administrator's March 28, 1988, letter to John Blair, Chairman of the TACB, and a **Federal Register** notice on this issue is forthcoming.

Over the period of 1985–1987, Tarrant County had an ozone design value of 0.14 ppm. Exceedances of the ozone standard were as follows:

Year	Exceedances
1985	8
1986	5
1987	2

Due to the inadequacy of the Tarrant County Ozone SIP to demonstrate attainment, this County received a SIP call from EPA on May 26, 1988. At this time Tarrant County does not have a federally approved attainment demonstration.

GM-Arlington and the TACB developed a draft AMOC to bring GM's primer surfacer operations into equivalency with the SIP limitations. This proposal was submitted to the EPA for comment on October 16, 1986. After review of this proposed AMOC, EPA provided written comments to TACB concerning national policy on averaging methods and transfer efficiency on November 25, 1986. In these comments, EPA stated that GM would not be allowed to average its primer-surfacer operation VOC emissions over a long-term (monthly) basis because, in part, Tarrant County did not have an approved attainment demonstration. EPA further stated that actual transfer efficiency (TE) testing for its primer surfacer operation would be required similar to either of the in-plant TE testing methods GM has used for nearly a decade. These two comments were reiterated in a February 11, 1987, letter to the TACB for inclusion in the January 27, 1987, Public Hearing Record. In that letter, EPA also addressed a final repair and topcoat operations AMOC. This additional revision was covered in the Public Hearing, but a copy was not made available to EPA by TACB until January 29, 1987. The February 11, 1987, letter also stated that averaging of topcoat and final repair VOC emissions would be considered an emission trade or "bubble". EPA further required the topcoat AMOC to include a spray booth and oven capture efficiency testing requirement. Finally, on March 29, 1987, EPA provided oral comments before the TACB Regulation Development Committee reiterating concerns with the AMOC regarding averaging time, transfer efficiency testing, and the topcoat and final repair emission trade.

Description of Process and Proposed Equivalency Demonstration

GM-Arlington operates an automobile coating facility using solvent based lacquer paints. The three coating operations that are of issue here are the primer surfacer, topcoat, and final repair. The primer surfacer operation involves coating the body, doors, and trunk with three materials and subsequent baking in an oven. These materials are (1) the primer-surfacer material (#80–703A) consisting of Class I and Class II coatings, (2) the combination material consisting of spotter, knifeglaze, and xylene reducer, and (3) the anti-chip material. These coatings are applied with automatic, manual, and manual sprayers, respectively. The topcaot operation consists of the first, second, and third color booths and ovens in series. A sealer and topcoat are applied in the first booth, and blackout, repair, and mist coatings are applied in the remaining two color booths. The final repair area involves touch up coating of the car with manually sprayed paint.

The AMOC utilizes improved transfer efficiencies (TE) and incineration of VOC emissions in attempting to demonstrate equivalency with the State's VOC emission limits. The baseline TE for primer surfacer materials, topcoat and final repair materials is 30%. This means that of those paint solids being sprayed, 30% are assumed to be deposited on (applied to) the car, with the remainder falling as overspray. Use of equipment or practices resulting in a higher TE would require less coating to be sprayed. Both the topcoat and final repair AMOC and the primer surfacer AMOC use improved TE to attempt to demonstrate equivalency with the aforementioned limits. In addition, the topcoat AMOC requires incineration of the first color booth and oven emissions to reduce VOC emissions in attempting to demonstrate equivalency.

Review of the Revision

EPA has reviewed TACB's proposed SIP revision involving a primer surfacer AMOC and a topcoat and final repair AMOC for GM. While considerable changes have been made from previous drafts, EPA has determined that this revision is not approvable. EPA's four reasons for disapproval are described below. These concerns were announced to TACB previously as is outlined in the section of this notice titled **Background.**

(1) *Averaging Topcoat and Final Repair Emissions*: The topcoat and final repair AMOC incorrectly allows averaging topcoat process emissions with final repair process emissions to show compliance for both processes with their respective emission limits. The topcoat and final repair processes are separate and distinct coating processes in which two different types of coatings are applied in two separate areas. Separate VOC content limits appear in both the federally approved TACB Rule 115.191(8) and the CTG recommendation of RACT for automotive coating sources (EPA–450//2–77–008).

Averaging topcoat and final repair emissions is termed "cross-line averaging". Here, the use of extra emission reductions from the topcoat operation achieved through use of higher TE and incineration (discussed later) is intended to compensate for excessive emissions from the final repair operation. An equivalency demonstration must address compliance with the two emission limits separately and not allow for cross-line averaging. However, a provision is made for using extra reductions from a coating process to compensate for excessive emissions from another process and is detailed in EPA's Emission Trading Policy of December 4, 1986 (51 FR 43814). Use of this policy would require strict adherence to its guidelines and submittal to EPA for approval as a revision to the SIP. This guidance

replaces the orignal bubble policy (44 FR 71779, December 11, 1979) as well as the proposed emissions trading policy statement (47 FR 15076, April 17, 1982) which acted as interim guidance effective on that date. As is outlined below, the AMOC does not fully address these guidelines.

In accordance with the Emission Trading Policy, a bubble in a non-attainment area lacking a demonstration is approvable only if it meets the following three requirements:

(i) The baseline must be calculated using the lower of actual, SIP-allowable, or RACT-allowable values for each baseline factor, determined as of the date the source submitted the bubble application to the State.

(ii) The bubble must produce a reduction of at least 20% in the emissions remaining after application of the baseline specified above.

(iii) The State must provide assurances that the proposed trade will be consistent with its efforts to attain the ambient ozone standard. The final Emission Trading Policy (51 FR 43840, Column 1) sets out five representations that the State must make.

In review of the proposed ZIP revision for GM-Arlington, these requirements are not discussed in detail and not fully met. Briefly:

(i) The State has not demonstrated that the baseline was calculated using the lower of actual, allowable, or RACT emissions. Further, GM takes credit for improved transfer efficiencies that may have been achieved prior to its AMOC application. If this is the case, GM could not claim those credits in a bubble.

(ii) The bubble does not provide for 20% progress.

(iii) The State has not submitted the required assurances.

(2) *Monthly Averaging of Emission:* Section 110 of the Clean Air Act requires that controlling pollutant emissions be reasonably consistent with protecting the applicable ambient pollutant level standard. VOC's are a precursor for ozone, a pollutant whose National Ambient Air Quality Standard (NAAQS) is based on hourly attainment. Compliance with VOC emission limits must accordingly be determined on a short-term basis. In the case of surface coating VOC emission control, the limit is on a per-gallon coating-used basis. In some cases, this instantaneous limit may be relaxed to a daily averaged basis. Further, SIP control plans rely on actually applying RACT, hence alternative control plans that incorporate longer term averages (greater than one day) to circumvent the installation of overall RACT level controls cannot be allowed. A clarification of EPA's position is found in a January 20, 1984, memorandum from John R. O'Connor (then Acting Director of the Office of Air Quality Planning and Standards). Briefly, the criteria do not allow consideration of longer term averages for sources in nonattainment areas lacking approved SIP's until the SIP has been revised demonstrating ambient standards attainment and maintenance of Reasonable Further Progress (REP) toward attaining the standard. (Tarrant County is a nonattainment area for ozone and lacks an approved attainment demonstration.)

The primer surfacer AMOC employs monthly averaging of emissions and is therefore unacceptable. This concern is described below:

The primer surfacer equivalency demonstration is based on actual transfer efficiencies (TE) being better (higher) than the assumed TE used in interpreting the RACT VOC emission limit for primer surfacer coatings of 2.8 lbs VOC/gallon coating (less water). The CTG emission limit was based on a volume solids of 62%. The baseline TE was established as 30%. The AMOC requires a TE test at the Arlington facility. This test was conducted on November 30–December 1, 1987. The issue here is not with the TE test. The issue of concern is with the averaging time which is explained below.

Of the primer-surfacer coating operations, three of the four types of coatings, Class II primer surfacer, combination, and anti-chip all fall above the RACT limit of 15.1 lbs VOC/gal solids applied. Only Class I primer surfacer with a TE of 75% is below RACT. The equivalency depends upon averaging all these coatings together on a monthly basis which does not account for possible daily variations in the amount of each coating used. Therefore, coating usage should be tracked on a daily basis.

The AMOC does not allow for determining compliance on a daily basis and is therefore unacceptable. Since the equivalency does depend on averaging all the coatings used together on a monthly basis, it does not account for possible daily variations in the amount of each coating used. This does not satisfy EPA's requirements that compliance be demonstrated on a daily basis.

(3) *Topcoat Coating Compliance:* This equivalency demonstration is based on using improved (higher) TE and incineration of VOC emissions from the first color booth and first color oven. The State has determined that these emission reductions are sufficient to demonstrate equivalency for the entire topcoat and final repair process (this issue is discussed under the section of today's notice entitled *Averaging Topcoat and Final Repair Emissions*). This equivalency demonstration requires that monthly sums of coating usage are to be recorded. Daily use is to then be back-calculated by factoring in the fraction of total monthly production achieved each day. This daily production factor, in turn, is calculated using the actual number of cars coated each day and the assumed volume of solids applied per car for all cars.

On June 21, 1988, Gerald Emison, Director of EPA's Office of Air Quality Planning and Standards, transmitted to the EPA Regional offices copies of the "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations". Prior to this protocol, GM needed to keep actual daily coating usage records from which actual daily VOC emissions could be calculated to comply with the Texas SIP. The GM AMOC was received by EPA prior to the protocol. Therefore, the AMOC would be unapprovable because it does not require daily coating usage records. However, when judged against the June 21, 1988, protocol, the AMOC for GM would be approvable except for four deficiencies. EPA's evaluation of the proposed SIP revision for GM-Arlington is based upon this new national guidance. The four deficiencies are given as follows.

(A) The AMOC fails to require the use of EPA Reference Method 24 (40 CFR Part 60, Appendix A) with a 1 hour bake to determine the analytical VOC content of the coatings used. This is important since AMOC only requires recording the VOC content which can be assumed to mean the amount of VOC blended in per gallon at the manufacturer, known as its formulation content. The analytical content includes VOC generated during curing of the coating in an oven and subsequently emitted in addition to the formulation content.

(B) The assumed square footage to be coated per car used in the AMOC is an arithmetic average over areas of different model options. Instead, a factor specific for each model option should be used in recordkeeping to judge compliance.

(C) The AMOC incorrectly requires merely tracking the number of cars coated per day to yield the total surface area coated daily, fraction of monthly total coated each day, and total daily coating usage. Instead, the daily record of cars coated should be itemized by auto body style and by coating color. Then, the total surface area coated with each color per day, total surface area

coated with each color per month, and the total daily usage of each coating color can be calculated to account for the different volume solids and weight VOC contents among different colors.

(D) Additionally, the AMOC should require that all application equipment be tested for transfer efficiency values, or that it use assumed TE values allowed in the protocol. These assumed values may be applied to untested spray booths (i.e. other than the main booth) or to coatings not tested in the main color booth (i.e. blackout).

To correct these aforementioned deficiencies, the State may incorporate the June 21, 1988, protocol in its equivalency demonstration for GM-Arlington.

(4) *Capture Efficiency:* The topcoat and final repair AMOC allows the use of a continuous emission monitor (CEM) to determine the flow rate (lbs VOC per unit time) of VOC emissions entering and exiting both the first color booth incinerator and first color oven incinerator. The outlet VOC mass flow rates are subtracted from the inlet rates to yield the rate of VOC destruction in each incinerator. These are then deducted from the total rate of VOC usage to yield the net emissions. EPA has concerns with this method to demonstrate equivalency described in the AMOC.

This method of demonstrating equivalency is called a liquid-vapor mass balance. Mass balance denotes the concept that the mass of VOC entering a process, less that mass that accumulates in the process, equals the mass that leaves the process. The AMOC's liquid-vapor mass balance suffers two problems. First, testing should be conducted to monitor the fugitive VOC emission rate. These fugitive emissions are not routed to control devices and therefore must be quantified to ensure that the mass balance is in fact true. Second, testing should be conducted to determine the quantity and species of VOC emitted from all topcoat coatings during the curing process. This may be accomplished by requiring that all coatings be tested as per EPA Method 24 (40 CFR Part 60, Appendix A, Method 24) with subsequent gas chromatograph (GC) analysis of the vapor stream. In summary, the AMOC should require sufficient testing to determine the fugitive emissions unaccounted for during normal CEM monitoring.

Determining the amount of VOC captured should therefore be determined by a method of capture efficiency testing for the booth and oven to give the respective amounts of VOC sprayed that enter the incinerators from booth and oven. Such a compliance test should supplement the use of CEM. TACB should provide proof of the reliability of the vapor-liquid mass balance method for use in the GM-Arlington AMOC.

Proposed Action

EPA is today proposing to disapprove the alternate means of control request for the primer surfacer operation and the topcoat and final repair operations at General Motors, Arlington. The following four reasons are the basis for this disapproval:

1. The topcoat and final repair AMOC specifies the averaging of VOC emissions from these two processes to demonstrate equivalency with the requirements of the SIP when in fact the two processes are distinct and subject to different control requirements.

2. The primer surfacer AMOC specifies monthly averaging of VOC emissions to demonstrate equivalency with the SIP instead of adequately providing for daily weight averaging.

3. The AMOC fails to adequately determine daily compliance for the topcoat coating operation and should require daily coating usage records, or should be more closely modeled after the June 21, 1988, EPA guidance "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations".

4. The topcoat and final repair AMOC fails to specify adequate requirements for determining the capture and destruction of VOC emissions from the first color booth and first color oven.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it affects only one source. In addition, this action imposes no additional requirements on the source beyond what is already required under the current State Implementation Plan.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Date: December 16, 1988.

Robert E. Layton Jr.,

Regional Administrator.

Editorial note: This document was received at the Office of the Federal Register May 5, 1989.

[FR Doc. 89–11231 Filed 5–9–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL–3568–7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Envionmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing disapproval of a revision to the Michigan State Implementation Plan (SIP) for volatile organic compounds (VOC) for the James River-KVP Plant in Kalamazoo County. The revision was submitted in the form of a Stipulation for Entry and Consent Order and Final Order for the James River-KVP Plant in Kalamazoo County, which has been designated nonattainment for ozone. The Consent Order concerns VOC emissions from surface coating lines and constitutes an emissions trade (bubble) for the printing and coating lines based upon "time averaging" of emissions and the extension of compliance dates. USEPA's rulemaking action is based upon review of submittals by the State of Michigan on January 27, 1984, July 23, 1984, February 22, 1985, and April 29, 1985. USEPA is proposing disapproval of this revision for the James River-KVP Plant because it does not meet USEPA's policies and requirements on bubbles, compliance date extensions and extended averaging time.

DATE: Comments on this revision and on USEPA's proposed rulemaking action must be received on or before June 9, 1989.

ADDRESSES: Copies of the SIP revision, the technical support documents, and other materials pertaining to this revision, are available for review of at following addresses. (It is recommended that you telephone Ms. Toni Lesser, at (312) 886–6037, before visiting the Region V office).

U.S. Environmental Protection Agency, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909.

Written comments on this proposed rule should be sent to (Please submit an original and three copies, is possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Michigan Regulatory Speicalist, (312) 886–6037.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1984, the State of Michigan submitted Consent Order No. 21–1983 for the James River-KVP Plant, located in Kalamazoo County, a "rural" county, which has been designated nonattainment for ozone. The Company has three types of emission sources subject to VOC regulations in the Michigan SIP: parchment machines, solvent coater and gravure graphic arts line consisting of six rotogravure presses. The prachment machines and solvent coater are regulated by Michigan SIP Rule 336.1610. The rotogravure printing and coating operations are regulated by Michigan SIP Rule 336.1624.

Certain coating operations on these sources do not comply with the requirements of the above rules. These include: silicone coatings on the 55 parchment machine; polyester resin and silicone coatings on the solvent coater; coatings applied on the graphic arts line; and a stearato-chromium coating used on several parchment machines. James River-KVP has been developing water-based coating as a means of achieving compliance with the limits of R336.1610 and R336.1624.

Under this Order, Jame River-KVP is required to reformulate the coatings used on the 55 parchment machine and the graphic arts line to water-base inks. However, James River-KVP determined the stearato-chromium coating could not be reformulated to compliance levels. In addition, the company had difficulty reformulating coatings used on the solvent coater.

The proposed SIP revision seeks an emissions trade (or bubble) for the James River-KVP emission sources subject to Rules R336.1610 and R336.1624. Under the proposed bubble, VOC emission limits for the 55 perchment machine and graphic arts line would be made more stringent that the current SIP limits, while emission limits for the solvent coater and parchment machines during coating with the stearato-chromium coating would be relaxed. The intended effect of the proposed bubble is that total VOC emissions from these sources under the revised limits will be equivalent to or less than total emissions allowed under the current SIP.

In addition to the proposed bubble, this Consent Order would extend the final compliance dates for most of the operations beyond those set forth in the SIP. Also, this Consent Order would expand the time period over which emissions are averaged in determining compliance with the limits. This proposal would permit emissions to be averaged over a James River-KVP "fiscal period" of 28 or 35 days.

On April 20, 1984, USEPA prepared a Technical Support Document (TSD) which contains a review of the State of Michgan's January 27, 1984, submittal. Additional information for the James River-KVP Plan was submitted on May 3, 1984 and May 25, 1984. On June 18, 1984, USEPA provided the State of Michigan with comments outlining the deficiencies described in USEPA's April 20, 1984, TSD.

On July 23, 1984, the State of Michigan submitted an "Alteration" to Consent Order No. 21–1983, which establishes a maximum emission limit of 9.7 pounds of VOC per gallon of coating solids (applied over the James River-KVP fiscal period) on the solvent coater. Additional information, including a revision to the compliance determination method, was submitted by the State on February 22, 1985. USEPA prepared additional TSDs on December 17, 1986 and March 17, 1987.

Current Michigan SIP Requirements

The parchment machines and solvent coater currently are regulated by Michigan SIP Rule R336.1610, Table 63. Under this rule, emission of VOC from a paper coating line cannot exceed 2.9 pounds VOC per gallon of coating applied (or 4.8 pounds VOC per gallon of solids on a solids basis, assuming the average VOC density of such coatings as 7.36 pounds per gallon). The compliance deadline was December 31, 1982.

The graphic arts lines are currently regulated by Michigan SIP Rule R336.1624. Under this rule, each line must achieve one of the following alternative emission limits by December 31, 1982:

(a) The average weighted (per usage) volatile fraction of all inks and coatings used on a line at any given time, as applied to the substrate, shall contain a maximum of 25 percent by volume of VOC; or

(b) The average weighted (per usage) nonvolvatile fraction of all inks and coatings used on a line at any given time, as applied to the substrate, shall contain a minimum of 60 percent, minus water; or

(c) A 65 percent reduction in overall VOC emissions, expressed as pounds of VOC per pound of solids applied from the emission rate in the base year, 1978. If another year should be more appropriately deemed the base year, this may be documented by the source.

With respect to altenative limit (c) above, the rule further provides that, if a source owner demonstrates a commitment to reduce VOC emissions through reformulation of inks and coatings (in lieu of installing control equipment), the final compliance date shall be extended to December 31, 1983, but the final overall reduction in emissions must be 70 percent. James River-KVP made such a demonstration to the Michigan Department of Natural Resources (MDNR). The Company has completely converted all inks applied on its graphic arts line to water-based inks and is in the process of reformulating the silicone coating used on the 55 parchment machine and graphic arts line.

In addition, James River-KVP documented to the MDNR that 1981 was a more appropriate base year for its graphic arts line than 1978. In 1980, James River-KVP changed its product line, and the manufacture of the new products resulted in higher average emissions. Under alternative (c), VOC emissions from James River-KVP's graphic arts line should not exceed 3.6 pounds of VOC per pound of solids applied after December 31, 1983.

Emission Limits Contained in Consent Order 21–1983

Consent Order 21–1983, as revised, provides a schedule with the following final compliance dates and emission limits for the 55 parchment machine, solvent coater, graphic arts lines and stearato-chromium coating operation:

55 Parchment Machine:

- After July 1, 1985, VOC emissions from the production of single release sheet paper using silicone coating shall not exceed 0.5 pounds per gallon or solids applied on a daily basis.
- After November 1, 1985, VOC emissions from the production of remaining non-food products using silicone coatings shall not exceed 0.5 pounds per gallon of solids applied on a daily basis.
- After June 1, 1986, VOC emissions from the production of all food grade products using silicone coatings shall not exceed 0.5 pounds per gallon of solids applied on a daily basis.
- Effective immediately, a daily emissions cap from application of silicone coatings of 360 pounds of VOC per gallon of solids applied on a daily basis.

Solvent Coater:

By January 1, 1986, the Company shall

submit to the staff, in writing, their decision whether to implement water-based polyester resin and silicone coating technology, or electron beam coating technology.

If the Company implements water-based coating technology, after June 1, 1986, VOC emissions shall not exceed 9.7 pounds per gallon of solids applied, averaged over the James River fiscal period, with a daily (24-hour) cap of 2,100 pounds VOC.

If the company implements electron beam technology, after August 1, 1987, the VOC emissions from the solvent coater shall not exceed 4.8 pounds of VOC per gallon of solids applied.

Graphic Arts:

Printing—After December 31, 1983, VOC emissions shall not exceed 1.0 pound per gallon of solids applied on a daily basis.

Coating—After December 31, 1985, VOC emissions shall not exceed 2.0 pounds per gallon of solids applied, on a daily basis.

Stearato-Chromium: As of the effective date of the Oder (October 28, 1983), VOC emissions from the production of products using stearato-chromium coating on the 14, 23, 32, 41, 55 and 65 parchment machines shall not exceed 6.9 pounds of VOC per gallon of solids applied on a daily basis. After June 1, 1986, VOC emissions shall not exceed 1,320 pounds per day.

The following table compares current SIP coating emission limits and compliance dates with proposed limits and compliance dates for the James River-KVP Plant.

Line	SIP coating limits (lb VOC/gal solids) and compliance dates	Proposed limits (lb VOC/gal solids) and compliance dates
55 Parchment.	4.8 12/31/82	0.5 7/1/85 shingle release. 11/1/85 non-food grade. 6/1/85 food grade.[2]
Solvent coater.	4.8 12/31/82	9.7 6/1/86 for water-based coating or. 4.8 8/1/87 for electron beam coating.
Graphic Arts printing [1].	3.6 12/31/83	1.0 12/31/83.
Coating	3.6 12/31/83	2.0 12/31/85.
Stearato-Chromium.	4.8 12/31/82	6.9 12/31/83 and 0.66 ton VOC/day 6/1/86.

[1] Limits are in lb VOC/lb solids, and are based on a 70% reduction from the 1981 level.
[2] Daily cap of 2100 lbs of VOC.

USEPA's Current Bubble Policy Requirements

On April 7, 1982 (47 FR 15076), the USEPA issued a proposed Emissions Trading Policy Statement (ETPS) which outlined general principles for the creation, banking and use of emission reduction credits. That statement also indicated that it is the policy of USEPA to encourage use of bubbles to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). Until USEPA took final rulemaking action on December 4, 1986 (51 FR 43814), State SIP submittals involving bubbles were evaluated under the provisions contained in the April 7, 1982, proposed rulemaking.

Current guidance for the evaluation of emission trading is outlined in USEPA's final ETPS (December 4, 1986, 51 FR 43814). This policy states that in rural nonattainment areas, pending bubbles can be approved if it is shown that they will not jeopardize attainment and maintenance of the NAAQS and all the other requirements of USEPA's April 7, 1982, proposed ETPS have been met. Although the 1982 ETPS did not specifically address rural nonattainment areas, USEPA deems these areas to possess acceptable domonstrations of attainment provided they have an approved new source review rule and require RACT controls for all major VOC sources for which EPA has issued control technique guidance (CTG) documents. Hence, these areas can be treated the same for bubble purposes as nonattainment areas with an approved attainment demonstration, and baseline emissions may be determined using SIP-allowable limits.

The following table shows that based on 1982 solids usage, this bobble provides sufficient credits on an annual basis, to offset the excess emissions from the solvent coater and stearato-chromium coatings.

Source	SIP allowable		Bubble allowable	
	lbs VOC gal solids	tons [1] yr.	lbs VOC gal solids	tons [1] yr
55 Parchment	4.8	10.8	0.5	1.13
Solvent Coater Crystaphane Coating	4.8	28.1	[2] 9.7	[4] 61.2
Silicone Coating	4.8	2.26		
Graphic Arts Line [3]	3.6	23.4	1.0	6.52
Printing Coating	3.6	40.5	2.0	22.5
Stearato-Chromium	4.8	29.7	6.9	42.7
Total		135		134

[1] Assumes 1982 production rates; not a regulatory limit.
[2] Assuming water-based technology is implemented. If electron beam technology is implemented, the solvent coater emissions will be 4.8 lbs VOC/gal solids or 30.4 tons/yr. The total bubble allowable emissions will then be 103 tons/yr.
[3] Limits are in lbs VOC/lb solids.
[4] For both lines.

USEPA's Evaluation

USEPA reviewed Consent Order No. 21–1983, as revised, for the James River-KVP Plant and determined that this pending bubble meets the annual baseline (tons/yr) requirements of USEPA's April 7, 1982, ETPS, as required by the December 4, 1986, final ETPS (51 FR 43814) based on 1982 production. The policy states that the baseline for bubbles in nonattainment areas that do not lack an approved attainment demonstration should be the SIP allowable emission limit. The James River-KVP Plant used an annual baseline of 1982 SIP allowable emissions for these sources. Although the emission balance for the bubble has been worked out based on the applicable pre-bubble and post-bubble allowable emission rates for the individual sources and 1982 production levels, these 1982 production levels are not binding. Nor is the ratio of the production levels at each source compared to each other source binding. Future production levels at the

individual sources, or the ratio of production levels, may differ from the 1982 levels or ratio in ways which cause increased emissions as a result of the bubble. For example, production at the "credit providing" sources (the 55 parchment line and the graphic arts lines) may decrease, and production at the "credit receiving" sources (the solvent coater line and the stearato-chromium line) may stay the same, thereby resulting in the consumption of more credit than is generated.

Extended Averaging Time Criteria

USEPA's January 20, 1984, policy memorandum, entitled "Averaging Times for Compliance with VOC Emission Limits", contains the following criteria for evaluating VOC requests for extended averaging:

Criterion 1

Extended averaging can be permitted where the source operations are such that daily VOC emissions cannot be determined, or where the application of reasonably available control technology (RACT) for each emission point is not economically or technically feasible on a daily basis. EPA provided a detailed discussion and compilation of these requirements in a notice published on November 9, 1988, (53 FR 45285, Appendix A).

Criterion 2

The area must not lack an approved SIP and there must not be any measured violations of the ozone standard.

Criterion 3

A demonstration must be made that the use of long-term averaging (greater than 24-hour averaging) will not jeopardize either ambient standards attainment or the reasonable further progress (RFP) plan for the area. This must be accomplished by showing that the maximum daily increase in emissions associated with monthly averaging is consistent with the approved ozone SIP.

Criterion 4

Averaging times must be as short as practicable and in no case longer than 30 days.

In order to meet the first criterion, James River must demonstrate that it is not feasible to meet the limit on a daily basis through the use of complying coatings or add-on control. James River has not demonstrated that add-on control is infeasible. Although James River believes that add-on control would not be cost-effective due to the small quantity of emissions to be controlled, it has not provided any estimates or documentation of these costs.

James River-KVP indicated a need to have the averaging period with respect to determining emissions, coincide with the Company's existing recordkeeping, inventory and accounting system. James River-KVP indicated that the operating schedules among the various sources make it impossible to comply with the bubble on a daily basis, due to the fact that stearato-chromium coating and possibly coatings for the solvent coater would not comply with the Michigan SIP limit. Under this system, each fiscal period ends on a Sunday, and inventory is taken on that Sunday. For the inventory, the machines and presses are shut down and drained of all inks and coatings so as to accurately determine usage. However, James River-KVP has failed to demonstrate that it is not possible to keep daily records. In fact, James River-KVP states in a February 7, 1985, letter to Michigan, that the company intends to keep daily records for the solvent coater and the stearato-chromium coating. USEPA does not believe this argument is sufficient, and therefore, believes that Michigan's James River-KVP Plant fails to meet the requirements of USEPA's January 20, 1984, extended averaging time policy. In addition, it has not been demonstrated that the averaging time is as short as practicable.

Compliance Date Extension Criteria

USEPA has established two basic criteria which must be met before an extension of the compliance date can be granted.

Criterion 1

A State must demonstrate that the extension will not interfere with timely attainment and maintenance of the ozone standard and, where relevant, RFP towards timely attainment.

Criterion 2

Extensions must also be consistent with the requirement that nonattainment area SIPs provide for implementation of all control measures as expeditiously as practicable.

USEPA's Evaluation

USEPA reviewed Consent Order No. 21–1983, as revised, for the James River-KVP Plant and determined that Criterion 1 applies only to sources in areas requiring Part D plans. James River-KVP is located in Kalamazoo County, Michigan, which is a rural nonattainment area for ozone, and current Agency policy does not require an attainment demonstration for rural non-attainment areas. With respect to compliance with Criterion 2, the State must research the compliance status of other similar sources to determine if compliance by the original deadline was reasonable. The State of Michigan has not satisfied this requirement for this James River-KVP proposed SIP revision. A further discussion of the type of demonstration required can be found in the Appendix to the notice of proposed rulemaking for Georgia-Pacific (53 FR 45103, November 8, 1988).

USEPA reviewed the James-River KVP Consent Order No. 21–1983 and its alterations, in accordance with the appropriate policies, and is proposing to disapprove the emission limits, compliance schedules, and the methd of determining compliance contained therein as a revision to the Michigan SIP for ozone. USEPA TSDs dated December 17, 1986, and March 17, 1987, contain detailed explanations in support of this disapproval rulemaking action. USEPA's prior reviews are contained in TSD's dated: April 20, 1984; August 17, 1984; January 24, 1985; and April 1, 1985, which are included in USEPA's rulemaking docket.

This notice identifiies major deficiencies which cause the revision to be unapprovable. However, if the State corrects these major deficiencies, it should also ensure conformance with USEPA requirements specified in the following before resubmitting the revision for approval by USEPA: (1) Appendix D of the Post-1987 ozone policy, title, "Discrepancies and Inconsistencies Found in the Current SIP's," (2) a May 25, 1988, clarification to Appendix D titled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations;" (3) the "SIP Approvability Checklist-Enforceability," which is attached to a September 23, 1987, policy memorandum titled "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency." These documents contain USEPA requirements (largely dealing with approvability and enforceability) which must be incorporated before a site-specific SIP revision can be approved.

In summary, USEPA is proposing to disapprove this SIP revision for the James River-KVP Plant for the following reasons: (1) The Bubble Policy is not met, (2) it has not been demonstrated that the application of RACT is infeasible on a daily basis or that daily emissions cannot be determined; (3) it has not been demonstrated that the proposed averaging time is as short as practicable; and (4) the Consent Order does not satisfy USEPA's compliance date extension policy.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before June 9, 1989 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

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

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: 42 U.S.C 7401–7642.

Dated: March 30, 1987.

Editoral note: This document was received at the Office of the Federal Register May 5, 1989.

Robert Springer,

Acting, Regional Administrator.

[FR Doc. 89–11230 Filed 5–9–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6956]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 930, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. The proposed base (100-year) flood elevations for selected locations are:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
COLORADO	
Rio Blanco County (unincorporated areas)	
White River:	
Approximately 11,100 feet downstream of the confluence with Coal Mine Draw	*5,181
Approximately 430 feet downstream of the White Avenue	*5,202
Approximately 2,700 feet downstream of the confluence with Douglas Creek	*5,218
Approximately 10,180 feet upstream of the confluence with Douglas Creek	*5,234
Approximately 23,400 feet upstream of the confluence with Douglas Creek	*5,250
Approximately 3,200 feet downstream of State Highway 13	*6,116
Approximately 5,610 feet upstream of State Highway 13	*6,143
Approximately 1,120 feet upstream of Unimproved Road	*6,166
Approximately 6,550 feet upstream of Unimproved Road	*6,184
Approximately 12,450 feet upstream of Unimproved Road	*6,203
Coal Mine Draw:	
Approximately 570 feet upstream of confluence with White River	*5,194
Approximately 4,070 feet downstream of Oil Road	*5,243
Approximately 60 feet upstream of Oil Road	*5,306
Approximately 1,725 feet upstream of Oil Road	*5,336
Approximately 680 feet downstream of Unnamed Road located 3,230 feet upstream of Oil Road	*5,337
Approximately 1,580 feet upstream of Unnamed Road located 3,230 feet upstream of Oil Road	*5,379
College Canyon Draw:	
Approximately 40 feet upstream of Town of Rangely corporate limits	*5,271
Approximately 730 feet downstream of Town of Rangley corporate limits	*5,300
Approximately 1,090 feet downstream of Oil Road which is located 1,680 feet upstream of Town of Rangely corporate limits	*5,350
Approximately 1,200 feet upstream of Oil Road which is located 1,680 feet upstream of Town of Rangely corporate limits	*5,438
Maps are available for review at the Department of County Development, County Courthouse, 6th and Main Streets, Meeker, Colorado 81641. Send comments to The Honorable Peggy Rector, Chairman, Rio Blanco County Board of Commissioners, P.O. Box 1067, Meeker, Colorado 81641.	
CONNECTICUT	
Warren (town), Litchfield County	
Lake Waramaug Brook:	
At confluence with Lake Waramaug	*697
Approximately 0.4 mile upstream of second upstream crossing of State Route 45	*1,186
Shepaug River:	
At downstream corporate limits	*733
At Shepaug Reservoir dam	*777
Tributary A:	
At confluence with Lake Waramaug Brook	*803
Approximately 0.3 mile upstream of Curtiss Road	*952

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tributary B:	
At confluence with Lake Waramaug Brook	*853
Approximately 0.5 mile upstream of State Route 45	*1,056
Tributary C:	
At confluence with Lake Waramaug Brook	*870
Approximately 0.2 mile upstream of Rabbit Hill Road	*1,003
Tributary D:	
At confluence with Tributary C	*870
Approximately 60 feet upstream of second upstream crossing of Angevine Road	*1,111
Tributary AA:	
At confluence with Lake Waramaug	*697
Approximately 0.3 mile upstream of North Shore Road	*751
Tributary BB:	
At confluence with Lake Waramaug	*697
Approximately 0.6 mile upstream of North Shore Road	*842
Tributary CC:	
At State Route 45	*700
Approximately 0.5 mile upstream of State Route 45	*903
Lake Waramaug: Entire shoreline within community	*697

Maps available for inspection at the Town Clerk's Office, Town Hall, Warren, Connecticut.

Send comments to The Honorable Lewis Tanner, Chairman of the Town of Warren Board of Selectmen, Litchfield County, Town Hall, P.O. Box 1025, Warren, Connecticut 06754.

GEORGIA

Baldwin County (unincorporated areas)

Fishing Creek:	
About 900 feet upstream of Norfolk Southern Railway	*275
Just upstream of confluence of Moore Creek	*341
Camp Creek:	
Just upstream of Vinson Highway	*246
Just downstream of Pancras Road	*315
Oconee River:	
About 2.2 miles downstream of confluence of Fishing Creek	*267
About 0.9 mile upstream of CSX Railroad	*284
Tobler Creek:	
About 1,100 feet feet upstream of Norfolk Southern Railway	*280
Just downstream of North Jefferson Street	*286
Tobler Creek Tributary 1:	
At mouth	*280
Just downstream of Barrows Ferry Road	*280
Tributary R:	
About 1,300 feet upstream of Norfolk Southern Railway	*304
About 2,000 fee upstream of Norfolk Southern Railway	*310

Maps available for inspection at the Board of Commissioner's Office, County Courthouse, 201 West Hancock Street, Milledgeville, Georgia. Send comments to The Honorable Sammy Hall, Chairman, Board of Commissioners, Baldwin County, County Courthouse, Room 6, 201 West Hancock Street, Milledgeville, Georgia 31061.

Fitzgerald (city), Ben Hill County

Satilla Creek Tributary:	
Just downstream of Colony City Industrial Drive	*337
About 1,900 feet upstream of Colony City Industrial Drive	*343
Turkey Creek:	
Just upstream of Industrial Drive	*316
Just upstream of North Merrimac Drive	*350
Turkey Creek Tributary No. 1:	
About 950 feet downstream of West Roanoke Drive	*329
Just upstream of Lincoln Avenue	*339
Turkey Creek Tributary No. 1A:	
Just upstream of mouth	*336
Just upstream of Lynn Road	*348
Willacoochee Creek:	
About 1,750 feet downstream of Irwinville Highway	*325
About 350 feet downstream of Irwinville Highway	*326

Maps available for inspection at the Building Inspector's Office, Municipal Building, Fitzgerald, Georgia. Send comments to The Honorable Gerald H. Thompson, Mayor, City of Fitzgerald, P.O. Box Q, Fitzgerald, Georgia 31750.

Whitfield County (unincorporated areas)

Coahulla Creek:	
At mouth	*677
Just downstream of Dawnville Road	*688
Mill Creek:	
At mouth	*683
Just downstream of CSX railroad	*727
Just upstream of CSX railroad	*738
Just downstream of Sam Lowe Road	*741
Little Creek:	
About 0.81 mile upstream of Ridge Road	*669
Just downstream of Hill Road	*699
Just upstream of Hill Road	*704
About 1,400 feet upstream of Hill Road	*708
Drowning Bear Creek:	
Just upstream of River Bend Road	*678
Just downstream of State Route 3	*722
Little Swamp Creek:	
About 250 feet upstream of mouth	*669
Just downstream of State Route 3 connector	*702
McLellan Creek:	
Just upstream of U.S. Route 41	*721
Just upstream of Tibbs Road	*746
Tar Creek:	
At mouth	*688
Just downstream of CSX railroad	*696
Tar Creek Tributary:	
At mouth	*690
About 0.46 mile upstream of mouth	*699
East Chickamauga Creek:	
About 1,200 feet downstream of Cottonwood Road	*805
About 0.42 mile upstream of Cottonwood Road	*809
Slaughter Pen Creek:	
At mouth	*689
About 1,600 feet upstream of Underwood Street	*690

Maps available for inspection at the Building Inspector's Office, County Courthouse, 1419 Ross Drive, Dalton, Georgia. Send comments to The Honorable Harold Brooker, Chairman, Board of Commissioners, Whitfield County, P.O. Box 248, Dalton, Georgia 30720.

IOWA

Tama (city), Tama County

Mud Creek:	
About 0.5 mile upstream of mouth	*814
Just downstream of 9th Street	*836
Deer Creek:	
At mouth	*818
Just downstream of 13th Street	*824
Iowa River:	
About 1.3 miles downstream of U.S. Highway 63	*814
About 0.5 mile upstream of U.S. Highway 63	*818

Maps available for inspection at the City Hall, 305 Siegel Street, Tama, Iowa.

Send comments to The Honorable William Lazar, Mayor, City of Tama, City Hall, 305 Siegel Street, Tama, Iowa 52339.

KANSAS

Jackson County (unincorporated areas)

Elk Creek:	
About 1.1 miles downstream of State Highway 16	*985
About 4.1 miles upstream of U.S. Highway 75	*1048
Banner Creek:	
At mouth	*1003
About 2.9 miles downstream of State Highway 79	*1092

Maps available for inspection at the County Courthouse, Holton, Kansas.

Send comments to The Honorable Henry Gerhardt, Chairman, Board of Commissioners, Jackson County, County Courthouse, Holton, Kansas 66436.

LOUISIANA

Allen Parish (unincorporated areas)

Calcasieu River:	
At downstream Parish boundary	*31
At upstream Parish boundary	*118
Calcasieu River Tributary 1:	
At confluence with Calcasieu River	*110
At upstream side of Union Pacific Railroad	*118
Calcasieu River Tributary 2:	
At confluence with Calcasieu River Tributary 1	*110
Approximately 1,400 feet upstream of State Route 1153	*119
Beaver Creek:	
At downstream side of State Route 10	*109
At upstream Parish limits	*119

Maps available for inspection at the Police Jury Office, 7th Street, Oberlin, Louisiana.

Send comments to The Honorable Edward P. Barbonne, President of the Allen Parish Police Jury, P.O. Drawer G, Oberlin, Louisiana 70655.

Beauregard Parish (unincorporated areas)

Cowpen Creek:	
Approximately 125 feet downstream of Graybow Road	*175
Approximately 1 mile upstream of Weldon Road	*197
Palmetto Creek:	
Approximately 250 feet downstram of U.S. Routes 171 and 190	*130
Approximately 150 feet downstream of U.S. Route 190	*180

Maps available for inspection at the Courthouse Square, Police Jury Office, DeRidder, Louisiana.

Send comments to The Honorable N.L. Allen, President of the Beauregard Parish Police Jury, P.O. Box 310, DeRidder, Louisiana 70634.

MAINE

Carrabassett Valley (town), Franklin County

Carrabassett River:	
Downstream corporate limits	*723
Approximately 1,625 feet upstream of State Routes 16 and 27	*1,329
Poplar Stream:	
Confluence with Carrabassett River	*816
Approximately 1,200 feet upstream of Oxford Road	*901
Hammond Field Brook:	
Confluence with Carrabassett River	*754
Approximately 3,000 feet upstream of its confluence with Carrabassett	*881

Maps available for inspection at the Clerk's Office, Town Office, Carrabassett Valley, Maine.

Send comments to The Honorable Preston Jordan, Chairman of the Town of Carrabassett Valley Board of Selectment, Franklin County, Town Office, Carrabassett Valley, Maine 04947.

Levermore (town), Androscoggin County

Androscoggin River:	
At downstream corporate limits	*283
At upstream side of Chisholm Dam	*350

Maps available for inspection at the Town Clerk's Office, R.F.D. 2, Livermore, Maine 04254.

Send comments to The Honorable Thomas Richmond, Chairman of the Town of Livermore Board of Selectment, Androscoggin County, R.F.D. 2, Livermore, Maine 04254.

MASSACHUSETTS

Tolland (town), Hampden County

West Branch Farmington River:	
Approximately 2.5 miles downstream of Old State Route 8	*725

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1.6 miles upstream of Alan Road	*1,100
Maps available for inspection at the Town Hall, Old Schoolhouse Road, Tooland, Massachusetts.	
Send comments to The Honorable Eric Munson, Chairman of the Town of Tolland Board of Selectment, Hampden County HC 60, P.O. 149A, Tolland, Massachusetts 01034.	
MISSISSIPPI	
Calhoun County (unincorporated areas)	
Skuna River Canal:	
About 3,500 feet downstream of State Highway 9	*259
About 0.9 mile upstream of State Highway 9	*263
Yalobusha River Canal:	
About 0.9 mile downstream of State Highway 9	*250
About 0.9 mile upstream of confluence of Hurricane Creek	*225
Mile Creek:	
About 2,500 feet downstream of State Highway 8	*259
About 3,500 feet upstream of State Highway 8	*272
Hurricane Creek:	
At mouth	*253
Just downsteam of State Highway 9	*271
Huffman Creek:	
At mouth	*265
About 1.2 miles upstream of mouth	*274
Maps available for inspection at the Channcery Clerk's Office, County Courthouse, Pittsboro, Mississippi.	
Send comments to The Honorable Larry Snellings, President, Board of Supervisors, Calhoun County, County Courthouse, Pittsboro, Mississippi 38951.	
MISSOURI	
Osage County (unincorporated areas)	
Missouri River:	
At downstream county boundary	*529
About 4.0 miles upstream of confluence of Osage River	*548
Osage River:	
At mouth	*543
Just downstream of U.S. Highway 50	*545
Maps available for inspection at the County Courthouse, Linn, Missouri.	
Send comments to The Honorable Edgar C. Frank, Presiding Commissioner, County Commission, Osage County, County Courthouse, P.O. Box F, Linn, Missouri 65051.	
NEBRASKA	
Dannebrog (village), Howard County	
Oak Creek:	
About 1,100 feet downstream of Union Pacific Railroad	*1,848
About 1 mile upstream of Pioneer Avenue	*1,866
Maps available for inspection at the Village Hall, Dannebrog, Nebraska.	
Send comments to The Honorable Eugene Hartman, Chairman, Board of Trustees, Village of Dannebrog, Box 130, Dannebrog, Nebraska 68831.	
Gothenburg (city), Dawson County	
North Channel:	
About 1.8 miles downstream of State Highway 47	*2,548
Just downstream of Interstate 80	*2,565
Platte River:	
About 1.6 miles downstream of State Highway 47	*2,550
About 2.3 miles upstream of State Highway 47	*2,572
Maps available for insection at the City Hall, 409 9th Street, Gothenburg, Nebraska.	
Send comments to The Honorable Eldon Lepp, Mayor, City ofGothenburg, City Hall, 409 9th Street, Gothenburg, Nebraska 69138.	
NEW HAMPSHIRE	
Hoverhill (town), Grafton County	
Connecticut River:	
Approximately 1.3 miles downstream of Bedell Covered Bridge	*414
At confluence of Ammonoosuc River	*420
Maps available for inspection at the Town Clerk's Office, Town Hall, Haverhill, New Hampshire.	
Send comments to The Honorable John L. Varnham, chairman of the Town of Haverhill Board of Selectmen, Grafton County, R.R. 1, Box 99, North Haverhill, New Hampshire 033774.	
NEW JERSEY	
Hampton (township), Sussex County	
Paulins Kill:	
At downstream corporate limits	*458
At upstream corporate limits	*562
Maps available for inspectifon at the Hampton Municipal Building, Route 266, Baleville, New Jersey.	
Send comments to The Honorable Delores Hanley, Mayor of the Towhship of Hampton, Sussex County, P.O. Box 66, Swartwood, New Jersey 07877.	
NEW YORK	
Catskill (town), Green County	
Catskill Creek:	
At downstream corporate limits	*22
At upstream corporate limits	*176
Kaaterskill Creek:	
At confluence with Catskill Creek	*26
At most upstream corporate limits	*678
Maps available for inspection at the Town Hall, 439 Main Street, Catskill, New York.	
Send comments to the Honorable William Beck, Supervisor for the Town of Catskill, Greene County, Town Hall, 439 Main Street, Catskill, New York 12414.	
PENNSYLVANIA	
Clifton (township), Lackawanna County	
Lehigh River:	
At downstream corporate limits	*1,571
Approximately 800 feet upstream of T-303	*1,618
Approximately .7 mile downstream of the dam at West End Pond	*1,855
At the dam at West End Pond	*1,874
Meadow Brook:	
At the confluence with Tamarack Creek	*1,786
At the dam at L.R. 2013	*1,798
Maps available for inspection at the Clifton Township Building, Clifton, Pennsylvania.	
Send comments to The Honorable Gregory Werner, Chairman of the Township of Clifton Board of Supervisors, Lackawanna County, Star Route, Box 89, Gouldsboro, Pennsylvania 18424.	
Elmhurst (township), Lackawanna County	
Roaring Brook:	
Approximately 520 feet downstream of confluence of Unnamed Tributary to Roaring Brook	*1,361
Approximately 270 feet upstream of State Route 435	*1,375
Unnamed Tributary to Roaring Brook:	
At confluence with Roaring Brook	*1,367
At CONRAIL Railroad	*1,377
Maps available for inspection at the Township Building/Sewer Authority Building, Elmhurst, Pennsylvania.	
Send comments to The Honorable David Finn, Chairman of the Township of Elmhurst Board of Supervisors, R.D. 2, Box 2451, Moscow, Pennsylvania 18444.	
Factoryville (borough), Wyoming County	
South Branch Tunkhannock Creek:	
At downstream corporate limits	*815
Approximately 150 feet upstream of corporate limits	*843
Maps available for inspection at the Borough Building, College Avenue, Factoryville, Pennsylvania.	
Send comments to The Honorable Majorie Martin, Vice President of the Borough of Factoryville Council, Wyoming County, R.D. 2, Box 2810, Factoryville, Pennsylvania 18419.	
Girardville (borough), Schuylkill County	
Mahony Creek:	
At downstream corporate limits	*941
At confluence of Shenandoah Creek	*962
Shenandoah Creek:	
At confluence with Mahanoy Creek	*962
Approximately 100 feet upstream of corporate limits	*967
Maps available for inspection at the Municipal Building, 4th and B Streets, Girardville, Pennsylvania.	
Send comments to The Honorable Joseph J. Wayne, President of the Borough of Girardville Council, Schuylkill County, 4th and B Streets, Girardville, Pennsylvania 17935.	
Hyndman (borough), Bedford County	
Little Wills Creek:	
At confluence with Willis Creek	*933
At corporate limits	*935
Unnamed Tributary to Wills Creek:	
Approximately 200 feet upstream of CSX Transportation	*907
Approximately 240 feet downstream of corporate limits	*935
Maps available for inspection at the Hyndman Senior Citizen Building, Water Street, Hyndman, Pennsylvania.	
Send comments to The Honorable Stanley Robinson, President of the Hyndman Borough Council, Bedford County, Hyndman, Pennsylvania 15545.	
Upper Mahantango (township), Schuylkill County	
Mahantango Creek:	
Confluence with Pine Creek	*526
Approximately 44 mile upstream of State Route 4014	*571
Pine Creek:	
Approximately 210 feet downstream of confluence of Mahantango Creek	*525
Approximately .5 mile upstream of Township route 379	*532
Maps available for inspection at the Upper Mahantango Township Building, c/o Mr. Dale Troutman, Main Street, Klingerstown, Pennsylvania.	
Send comments to The Honorable Dale Troutman, Chairman of the Township of Upper Mahantango Board of Supervisors, Schuylkill County, P.O. Box 4 Main Street Klingerstown, Pennsylvania 17941.	
Washington (township), Schuylkill County	
Lower Little Swatara Creek:	
At the downstream corporate limits	*535
Approximately 4 mile upstream of South Lake Road	*683
Upper Little Swatara Creek:	
Approximately 100 feet downstream of State Route 3002	*560
At upstream corporate limits	*620
Maps available for inspection at the Secretary's Office, c/o Walter Stump, R.D 3, Box 288, Route 443, Pine Grove, Pennsylvania.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Send comments to The Honorable Larry L. Frantz, Chairman of the Township of Washington Board of Supervisors, Schuylkill County, R.D. 3, Box 356, Pine Grove, Pennsylvania 17963.	
Weissport (borough), Carbon County	
Lehigh River:	
At downstream corporate limits	*457
At upstream corporate limits	*472
Maps available for inspection at the Borough Building, Weissport, Pennsylvania.	
Send comments to The Honorable Gene Kershner, President of the Weissport Borough Council, Carbon County, Franklin Street, Weissport, Pennsylvania 18235.	
West Cameron (township), Northumberland County	
Mahanoy Creek:	
Approximately 2.3 miles upstream of corporate limits	*543
Approximately 3.8 miles upstream of corporate limits	*556
Maps available for inspection at the Township Building, Gottshall Lane, West Cameron, Pennsylvania.	
Send comments to The Honorable Jonathon H. Brightbill, Chairman of the Township of West Cameron Board of Supervisors, Northumberland County, R.D. 2, Box 664, Shamokin, Pennsylvania 17872.	
West Penn (township), Schuylkill County	
Little Schuylkill River:	
Approximately 620 feet downstream of CONRAIL	*835
Approximately 1.6 miles upstream of upstream crossing of State Route 443	*742
Lizard Creek:	
At corporate limits	*577
At upstream side of T-912	*707
Lizard Creek Tributary:	
At confluence with Lizard Creek	*633
Approximately 757 feet upstream of T-970	*762
Mahoning Creek:	
At corporate limits	*594
Approximately .6 mile upstream of T-932	*682
Maps available for inspection at the Municipal Building, R.D. 1, New Ringgold, Pennsylvania.	
Send comments to The Honorable Curtis Houser, Chairman of the Township of West Penn Board of Supervisors, Schuylkill County, R.D. 1, Box 100-D, New Ringgold, Pennsylvania 17960.	
Zerbe (township), Northumberland County	
Zerbe Run:	
Approximately 500 feet downstream of 11th Street	*733
Approximately 600 feet upstream of 1st Street	*783
Maps available for inspection at the Zerbe Township Building, 800 Mahanoy Street, Trevorton, Pennsylvania.	
Send comments to The Honorable Albert Bridi, Chairman of the Township of Zerbe Board of Supervisors, Northumberland County, 800 Mahanoy Street, Trevorton, Pennsylvania 17881.	
TENNESSEE	
Carter County (unincorporated areas)	
Watauga River:	
Just upstream of U.S. Route 321	*1,414
Just downstream of Wilbur Dam	*1,588
Doe River:	
About 1.9 miles above mouth	*1,560
Just downstream of Hampton Road	*1,774
Just upstream of Hampton Road	*1,779
About 0.3 mile upstream of U.S. Route 19E	*1,815
About 0.5 mile downstream of confluence of Shoemaker Branch	*2,540
Just downstream of County Road located about 850 feet upstream of State Route 143	*2,569
Just upstream of County Road	*2,574
Just downstream of County Road located about 950 feet upstream of confluence of Shell Creek	*2,581
Just upstream of County Road	*2,586
About 700 feet upstream of confluence of Hampton Creek	*2,601
Doe River Overland Flow:	
At confluence with Doe River	*2,568
At divergence with Doe River	*2,587
Laurel Fork Creek:	
At mouth	*1,759
Just upstream of U.S. Route 19E	*1,765
About 0.39 mile upstream of U.S. Route 321 (upstream crossing)	*1,885
Little Doe River:	
At mouth	*1,800
Just downstream of Elliott Road	*1,920
Shell Creek:	
At mouth	*2,577
About 0.62 mile upstream of U.S. Route 19E	*2,618
Buffalo Creek:	
At mouth	*1,460
Just upstream of U.S. Route 321	*1,468
Just downstream of Milligan Highway	*1,486
Maps available for inspection at the County Courthouse, Elk and Main Streets, Elizabethton, Tennessee. Send comments to The Honorable Truman Clark, County Executive, Carter County, Elk and Main Streets, Elizabethton, Tennessee 37643.	
TEXAS	
Burnet County (unincorporated areas)	
Backbone Creek:	
Approximately 2,000 feet downstream of confluence of Coldspring Creek	*778
Approximately 3,200 feet upstream of second crossing of Southern Pacific Railroad	*972
Belaire Creek:	
At confluence with the Colorado River	*829
At upstream County boundary	*831
Coldspring Creek:	
At confluence with Backbone Creek	*784
Downstream side of County Route 122 (Fairland Road)	*920
Colorado River:	
At downstream County boundary	*716
At upstream County boundary	*1,070
Daugherty Branch:	
At City of Burnet corporate limits	*1,354
Approximately 730 feet upstream of City of Burnet corporate limits	*1,360
Dry Branch:	
At confluence with Backbone Creek	*867
Approximately 500 feet upstream of Southern Pacific Railroad	*959
Dry Creek:	
At confluence with Dry Branch	*877
Approximately 7,500 feet upstream of confluence of Stream DC-2	*925
Elm Creek:	
At confluence with the Colorado River	*829
Approximately 5,200 feet upstream of FM 1431	*895
Hamilton Creek:	
Approximately 3,800 feet downstream of confluence of Stream HC-1	*1,161
Approximately 250 feet downstream of SCS Dam #2	*1,395
Sparenb Creek:	
Confluence with Backbone Creek	*884
Approximately 2,900 feet upstream of Southern Pacific Railroad	*962
Stream BX-2:	
Approximately 2,550 feet upstream of confluence with Backbone Creek	*779
Approximately 2.7 miles upstream of confluence with Backbone Creek	*891
Stream BC-3:	
Confluence with Backbone Creek	*915
Approximately 1,700 feet upstream of Southern Pacific Railroad	*981
Stream DC-1:	
Confluence with Dry Creek	*893
Approximately 3,760 feet upstream of confluence with Dry Creek	*905
Stream DC-2:	
Confluence with Dry Creek	*899
Approximately 4,300 feet upstream of Lariet Lane	*947
Stream EC-1:	
For its entire length within community	*829
Stream EC-2:	
At confluence with Elm Creek	*840
Approximately 630 feet upstream of Forest Hills Drive	*857
Stream EC-3:	
At confluence with Stream EC-4	*844
Approximately 1,360 feet upstream of confluence with Stream EC-4	*850
Stream EC-4:	
At confluence with Elm Creek	*843
Approximately 3,400 feet upstream of Green Valley Lane	*872
Stream EC-5:	
At confluence with Elm Creek	*849
Approximately 50 feet upstream of Prairie Creek Road	*868
Stream EC-6:	
At confluence with Elm Creek	*863
Approximately 2,400 feet upstream of FM 1431	*898
Stream EC-7:	
At confluence with Elm Creek	*870
Approximately 2,750 feet upstream of FM 1431	*883
Stream HCB-1:	
At confluence with Hamilton Creek	*1,196
Approximately 700 feet upstreasm of U.S. Route 281	*1,250
Stream HCB-2:	
Approximately 4,260 feet upstream of confluence with Hamilton Creek	*1,312
Approximately 4,770 feet upstream of confluence with Hamilton Creek	*1,321
Stream HCB-3:	
At City of Burnet corporate limits	*1,333
Approximately 1,710 feet upstream of Old San Saba Road	*1,357
Stream HCB-4:	
Confluence with Hamilton Creek	*1,349
Approximately 50 feet downstream of SCS Dam #3	*1,402
Stream WB-1:	
Flooding affecting community at City of Marble Falls corporate limits	*846
Stream WC-1:	
At confluence with Williams Creek	*855
Approximately 2,700 feet upstream of FM 1980	*879
Whitman Branch:	
Approximately 1,600 feet upstream of Nature Heights Drive	*843
Approximately 9,700 feet upstream of Nature Heights Drive	*933
Williams Creek:	
At confluence with Backbone Creek	*824
Approximately 3,800 feet upstream of FM 1980	*879
Maps available for inspection at the County Courthouse, 220 South Pierce Street, Burnet, Texas.	
Send comments to The Honorable D.C. Kincheloe, Burnet County Judge, 220 South Pierce Street, Burnet, Texas 78611.	
Clarksville (city), Red River County	
Delaware Creek:	
Approximately 65 feet downstream of Depot Street	*419
Approximately 240 feet upstream of proposed State Route 37 bypass	*433
Boggy Creek:	
Approximately 600 feet downstream of State Route 37	*409
Approximately 80 feet upstream of U.S. Route 82	*423
Maps available for inspection at the City Hall, 800 West Main Street, Clarksville, Texas.	
Send comments to The Honorable Gavin Watson, Mayor of the City of Clarksville, Red River County, 800 West Main Street, Clarksville, Texas 75426.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Cottonwood Shores (city), Burnet County	
Colorado River:	
Approximately 1.9 miles downstream of Alvin Wirtz Dam	*769
At Alvin Wirtz Dam	*773
Maps available for inspection at 3731 Northwood, Marble Falls, Texas.	
Send comments to The Honorable Leon Upshaw, Mayor of the City of Cottonwood Shores, Burnet County, 3801 Lakeview Drive, Marble Falls, Texas 78654.	
Granite Shoals (city), Burnet County	
Belaire Creek:	
At corporate limits	*831
Approximately 290 feet upstream of Oakhill Drive	*852
Colorado River:	
At confluence of Elm Creek	*829
At Greencastle Drive (extended)	*832
Elm Creek:	
At confluence with Colorado River along shoreline of Lake Lyndon B. Johnson	*829
Just upstream of FM 1431	*877
Stream EC-1:	
At downstream corporate limits	*829
Approximately 50 feet upstream of Greencastle Drive	*861
Stream EC-2:	
At downstream corporate limits	*842
Approximately 460 feet upstream of Prairie Creek Road	*856
Stream EC-6:	
Approximately 275 feet downstream of FM 1431	*881
Just upstream of FM 1431	*884
Stream EC-7:	
Just downstream of FM 1431	*876
Just upstream of FM 1431	*877
Maps available for inspection at the City Hall, 410 Phillips Ranch Drive, Granite Shoals, Texas.	
Send comments to The Honorable William B. Haldy, Mayor of the City of Granite Shoals, Burnet County, 410 Phillips Ranch Drive, Granite Shoals, Texas 78654.	
Marble Falls (city), Burnet County	
Colorado River:	
Approximately 0.6 mile downstream of U.S. Route 281	*758
Approximately 1.7 miles upstream of U.S. Route 281	*768
Backbone Creek:	
At confluence with Colorado River	*761
Approximately 0.3 mile upstream of FM 1431 (10the Street)	*779
Whitman Branch:	
At confluence with Backbone Creek	*761
Approximately 0.9 mile upstream of Nature Heights Drive	*866
Stream WB-1:	
At confluence with Whitman Branch	*772
Approximately 1,000 feet upstream of North 12th	*846
Stream BC-1:	
At confluence with Backbone Creek	*761
At upstream corporate limits	*766
Stream BC-2:	
At confluence with Backbone Creek	*771
At upstream corporate limits	*784
Maps available for inspection at the City Hall, 800 3rd Street, Marble Falls, Texas.	
Send comments to The Honorable Daryl Jenick, Mayor of the City of Marble Falls Burnet County, 800 3rd Street, Marble Falls, Texas 78654.	
Meadowlakes (city), Burnet County	
Colorado River:	
Approximately 0.24 mile upstream of Pecan Valley Drive (extended)	*766
Approximately 0.86 mile upstream of Pecan Valley Drive (extended)	*768
Maps available for inspection at the Meadowlakes City Hall, 111 Main, Marble Falls, Texas.	
Send comments to The Honorable W.R. Savage, Mayor of the City of Meadowlakes, Burnet County, 111 Main, Marble Falls, Texas 78654.	
Nolan County (unincorporated areas)	
Wolf Hollow:	
At confluence with Santa Fe Lake	*1,266
At corporate limits	*1,283
Town Creek:	
Approximately 1,800 feet downstream of State Routes 80 and 84 and Interstate 20	*2,073
At corporate limits	*2,094
Lower West Playa—Segment A	*2,382
Lower West Playa—Segment B	*2,381
East Playa	*2,386
Upper West Playa—Segment A	*2,390
Upper West Playa—Segment B	*2,390
Bandera Addition Playa	*2,392
South Playa	*2,406
Shallow Flooding Areas:	
Southeast of intersection of Interstate Route 20 and U.S. Route 80 and State Route 608	#1
North of intersection of Interstate Route 20 and U.S. Route 80 and Loop 237	#1
Southwest of intersection of U.S. Route 84 and Business U.S. Route 84 and Business U.S. Route 84	#1
Northeast of intersection of U.S. Route 84 and Business U.S. Route 84	#2
Northwest of intersection of Interstate Route 20 and U.S. Route 80 and Loop 237	#3
Maps available for inspection at the County Courthouse, 103 East Third, Sweetwater, Texas.	
Send comments to The Honorable Jack Aycock, Nolan County Judge, 103 East Third Sweetwater, Texas 78654.	
Whitney (city), Hill County	
Stream WC-1:	
At downstairs corporate limits	*570
Approximately 50 feet upstream of Lavaca Street	*588
Stream WC-1A:	
At confluence with Stream WC-1	*581
Approximately 600 feet upstream of upstream corporate limits	*589
Maps available for inspection at the City Hall, 105 Jefferson, Whitney, Texas.	
Send comments to The Honorable Harry Sims, Jr., Mayor of the City of Whitney, Hill County, 105 Jefferson, Whitney, Texas 76692.	
Wise County (unincorporated areas)	
Moss Branch:	
Approximately 1.9 miles downstream of Ramhorn Hill Road	*746
Approximately 850 feet upstream of a private drive	*873
Derrett Creek:	
Approximately 1,300 feet downstream of the confluence with Eagle Mountain Lake	*657
Approximately 3.3 miles upsteam of Seven Hill Road	*814
Walnut Creek:	
Approximately 875 feet downstream of State Route 730	*709
Approximately 1.9 miles downstream of U.S. Routes 81 and 287	*587
Eagle Mountain Lake:	
Entire shoreline within community	*657
Maps available for inspection at the County Courthouse, Decatur, Texas.	
Send comments to The Honorable Willard E. Howell, Wise County Judge, P.O. Box 393, Decatur, Texas 76234.	
VERMONT	
Newbury (Town), Orange County	
Connecticut River:	
Approximately 1.3 miles downstream of Bedell Covered Bridge	*414
Approximately 1,500 feet upstream of confluence of Wells River	*420
Wells River:	
At confluence with Connecticut River	*420
At upstream corporate limits	*668
Maps available for inspection at the Town Clerk's Safe, Town Office, Newbury, Vermont.	
Send comments to The Honorable Russ Haviland, Chairman of the Board of Selectmen for the Town of Newbury, Orange County, Town Office, Box 47, Newbury, Vermont 05085.	
Virginia	
Craig County (unincorporated areas)	
Craig Creek	
Approximately 3.3 miles downstream of State Route 606	*1,161
Approximately 0.6 mile upstream of State Route 614	*1,191
Approximately 1.6 miles downstream of confluence of Johns Creek	*1,246
At confluence of Meadow Creek	*1,275
Approximately 450 feet upstream of second crossing of State Route 311	*1,327
Approximately 200 feet downstream of third crossing of State Route 311	*1,366
Approximately 0.9 mile upstream of fifth crossing of upstream State Route 311	*1,393
Johns Creek:	
At confluence with Craig Creek	*1,260
Approximately 0.9 mile upstream of State Route 615	*1,301
Meadow Creek:	
At confluence with Craig Creek	*1,275
Upstream side of State Route 311	*1,314
Approximately 0.4 mile upstream of State Route 311	*1,376
Maps available for inspection at the County Administrator's Office, New Castle, Virginia.	
Send comments to the Honorable Jeffrey Johnston, Craig County Administrator, P.O. Box 308, New Castle, Virginia 24127.	
Haymarket (Town), Prince William County	
North Fork Broad Run:	
Approximately .3 mile upstream of State Route 703	*334
Upstream corporate limits	*341
Maps available for inspection at the Town Hall, 15025 Washington Street, Haymarket, Virginia.	
Send comments to The Honorable Terri Freeborn, Acting Mayor of the Town of Haymarket, Prince William County, 6740 Fayette Street, P.O. Box 85, Haymarket, Virginia 22069.	
WISCONSIN	
Endeavor (village), Marquette County	
Fox River at Buffalo Lake:	
At northern corporate limits	*773
At eastern corporate limits	*774
Maps available for inspection at the Village Hall, Lakeview Avenue, Endeavor, Wisconsin.	
Send comments to The Honorable Jesse Russell, Village President Village of Endeavor, Village Hall, Lakeview Avenue, Endeavor, Wisconsin 53930.	
Menomonie (city), Dunn County	
Red Cedar River:	
At confluence of Gilbert Creek	*787
Just downstream of Broadway Street Dam	*792
Gilbert Creek:	
At mouth	*787
About 3,800 feet upstream of Holland Road	*803
Southeast Tributary:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At mouth	*787
About 1,100 feet upstream of 9th Street East	*877
Lake Menomin: Entire shoreline	*814
Maps available for inspection at the City Hall, 800 Wilson Street, Menomonie, Wisconsin.	
Send comments to The Honorable Chuck Stokke, Mayor, City of Menomonie, City Hall, 800 Wilson Street, Menomonie, Wisconsin 54751	
Park Falls (city), Price County	
Flambeau River:	
About 0.3 mile downstream of Lower Dam	*1,452
Just downstream of Lower Dam	*1,453
Just upstream of Lower Dam	*1,468
Just downstream of Upper Dam	*1,473
Just upstream of Upper Dam	*1,487
About 1.2 miles upstream of Upper Dam	*1,488
Maps available for inspection at the City Hall, 400 4th Avenue South, Park Falls, Wisconsin.	
Send comments to The Honorable Wayne Ratzlaff, Mayor, City of Park Falls, 400 4th Avenue South, Park Falls, Wisconsin 54552.	
Polk County (unincorporated areas)	
Apple River:	
About 2.3 miles downstream of Cameron Road	*1,068
Just downstream of State Highway 46	*1,069
St. Croix River:	
At southern county boundary	*698
About 8.5 miles upstream of Soo Line Railroad	*705
Maps available for inspection at the County Courthouse, Balsam Lake, Wisconsin.	
Send comments to The Honorable George Bollert, Chairman, County Board, Polk County, County Courthouse, Balsam Lake, Wisconsin 54810.	

3. The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
California	City of Newman, Stanislaus County.	Orestimba Creek	At intersection of San Joaquin Street, Inyo Avenue, and N Street.	#2	*86
			At intersection of N and Tulare Streets	#1	#2
			At intersection of Eresno and P Streets	None	#1
	Maps are available for review at the Public Works Department, Engineering Division, 1162 O Street, Newman, California.				
	Send comments to The Honorable Janet Carlsen, Mayor, City of Newman, P.O. Cox 587, Newman, California 95360.				
California	City of Patterson, Stanislaus County	Sale to Creek	Just upstream of Second Street (State Hwy 33).	None	*97
			Along May Jane Avenue	*97	*98
			At Ward Avenue	None	*102
			At the upstream corporate limits	None	*108
			Along Walnut Avenue, East of Hartley Street	None	#1
	Maps are available for review at the Department of Public Works, 33 Del Puerto Avenue, Patterson, California.				
	Send comments to The Honorable Wade Bingham, Mayor, City of Patterson, 33 Del Puerto Avenue, Patteson, California 95363.				
Connecticut	Chester, town, Middlesex County.	Pattaconk Brook	Approximately 200 feet downstream of North Main Street.	*11	*12
			At crest of dam located approximately 300 feet upstream of State Route 148 (West Main Street).	*242	*241
		Great Brook	Approxiametly 100 feet downstream of North Main Street.	*16	*15
			Approximately 0.6 mile upstream of Deep Hollow Road.	*136	*137
		South Branch Brook	Approximately 15 feet Great downstream of Deep Brook Hollow Road.	*98	*97
			Downsteam side of dam	*104	*101
	Maps availabe for inspection at the Town Clerk's Vault, Town Hall, Chester, Connecticut.				
	Send comments to The Honorable Robert J. Blair, Chairman of the Town of Chester Board of Selectmen, Middlesex County, Town Hall, P.O. Box 218, Chester, Connecticut 06412.				
Connecticut	Wallingford, town, New Haven County	Hanover Street Brook	At confluence with Quinnipiac river	None	*60
			At approximately 430 feet upstream of the upstream end of long culvert at Brownstone Road.	None	*151
		Quinnipiac River	Approximately 0.51 mile downstream of Toelles Road.	*21	*22
			At upstream corporate limits	*73	*70
		Mansion Road Brook	At confluence with Quinnipiac River	None	*28
			At approximately .25 mile upstream of Jones Road.	None	*115
	Maps available for inspection at the Building officials Office, 45 South Main Street, Wallingford, Connecticut.				
	Send comments to The Honorable William Dickerson, Mayor of the Town of Wallingford, New Haven County, Town Hall, 45 South Main Street, Wallingford, Connecticut 06492.				
Georgia	City of Dalton, Whitfield County	Mill Creek	About 0.48 mile downstream of Underwood Street.	*689	*687
			Just upstream of Willowdale Road	None	*724
		Drowning Bear Creek	About 0.79 mile downstream of South Hamilton Street.	*688	*688

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			About 2,200 feet upstream of South Hamilton Street.	*709	*713
		Tar Creek	About 1,000 feet upstream of mouth	*689	*688
			Just downstream of CSX railroad	*706	*696
		Crown Creek	At mouth	*708	*709
			Just downstream of Judson Street	*711	*711
		City Park Branch	At mouth	*697	*695
			About 750 feet above Legion Drive	*697	*697
			Just upstream of Mitchell Street	*707	*707
			About 1,250 feet above Mitchell Street	None	*716
		Colony Creek	At mouth	*690	*688
			About 1,500 feet upstream of Underwood Street.	*690	*690
		McLellan Creek	At mouth	*721	*720
			Just upstream of U.S. Route 41	*721	*721
		Slaughter Pen Creek	At mouth	*692	*689
			About 1,600 feet upstream of Beechland Place	*692	*692
		Tar Creek Tributary	About 0.50 mile downstream of Riverbend Drive.	*697	*696
			About 950 feet downstream of Riverbend Drive	*705	*705

Maps available for inspection at the City Hall, Dalton, Georgia.
Send comments to The Honorable Jim Middleton, Mayor, City of Dalton, P.O. Box 1205, Dalton, Georgia 30720.

Kansas	City of Parsons, Labette County.	Labette Creek	About 0.71 mile downstream of Southern Avenue.	*866	*864
			About 400 feet upstream of 21st Street	*887	*885
		Little Labette Creek	About 1,450 feet downstream of Missouri-Kansas-Texas Railroad.	*866	*864
			Just downstream of Missouri-Kansas-Texas Railroad.	*867	*865
			Just upstream of Missouri-Kansas-Texas Railroad.	*868	*870
			About 3,850 feet upstream of 32nd Street	*881	*881

Maps available for inspection at the City Hall, Parsons, Kansas.
Send comments to The Honorable Timothy Ren, Mayor, City of Parsons, P.O. Box 1037, Parsons, Kansas 67357.

Louisiana	Thibodaux, city, Lafourche Parish.	Lateral B	Southwestern corner of community at South Barbier Drive.	None	*6
			At downstream corporate limits	None	*9
			Approximately 125 feet upstream of Bayou Lane.	None	*10

Maps available for inspection at 1309 Canal Boulevard, Thibodaux, Louisiana.
Send comments to The Honorable Warren Horang, Jr., Mayor of the City of Thibodaux, Lafourche Parish, P.O. Box 5418, Thibodaux, Louisiana 70302.

Mississippi	Town of Bruce, Calhoun County.	Skuna River Canal	About 2,400 feet downstream of State Highway 9.	None	*260
			About 4,500 feet upstream of State Highway 9	None	*263

Maps available for inspection at the Mayor's Office, City Hall, Bruce, Mississippi.
Send comments to The Honorable E.W. Overby, Mayor, Town of Bruce, P.O. Box 667, Bruce, Mississippi 38915.

Mississippi	City of Calhoun, city, Calhoun County.	Yalobusha River Canal	About 2,800 feet downstream of State Highway 9.	None	*251
			About 2,200 feet upstream of State Highway 9.	None	*254
		Hurricane Creek	About 1,800 feet upstream of mouth	None	*253
			About 2,900 feet downstream of State Highway 9.	None	*267
		Huffman Creek	At mouth	None	*265
			About 1,400 feet upstream of mouth	None	*267

Maps available for inspection at the Mayor's Office, City Hall, Calhoun City, Mississippi.
Send comments to The Honorable T.L. Cole, Mayor, City of Calhoun City, P.O. Box E, Calhoun City, Mississippi 38916.

Mississippi	Town of Derma, Calhoun County.	Miles Creek	About 2,500 feet downstream of State Highway 8.	None	*259
			About 2,800 feet upstream of State Highway 8	None	*271

Maps available for inspection at the City Clerk's Office, City Hall, Main Street, Derma, Mississippi.
Send comments to The Honorable Dock H. Gabbert, Mayor, City of Derma, City Hall, Main Street, P.O. Box 98, Derma, Mississippi 38839.

New Jersey	Frankford, township, Sussex County.	Paulins Kill	At downstream corporate limits	None	*488
			At approximately 1,150 feet upstream of U.S. Route 206 at upstream corporate limits.	None	*503
		Dry Brook	At confluence with Paulins Kill	None	*492

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At approximately 50 feet upstream of U.S. Route 206 at upstream corporate limits.	None	*509
		Culvers Creek	At downstream corporate limits	None	*645
			At U.S. Route 206	None	*847
Maps available for inspection at the Frankford Municipal Building, U.S. Route 206, Augusta, New Jersey.					
Send comments to The Honorable Donald Haggarty, Mayor of the Township of Frankford, Sussex County, P.O. Box 179, Augusta, New Jersey 07822.					
New Jersey	Lafayette, township, Sussex County.	Paulins Kill	Approximately 5,750 feet downstream of old railroad grade.	None	*503
			Approximately 3,980 feet upstream of old railroad grade.	None	*562
		Sparta Junction Tributary	At confluence with Paulins Kill	None	*560
			Approximately 2,600 feet upstream of old railroad grade.	None	*568
		Lafayette Township Tributary	At confluence with Paulins Kill	None	*511
			Approximately 860 feet of Little Road	None	*535
Maps available for inspection at the Lafayette Municipal Building, Route 15, Lafayette, New Jersey.					
Send comments to The Honorable Richard Davies, Mayor of the Township of Lafayette, Sussex County, P.O. Box 285, Lafayette, New Jersey 07848.					
New Jersey	Stillwater, township, Sussex County.	Paulins Kill/Paulins Kill Lake	At West End Drive	None	*451
			At upstream corporate limits	None	*459
Maps available for inspection at the Stillwater Municipal Town Hall, Stillwater Road, Stillwater, New Jersey.					
Send comments to The Honorable Charles Gross, Mayor of the Township of Stillwater, Sussex County, P.O. Box 1, Middleville, New Jersey 07855.					
North Carolina	Unincorporated areas of Swain County.	Tuckasegee River	About 0.6 mile downstream of confluence of Watkins Branch.	None	*1712
			About 0.3 mile upstream of confluence of Buckner Branch.	None	*1,717
			Just downstream of confluence of Kirkland Creek.	None	*1,753
			Just downstream of U.S. Route 19	None	*1,761
			Just upstream of U.S. Route 19	None	*1,767
			At confluence of Oconaluftee River	None	*1,798
		Oconaluftee River	At mouth	None	*1,798
			Just downstream of Bryson Dam	None	*1,808
			Just upstream of Bryson Dam	None	*1,839
			About 1.0 mile upstream of confluence of Raven Fork.	None	*2,056
		Raven Fork	At mouth	None	*2,021
			About 1.6 miles upstream of mouth	None	*2,088
		Deep Creek	At mouth	None	*1,741
			About 1.2 miles upstream of Deep Creek Church Road.	None	*1,799
Maps available for inspection at the County Manager's Office, County Courthouse, Bryson City, North Carolina.					
Send comments to The Honorable Linda Cable, County Manager, Swain County, P.O. Drawer A, Bryson City, North Carolina 28713.					
Tennessee	City of Elizabethton, Carter County.	Doe River	At mouth	*1,508	*1,509
			About 1.57 miles upstream of U.S. Route 19E	*1,580	*1,580
		Watauga River	At confluence of Buffalo Creek	*1,460	*1,460
			About 1760 feet upstream of confluence of Davis Branch.	*1,524	*1,526
		Gap Creek	At mouth	*1,461	*1,461
			Just downstream of East Tennessee and Western North Carolina Railroad.	*1,474	*1,475
			Just upstream of West G Street	*1,480	*1,480
			About 1.6 miles above mouth	*1,557	*1,558
		Buffalo Creek	At mouth	*1,460	*1,460
			Just upstream of U.S. Route 321	*1,468	*1,468
			Just downstream of Milligan Highway	*1,480	*1,484
Maps available for inspection at the City Hall, Elizabethton, Tennessee.					
Send comments to The Honorable Harold Lingerfelt, Mayor, City of Elizabethton, P.O. Box 6040, Elizabethton, Tennessee 37644-6040.					
Texas	Garland, city, Dallas County.	Stream 2C1	At confluence with Duck Creek	*443	*442
			Approximately 1,580 feet upstream of Tacoma Drive.	*494	*492
		Stream 2I5.5	At confluence with Spring Creek	None	*536
			At upstream corporate limits	None	*556
		Stream 2I7	At confluence with Spring Creek	*550	*553
			Approximately 200 feet downstream of Campbell Road.	*552	*553

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, Garland, Texas.					
Send comments to The Honorable Ruth Nicholson, Mayor of the City of Garland, Dallas County, P.O. Box 469002, Garland, Texas 75046.					
Virginia	Wise County, unincorporated areas.	Callahan Creek	Approximately 1.02 miles upstream of confluence with Powell River.	*1,661	*1,660
			Approximately 1.1 miles upstream of confluence with Powell River.	*1,664	*1,667
			Downstream side of State Route 78	*1,734	*1,733
		Looney Creek	Approximately 0.18 mile upstream of confluence with Pigeon Creek.	*1,623	*1,624
			Approximately 0.9 mile upstream of Southern Switchyard Road.	*1,629	*1,630
		Powell River	Approximately 0.9 mile downstream of Cadet School Bridge.	*1,459	*1,460
			Approximately 1.4 miles upstream of Cadet School Bridge.	*1,465	*1,466
			Approximately 4.05 miles upstream of Cadet School Bridge.	None	*1,497
			Approximately 0.75 mile upstream of Southern Railway.	None	*1,611
		South Fork Powell River	Approximately 0.9 mile upstream of downstream crossing of State Route 613.	*1,494	*1,495
			Approximately 0.26 mile downstream of downstream crossing of Southern Railway.	*1,506	*1,507
		Butcher Fork	At confluence with South Fork Powell River	None	*1,513
			Approximately 1.2 miles upstream of State Route 683.	None	*1,554
Maps available for inspection at the County Administrator's Office, County Courthouse, Wise, Virginia.					
Send comments to The Honorable William P. Varson, Wise County Administrator, P.O. Box 570, Wise, Virginia 24293.					

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: May 4, 1989.

[FR Doc. 89-11210 Filed 5-9-89; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 54, No. 89
Wednesday, May 10, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Private Act of 1974; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of New Privacy Act system of records.

SUMMARY: Notice is hereby given that USDA proposes to create a new Privacy Act system of records, USDA/OFM-2, entitled "Employee Counseling Services Program Records, USDA/OFM." Administrative inspection has disclosed that no systems notice embracing the currently maintained system of records necessary to administer the USDA Employee Counseling Services Program has been published. This announcement is made for the purpose of remedying this inadvertent omission.

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on June 26, 1989, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before June 9, 1989, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Larry Wilson, Director, Office of Finance and Management.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA announces a system of records maintained by the Office of Finance and Management (OFM). The purpose of this notice is to announce the existence and character of this system of records maintained by the OFM. The system contains data on individuals who have been referred to or have referred themselves to the Employee Counseling Services Program for treatment or evaluation of alcohol or drug dependency or personal or emotional health problems.

This program has been established pursuant to Pub. L. No. 99-570, the Federal Employee Substance Abuse Education and Treatment Act of 1986, 5 U.S.C. 7361 *et seq.*, and Pub. L. No. 79-658, Chapter 865, entitled Government Employees—Health Programs, 5 U.S.C. 7901. Federal agencies are required by Pub. L. No. 99-570 and 5 CFR Part 792 to develop and maintain appropriate prevention, treatment, and rehabilitation programs and services for Federal civilian employees with alcohol or drug problems. Pub. L. 79-658 authorizes Federal agencies to establish health services programs to promote and maintain the physical and mental fitness of employees of the Federal Government. The USDA Employee Counseling Services Program has been established in accordance with these laws and regulations.

USDA/OFM-2

SYSTEM NAME:

Employee Counseling Services Program Records.

SYSTEM LOCATION:

U.S. Department of Agriculture, Office of Finance and Management, Safety and Health Management Division, 14th and Independence Avenue, SW., Washington, DC 20250, and USDA agencies.

Note. In order to meet the statutory requirement that agencies provide appropriate prevention, treatment, and rehabilitaiton programs and services for employees with alcohol or drug problems, and to better accommodate establishment of a health service program to promote employees' physical and mental fitness, it may be necessary for an agency to negotiate for use of the counseling staff of another Federal, State, or local government, or private sector agency or institution. This system also covers records on USDA employees that are maintained by another Federal, State, or local government, or private sector agency or institution under such a negotiated agreement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USDA employees and Farm Credit System Assistance Board employees who have been counseled or otherwise treated regarding alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the diagnosis, recommended treatment, results of treatment, and other notes or records of discussions held with the employee made by the counselor. Additionally, records in this system may include documentation of treatment by a private therapist or a therapist at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7361 *et seq.*, 5 U.S.C. 7901, and 42 U.S.C. 290dd-3 and 290ee-3.

PURPOSE:

These records are used to document the nature of the individual's problem and progress made and to record an individual's participation in the results of community or private sector treatment or rehabilitation programs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be disclosed:

1. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of USDA (and, with respect to Farm Credit System Assistance Board employees, because of activities of the Farm Credit System Assistance Board) in conneciton with the individual.

2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient indentities in any manner (when such records are provided to qualified researchers employed by USDA, all patient identifying information shall be removed). Note: Disclosure of these records beyond officials of USDA or the Farm Credit Assistance Board having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to

an individual with a history of alcohol or drug abuse must be limited in compliance with 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records. Records pertaining to the physical and mental fitness of employees are, as a matter of policy, afforded the same degree of confidentiality and are generally not disclosed.

Policies and Practices for Storing, Retrieving, Accessing and disposing of Records in the System:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual subjects of the records.

RETENTION AND DISPOSAL:

Employee records are maintained for 3 to 5 years after the employee's last contact with USDA's Employee Counseling Services Program or, if the employee leaves the agency, until the Employee Counseling Services Program Annual Report for the fiscal year in which separation occurred is prepared. Records are destroyed by shredding or burning.

SAFEGUARDS:

These records are maintained in locked file cabinets labeled confidential with access strictly limited to employees directly involved in USDA alcohol and drug abuse prevention function (as the term is defined in 42 CFR Part 2) and the Employee Counseling Services Program.

SYSTEM MANAGER AND ADDRESS:

Chief, Safety and Health Management Division, Office of Finance and Management, 14th and Independence Avenue, SW., Washington, DC 20250.

NOTIFICATION PROCEDURE:

USDA employees wishing to inquire whether this system of records contains information about them should contact the USDA Employee Counseling Services Program Manager, or their Agency Counseling Services Program Coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

c. USDA agency for whom employed.

An individual must also follow the Privacy Act regulations regarding verification of identify and access to records (7 CFR 1.112 and 1.113).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program Staff member who records the counseling session, and therapists or institutions providing treatment.

PROVISIONS FROM WHICH THE SYSTEM HAS BEEN EXEMPTED.

None.

Signed at Washington, DC, on May 4, 1989.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 89-11145 Filed 5-9-89; 8:45 am]

BILLING CODE 3410-90

Food and Nutrition Service

Commodity Supplemental Food Program; Elderly Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These poverty income guidelines are to be used in conjunction with the CSFP Regulations, 7 CFR Part 247.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3730.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Executive Order 12291 and has been determined to be *not major*. The Department does not anticipate that this notice will have an annual effect on the economy of $100 million or more. This action will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Further, this action will not have a significant adverse effect on competition, employment, investment, productively, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The action has been reviewed in accordance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to that review, the Administrator of the Food and Nutrition Service has determined that the action will not have a significant economic impact on a substantial number of small entities. This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99-198). This legislation amends section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Department estabish procedures allowing agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of eligibility requirements for elderly participation. Prior to enactment of Pub. L. 99-198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Pub. L. 99-198, the Department published interim rules on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 53 FR 4831. These regulations defined "elderly persons" as those who are 60 years of age or older. The final rule further stipulated that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1989 was published by the Department of Health and Human Services at 54 FR 7097 on February 16, 1989. At this time the Department is publishing the income limit of 130 percent of the poverty income guidelines by household size to be used for eldery certification in the CSFP for the period July 1, 1989 through June 30, 1990.

The poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar. The first table in this notice comtains the income limits by household size for the 48 contiguous State, the District of Columbia, and all the Territories including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1989–JUNE 30, 1990

Family size	Annual FNS poverty income guidelines for elderly in CSFP (130% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:	
1	7,774
2	10,426
3	13,078
4	15,730
5	18,382
6	21,034
7	23,686
8	26,338
For each additional family member add Alaska:	2,652
1	9,724
2	13,039
3	16,354
4	19,669
5	22,984
6	26,299
7	29,614
8	32,929
For each additional family member add Hawaii:	3,315
1	8,931
2	11,986
3	15,041
4	18,096
5	21,151
6	24,206
7	27,261
8	30,316
For each additional family member add:	3,055

Authority: Section 1562, Pub. L. 99–198, 99 Stat. 1590 (7 U.S.C. 612c note).

G. Scott Dunn,

Acting Administrator.

May 3, 1989.

[FR Doc. 89–11168 Filed 5–9–89; 8:45 am]

BILLING CODE 3410-30-M

Special Supplemental Food Program for Women, Infants and Children; Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These poverty income guidelines are to be used in conjunction with the WIC Regulations, 7 CFR Part 246.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION: The final action has been reviewed under Executive Order 12291 and has been determined to be *not major*. The Department does not anticipate that this notice will have an annual effect on the economy of $100 million or more. This action will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Further, this action will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The action has been reviewed in accordance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has determined that the action will not have a significant economic impact on a substantial number of small entities. This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) requires the Secretary to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9 of the National School Lunch Act (42 U.S.C. 1758). Under section 9, the income limit for reduced-price school meals is 185 percent of the Federal poverty income guidelines, as adjusted.

Section 9 also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 1989 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for February 16, 1989 at 54 FR 7097. The guidelines published by DHHS are referred to as the poverty income guidelines.

The Department published final WIC regulations on February 13, 1985, at 50 FR 6108. Section 246.7(c)(1) specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9 of the National School Lunch Act for reduced-price school meals or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines established under section 9 of the National School Lunch Act for reduced-price school meals, or which are less than 100 percent of the Federal poverty income guidelines.

Consistent with the method used to compute eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty income guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC poverty income limits by household size for the period July 1, 1989 through June 30, 1990. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1989–JUNE 30, 1990

Family Size	Annual poverty income guidelines (PIG)	Annual FNS income guidelines for reduced-price meals (185% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:		
1	5,980	11,063
2	8,020	14,837
3	10,060	18,611
4	12,100	22,385
5	14,140	26,159
6	16,180	29,933
7	18,220	33,707
8	20,260	37,481
For each additional family member, add	2,040	3,774
Alaska:		
1	7,480	13,838
2	10,030	18,556
3	12,580	23,273
4	15,130	27,991
5	17,680	32,708
6	20,230	37,426
7	22,780	42,143
8	25,330	46,861
For each additional family member, add	2,550	4,718
Hawaii:		
1	6,870	12,710
2	9,220	17,057
3	11,570	21,405
4	13,920	25,752
5	16,270	30,100
6	18,620	34,447
7	20,970	38,795
8	23,320	43,142
For each additional family member, add	2,350	4,348

Authority: (42 U.S.C. 1786).

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89–1169 Filed 5–9–89; 8:45 am]

BILLING CODE 3410–30–M

Food Safety and Inspection Service

[Docket No. 89–017N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132 and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior lable approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from October 1, 1988, through April 1, 1989.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
022C	Use of the term "Fresh" on Meat and Poultry Products, January 11, 1989.	Under that conditions may the term "fresh" be used on approved labieing of meat and poultry products?.	Supersedes Policy Memo 022B.
118	Use of the Terms "Extra" and "More Than," October 31, 1988.	Under what conditions may the terms "extra" or "more than" be declared for components of meat and poultry products on approved labeling (e.g., "extra tomatoes," "extra topping," "more [meat] than"?.	NA

The SLD policies specified in these memoranda will be uniformly applied to all relevant applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on May 4, 1989.

Ashland L. Clemons,

Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service.

[FR Doc. 89–11206 Filed 5–9–89; 8:45 am]

BILLING CODE 3410–DM–M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 6:30 p.m. and adjourn at

9:30 p.m., on Wednesday, May 17, 1989, at the Marriott Hotel, 2025 East "D" Street, Ontario, California 91764. The purpose of the meeting is to discuss the committee's project on higher education.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Deborah Hesse or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–11184 Filed 5–9–89; 8:45 am]

BILLING CODE 6335–01–M

Nebraska Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on Wednesday, May 24, 1989, at the Hilton Hotel, 141 North 9th Street, Lincoln, Nebraska. The purpose of the meeting is to receive information on the nature and extent of bigotry-related crime and harassment on selected college campuses in Nebraska.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gary Hill, or Ascension Hernandez, Civil Rights Analyst of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–11185 Filed 5–9–89; 8:45 am]

BILLING CODE 6335–01–M

North Carolina Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 5:00 p.m., on Wednesday, May 24, 1989, at the North Raleigh Hilton Hotel, Raleigh, North Carolina 27609. The Committee will conduct a forum on the implications of ability group tracking for equal educational opportunity in the State. Invited speakers include Mr. George A. Kahdy, Governor's Education Advisor; Mr. William Newkirk, Director of the North Carolina Department of Public Instruction, Division of Desegregation Assistance, representatives of county school districts, and the U.S. Department of Education, Office for Civil Rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson David B. Broyles or John I. Binkley, Director, Eastern Regional Division at (202) 523–5264, TDD (202) 376–8117. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–11186 Filed 5–9–89; 8:45 am]

BILLING CODE 6335–01–M

Texas Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Texas Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 5:30 p.m. on May 20, 1989, at the Clarion Hotel, 1241 West Mockingbird, Dallas, Texas 75247. The purpose of the meeting is to collect information on early childhood education issues in Texas which impact on civil rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Adolfo Canales or Philip Montez, Director of the Western Regional Division (213) 894–3437 (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 28, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–11187 Filed 5–9–89; 8:45am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Swim-With-the-Dolphin Programs

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of intent to prepare an environmental impact statement and request for comments.

SUMMARY: The National Marine Fisheries Service (NOAA Fisheries) intends to prepare a programmatic environmental impact statement (EIS), according to the National Environmental Policy Act (NEPA), on the use of marine mammals in swim-with-the-dolphin programs. These programs allow a member of the public, including any general visitor or customer, to enter the water with a marine mammal for recreational swimming, snorkeling or scuba diving activities. Provisional authority to conduct these programs on an experimental basis expires on December 31, 1989. NOAA Fisheries is considering the environmental consequences of swim-with-the-dolphin programs and requests comments on the scope of significant issues to be included in a draft EIS.

DATES: Comments are requested by June 15, 1989.

ADDRESSES: Comments should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs (F/PR), NOAA Fisheries, 1335 East-West Hwy., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 301–427–2289.

SUPPLEMENTARY INFORMATION: Four marine mammal permit holders are authorized to use marine mammals in swim-with-the-dolphin programs on an experimental and provisional basis until December 31, 1989. An application for a fifth facility is under review. NOAA

Fisheries needs to decide whether the use of marine mammals in these or other programs should be allowed, whether additional takings for use in such programs should be authorized, and, if authorized, what permit conditions may be appropriate. Strong public views have been expressed on swim-with-the dolphin programs and questions have been raised on their educational value, on the ethics of removals of dolphins from the wild for this purpose, and on the safety of dolphins and humans. Alternatively, many individuals claim benefits to dolphin conservation, and human understanding of marine mammals, by these types of encounters with captive animals.

Animals used in swim-with-the-dolphin programs are taken from Atlantic bottlenose dolphin (*Tursiops truncatus*) populations in the U.S. Gulf of Mexico under public display permits issued under the authority of sections 104 and 112 of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* NOAA Fisheries will examine whether proper authority exists for allowing marine mammals to be used in these programs and will determine whether they constitute public display under the MMPA. We will consider the cumulative effects of possible increased demand for dolphins for aquaria, zoos, amusement parks, and hotel/resort facilities. Health and safety issues, including possible disease transmission, will also be addressed.

NOAA Fisheries invites interested parties to participate in determining the scope of significant issues to be addressed in the EIS. In addition to this early scoping process, NOAA Fisheries will solicit public comments on a draft EIS and conduct public hearings. A tentative schedule for this NEPA process is as follows:

June 15, 1989—Comments received on scope of the issues.

August 16, 1989—Publication of the draft EIS.

September–October, 1989—Public hearings on the draft EIS.

November 1, 1989—Comment period ends on draft EIS.

December 1, 1989—Publication of the final EIS and final decision on the future of the programs.

December 31, 1989—Implementation of the final decision.

Concurrent with this NEPA review, NOAA Fisheries is conducting a broader review of all programs and policies involved in the issuance of public display and scientific research permits for marine mammals (See 54 FR 13099, March 30, 1989). A discussion paper on the permit review is available by writing to the address listed above.

Date: May 3, 1989.

Nancy Foster,

Director, Office of Protected Resources and Programs, National Marine Fisheries Service.

[FR Doc. 89–11123 Filed 5–9–89; 8:45 am]

BILLING CODE 3510-22-M

Taking of Marine Mammals Incidental to Commercial Fishing Operations

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

ACTION: Notice of proposed determination to accept an alternative international observer program.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, proposes to find that the international observer program administered by the Inter-American Tropical Tuna Commission (IATTC) on behalf of Ecuador, Mexico, Panama, Vanuatu, Venezuela, and any subsequent harvesting nation for which the Assistant Administrator makes a positive finding, is acceptable at a level of observer coverage for each nation of approximately 33 percent as it will provide sufficiently reliable documentary evidence of the average rate of incidental taking by the participating harvesting nations. This finding will apply to the calendar year 1989.

DATES: The finding is effective July 10, 1989.

FOR FURTHER INFORMATION CONTACT: E. Charles Fullerton, Regional Director, Southwest Region, NMFS (213–514–6196).

SUPPLEMENTARY INFORMATION: In the 1988 reauthorization of the Marine Mammal Protection Act (MMPA), the U.S. Congress amended the Act to add new import requirements for nations exporting yellowfin tuna to the United States that were caught with purse seine nets in the eastern tropical Pacific Ocean (ETP). Among other things, Congress required that the average rate of incidental taking of marine mammals by vessels of harvesting nations be no more than 2.0 times that of U.S. vessels during the same period by the end of the 1989 season and no more than 1.25 times during subsequent seasons. Congress further required that the rate of incidental taking in 1989 and subsequent years be monitored by the dolphin observer program of the IATTC or an equivalent international program in which the United States participates and that the program be based upon observer coverage equal to that achieved by the United States during the same period. Congress, however, provided that the Secretary may approve an alternate observer program 60 days after publishing the alternate proposal in the **Federal Register** along with the reasons it will provide sufficiently reliable documentary evidence of the average rate of incidental taking of marine mammals by each harvesting nation.

Domestic Observer Program

Until 1986, the NMFS placed observers on about 40 percent of all U.S. tuna purse seine vessels fishing in the ETP. In 1986 the NMFS initiated 50 percent observer coverage and in 1987 extended it to 100 percent in an effort to validate the accuracy of the data collected for estimating marine mammal mortality. Observer coverage was reduced to 50 percent at the beginning of 1988 and was maintained at this level throughout the year.

Congress, in the 1988 amendments to the MMPA, required 100 percent observer coverage during 1989 and subsequent fishing seasons, "unless for reasons beyond the control of the Secretary [of Commerce], an observer is not available for such purpose." The NMFS implemented a 100 percent observer program beginning with the 1989 season.

Annual quotas have been imposed since 1976 on the number of marine mammals that can be taken incidental to fishing for yellowfin tuna by the U.S. purse seine fishermen. The placement of observers aboard tuna vessels is mandatory and is carried out under a schedule established at the beginning of each fishing season. Observers assigned to the domestic tuna-dolphin program monitor the incidental mortality of thirteen dolphin species/stocks during tuna purse seine fishing and record data on fishing practices that are later reviewed by enforcement officers to determine compliance to procedural regulations. The incidental mortalities are transmitted weekly by the observers to the NMFS field office in San Diego, California, where estimates of the cumulative mortalities by species/stock and the aggregate total are computed. When an individual species/stock or the aggregate quota is reached, further fishing on tuna associated with dolphin is prohibited for the individual species/stock affected or for all dolphins if the aggregate quota is exceeded.

International Observer Program

The IATTC has administered the international tuna-dolphin observer program since it began in 1979. Participation is voluntary and is open to all nations taking dolphin incidental to the yellowfin tuna fishery. In 1988, the fleets of eight nations (i.e. Ecuador, El Salvador, Mexico, Panama, Spain, United States, Vanuatu, and Venezuela) having vessels equal to or greater than

400 tons carrying capacity and purse seining for yellowfin tuna in the ETP participated in the program (Table 1). A Korean flag vessel made its first trip late in 1988 and was not sampled.

TABLE 1.—NUMBER OF TUNA PURSE SEINE VESSELS (CAPACITY≥400 TONS) OPERATING IN THE ETP BY NATION, 1986–1988 (SOURCE: NMFS)

Flag	Number of vessels, by year		
	1986	1987	1988
Mexico	41	50	48
United States	34	34	34
Venezuela	15	25	22
Subtotal	90	109	104
Percent	89.1	87.9	87.4
Ecuador	4	4	4
Panama	3	5	5
Spain	1	1	1
Vanuatu	3	5	5
Subtotal	11	15	15
Percent	10.9	12.1	12.6
Total Vessels	101	124	119

The United States participates in the IATTC's international program by allowing the IATTC to share the total assigned U.S. trips each year equally with the NMFS domestic observer program.

There are no annual dolphin mortality quotas assigned to the international fleet. The primary duties of observers in the international program are to monitor and record the number of dolphin deaths by species/stock during each trip. These data are used by the IATTC to estimate the total dolphin mortality for the major species/stocks for the entire international fleet on an annual basis.

The IATTC attempts to place an observer on every third trip for every departing vessel from participating nations. The IATTC's goal is to achieve 33 percent observer coverage for non U.S. vessels (Table 2).

TABLE 2.—NUMBER OF SAMPLED TRIPS AND SAMPLING COVERAGE OF U.S. AND NON-U.S. CLASS-6 VESSELS (CAPACITY ≥400 TONS), 1979–1988

Flag	Number of sampled trips, by year									
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Cayman Islands	–	–	–	1	1	–	1	1	1	1
Canada	2	–	–	–	–	–	–	–	–	–
Costa Rica	2	4	1	–	–	1	2	1	1	–
Ecuador	–	–	–	–	–	1	4	2	2	11
El Salvador	–	–	–	–	–	–	–	–	2	1
Mexico	1	–	–	–	–	–	–	42	51	83
New Zealand	–	1	–	–	–	–	–	–	–	–
Nicaragua	1	–	–	–	–	–	–	–	–	–
Panama	4	2	3	5	1	–	4	6	2	6
Spain	–	–	–	–	–	–	1	1	2	3
Vanuatu	–	–	–	–	–	–	2	6	10	9
Venezuela	–	2	1	2	2	3	6	15	17	26
Total non-U.S.	10	9	5	8	4	5	20	73	87	139
Estimated Coverage, non-U.S. fleet (percent)	4.4	3.7	2.2	5.3	2.7	2.3	7.3	24.0	24.4	35.3
U.S.A.										
By NMFS	82	48	39	39	10	11	24	[a]44	80	42
By IATTC [b]	37	60	61	46	38	23	31	27	46	42
Total U.S.	119	108	100	85	48	34	55	71	126	84
Estimated coverage, U.S. fleet (percent)	37.0	32.8	36.6	36.6	34.0	23.9	37.2	53.8	86.3	53.2
All Fleets	23.4	20.5	21.2	24.2	18.1	10.9	17.8	33.0	42.4	40.4

[a]—Includes 19 NMFS enforcement trips after the U.S. dolphin quota closure.
[b]—Includes U.S. flagged vessels chartered by non-U.S. companies.
NOTE: Data are for all trips during a year; trips departing in one year and arriving in the next will be counted in both years. (Source: IATTC)

On December 23, 1988, the NMFS officially notified the IATTC's Director that the U.S. tuna fleet would be required to carry an observer on every trip after January 1, 1989. Under the 1988 amendments to the MMPA, this action would require nations participating in the IATTC observer program to implement 100 percent observer coverage for their vessels in order to continue exporting tuna to U.S. markets, unless it was determined that an alternative program "will provide sufficiently reliable documentary evidence of the average rate of incidental taking of marine mammals in this fishery." In subsequent correspondence, the Director, IATTC, indicated that the logistics and financial commitments necessary to achieve 100 percent coverage for participating nations in 1989 would not be possible. Further, the Director expressed doubt that funding could be obtained for 100 percent coverage prior to the 1991 fiscal year.

Correspondence from the Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State, to the Under Secretary for Oceans and Atmosphere, Department of Commerce, on January 31, 1989 included a $1.23 million supplemental funding request from the IATTC to provide 100 percent observer coverage for the international fleet beginning in 1990. The Deputy Assistant Secretary supported the need for the additional funding as being in the U.S. interest toward achieving marine mammal conservation in the ETP but indicated it would be unlikely that additional funding could be made available to the IATTC through the Department of State until fiscal year 1991. The correspondence also

suggested that an analysis should be made to determine whether an alternative level of observer coverage would meet the requirements of U.S. law.

Comparability of Incidental Mortality Rates

Scientists from the NMFS, Southwest Fisheries Center and the IATTC collaborated in a review of the annual rates of incidental dolphin mortality based on data from the U.S. and international observer programs. For purposes of the review, the annual rate of incidental taking was considered the estimated number of dolphins killed per year as determined from the observed number of dolphins killed per ton of tuna caught with dolphins. The review recognized differences in sampling objectives between the two programs, i.e. the U.S. program uses "real time" data to estimate mortalities for in-season quota management while the IATTC uses data to estimate the total annual mortality for the international fleet at the end of each year.

The U.S. observer program is designed to achieve the best in-season (real-time) estimates of dolphin mortality for individual species and stocks based on weekly radio reports from observers at sea. The objective of the sampling scheme is to maintain precision in the estimates for dolphin mortalities as mortalities accumulate during the year in order to produce the best projections of the date when the aggregate or individual stock quotas may be reached. Differences in fishing areas are not considered in the real-time estimates for the U.S. fleet.

In contrast, the international observer program is designed to produce estimates of total annual dolphin mortality for all fleets in the ETP. The sampling scheme of the IATTC does not consider "real-time" dolphin mortality estimates as there are no in-season quotas for the international fleet. The IATTC's object is to obtain the best annual estimates of dolphin mortality for the least cost. Combining observer data from trips conducted throughout the entire year, the IATTC is able to maintain acceptable precision at lower sampling levels because the data can be stratified by fishing area, species groups (*e.g.* common dolphin vs. other dolphin), and flag (*e.g.* U.S. vs. non-U.S.).

The NMFS and IATTC scientists chose the coefficient of variation (CV) as the relative measure of variability of the estimates of the incidental mortality between the U.S. and international observer programs. This statistic describes the precision of the estimated incidental mortality rate at different observer sampling levels. As a matter of policy, the NMFS has used a CV of 20 percent or less as the acceptable level of precision for establishing the observer sample size necessary to estimate the total U.S. dolphin mortality on an annual basis.

Given the 33 percent observer coverage rate for fleets in the international program, IATTC scientists reported the CV for the total international fleet was less than 10 percent in 1986 and 1987. The estimated CV for the U.S. fleet with 96 percent coverage in 1987 was 10 percent; the average CV for the U.S. fleet total mortality for the period 1979–1984 was 15 percent.

Estimates of total annual dolphin mortality data are not available to evaluate the CV's for individual nations other than the United States. Data for the years 1986–1988 are requested in the submission of each nation's annual report which is due on July 31, 1989. NMFS scientists will collaborate with the IATTC on an assessment of these data when they become available.

For purposes of this review, NMFS and IATTC scientists concluded that at the 33 percent sampling level, Mexico and Venezuela, which have fleets greater than 10 vessels, would have CV's similar to that of the U.S. fleet. They reported that the fleets of these nations plus that of the United States account for nearly 90 percent of the ETP fleet fishing for yellowfin tuna associated with dolphin. The four other nations (Ecuador, Panama, Spain, and Vanuatu) combined, currently have fleets of 5 or fewer that account for about 10 percent of the international fleet. The scientists concluded that nations with smaller fleets are likely to have CV's higher than those of larger fleets sampled at the 33 percent level, but the impact of these fleets on dolphin mortality would be relatively small, given the small number of vessels involved.

Determination

The Assistant Administrator proposes to determine effective on the 61st day after publication of this notice that for purposes of meeting the requirements of the interim rule (54 FR 9438–9451) implementing the 1988 amendments to the MMPA, the international observer program of the IATTC, which will provide about 33 percent coverage of trips during 1989, is an acceptable alternate observer program and will provide sufficiently reliable documentary evidence of the average rate of incidental taking of marine mammals by individual harvesting nations. The precision of the rate of incidental taking will be sufficient to establish whether a nation is within 2.0 times the U.S. rate for the 1989 season and will provide a sufficiently reliable estimate of the percent of eastern and coastal spotted dolphin mortality that has occurred for a nation during the 1989 season.

This determination is based on an analysis by NMFS and IATTC scientists which concludes based upon 33 percent observer coverage that the precision of estimates for dolphin mortality for the larger international fleets is within the U.S. coefficient of variation standard of 20 percent or less. It also recognizes that the CV's for smaller fleets are likely to be higher than CV's for the U.S. and for larger foreign fleets, but, that the small fleets will have a substantially lower impact than the larger fleets on overall mortality.

This determination is for the 1989 calendar year and may be extended upon further notice of a proposed determination if the coefficient of variation for each nation in the international program remains at an acceptable level. The Assistant Administrator intends to review the 1986–1988 data submitted by each nation in their annual report for the 1988 season before making a determination on adequacy of the level of observer coverage for individual nations in the future. If changes are required in the level of observer coverage in the international program, the Assistant Administrator recognizes that the requirements necessary to increase observer coverage in the international observer program will require sufficient lead time to: (1) Modify laws and agreements between the IATTC and harvesting nations, (2) recruit and train qualified scientific technicians to serve as observers, and (3) secure sufficient funding to augment their current program.

The 1988 amendments to the MMPA require 100 percent observer coverage for the U.S. program through 1991 at which time the Secretary of Commerce may establish a less extensive program if it is determined that such a program will provide sufficiently reliable information. The Assistant Administrator intends to carry out a comprehensive evaluation of the U.S. observer coverage requirements to determine whether the observer program can collect sufficiently reliable information at a reduced cost. If the Assistant Administrator accepts a lower level of observer coverage for the U.S. program after 1991, nations participating in the IATTC observer program will be given the opportunity to make

adjustments in their respective programs.

James W. Brennan,

Assistant Administrator for Fisheries.

[FR Doc. 89-11155 Filed 5-9-89; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Emergency Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council convened an emergency public meeting on April 26, 1989, by telephone conference call at 2 p.m. The Council reconsidered its recommendation to close the area north of the Queets River, WA, to commercial salmon fishing in the 1989 May-June fishery for all species except coho salmon. This action was taken at the April 4–7 Council meeting to limit impacts of the ocean fishery on Columbia River upriver spring chinook stocks. The meeting provided an opportunity to receive an analysis by the Salmon Technical Team on impacts on the critical Columbia River salmon stocks and to receive public comments on the impact of the closure on the commercial salmon industry. The Council arranged for access to the conference call at the following locations:

Neah Bay: Big Salmon Fishing Resort, P.O. Box 204, Neay Bay, WA.

Astoria: Oregon Department of Fish and Wildlife, 53 Portway Street, Astoria, OR.

Ilwaco: Port of Ilwaco, WA.

Seattle: NOAA General Counsel Library, Building 1, First Floor—Sand Point, Seattle, WA.

For further information or comments, contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 S.W. First Avenue, Room 420, Portland, OR 97201; te1ephone: (503) 326–6352.

Date: May 2, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-11124 Filed 5-9-89; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration Marine Mammals; Application for Permit; Romberg Tiburon Centers (P442)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* Audrey Dianne Kopec, Research Associate, Romberg Tiburon Center for Environmental Studies, San Francisco State University, P.O. Box 855, 3150 Paradise Drive, Tiburon, California 94920.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:* Harbor seal (*Phoca vitulina richardsi*) 100–120.

4. *Type of Take:* Seals will be taken using gill nets and/or hoop nets, radio transmitters attached, and blood samples collected to study population biology, movement patterns and reproductive success with a non-lethal monitoring program to assess the accumulation levels of toxic pollutants in the seal population.

5. *Location and Duration of Activity:* San Francisco Bay for a period of 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above applications are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415.

Date: May 1, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-11125 Filed 5-9-89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Bernie R. Tershy (P402A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. *Applicant:* Mr. Bernie Russell Tershy, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, California 95039–0450.

2. *Type of Permit:* Scientific Research

3. *Name and Number of Marine Mammals:*

Blue whale (*Balaenoptera musculus*)—10

Fin whale (*Balaenoptera physalus*)—10

Humpback whale (*Megaptera novaeangliae*)—10

4. *Type of Take:* The applicant requests authorization to tag no more than 10 individuals of any species listed above and no more than 30 total to study the depth of dive; examine the relationship between the dive profiles and several environmental variables e.g., vertical distribution and relative abundance of prey, water depth; etc.

5. *Location of Activity:* Southern California, Monterey and Morro Bays.

6. *Period of Activity:* One (1) year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available

for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7514.

Date: May 3, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–11156 Filed 5–9–89; 8:45 am]

BILLING CODE 3510-22-M

Evaluation of State/Territorial Coastal Management Program, Coastal Energy Impact Program and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Hawaii, Louisiana, North Carolina, and Washington Coastal Management Programs, and the North Carolina Nation Estuarine Research Reserve. Section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) requires a continuing review of the performance of each coastal state with respect to funds authorized under the CZMA and to the implementation of its federaly approved Coastal Management Program. Section 315 of the CZMA requires the periodic review of the performance of each estuarine research reserve with respect to its operation and management. The states/territories evaluated were found to be adhering to the programmatic terms of their financial assistance awards and/or to their approved coastal management programs; and to be making progress on award tasks, special award conditions, and significant improvement tasks aimed at program implementation and enforcement, as appropriate. Accomplishments in implementing Coastal Management Programs were occurring with respect to the national coastal management objectives identified in section 303(2)(A)–(I) of the CZMA. A copy of the assessment and detailed findings for these programs may be obtained on request from: John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (telephone 202/673–5104).

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration

Date: May 2, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89–11227 Filed 5–9–89; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management Programs and Estuarine Sanctuaries; Intent To Evaluate Findings Availability

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resources Management (OCRM), announces its intent to evaluate the performance of the California Coastal Management Program (CMP); and Alaska CMP; and Alabama (Weeks) National Estuarine Research Reserve (NERR); Rhode Island (Narragansett) NERR; and California (Tijuana) NERR through September 30, 1989. Evaluation of coastal management programs will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA), which requires a continuing review of the performance of coastal States with respect to coastal management, including detailed findings concerning the extent to which the State has implemented and enforced the program approved by the Secretary of Commerce, addressed the coastal management needs identified in section 303(2) (A) through (I) of the CZMA, and adhered to the terms of any grant, loan or cooperative agreement funded under the CZMA. Evaluation of the National Estuarine Research Reserves will be conducted pursuant to section 315(f) of the CZMA, which requires the periodic review of the performance of each reserve with respect to its operation and management. The reviews involve consideration of written submissions, a site visit to the State, and consultations with interested Federal, State and local agencies and members of the public. Public meetings will be held as part of the site visits. The State will issue notice of these meetings. Copies of each State's most recent performance report, as well as the OCRM's notification letter and supplemental information request, if any, to the State are available upon request from the OCRM. Written comments from all interested parties on each of these programs to the contact listed below are encouraged at this time. OCRM will place subsequent notice in the **Federal Register** announcing the availability of the Final Findings based on each evaluation once these are completed.

FOR FURTHER INFORMATION CONTACT: John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235, (telephone: 202/673–5104).

Federal Domestic Assistance Catalog 11.49 Coastal Zone Management Program Administration

Date: May 2, 1989.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89–11228 Filed 5–9–89; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Thailand

May 4, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 11, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6581. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

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); Article 3 of the Arrangement Regarding International Trade in Textiles.

Inasmuch as the consultation period for Categories 363 and 369–D expired on

March 1, 1989, the United States Government has decided to establish twelve-month limits on these categories for the period January 1, 1989 through December 31, 1989.

The United States remains committed to finding a solution concerning Categories 363 and 369–D. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 4883, published on January 31, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

May 4, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 11, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989, in excess of the following levels of restraint:

Category	12-month limit [1]
363	14,554,325 numbers
369–D [2]	120,524 kilograms

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369–D, only HTS numbers 6302.60.0010 and 6302.91.0020.

Imports charged to these category limits for the periods June 30, 1988 through December 31, 1988 for Category 363 and August 31, 1988 through December 31, 1988 for Category 369–D shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Textile products in Categories 363 and 369–D which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–11241 Filed 5–9–89; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Cross-Margining System with the Options Clearing Corporation

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has submitted to the Commodity Futures Trading Commission ("Commission") a new rule, rule amendments and other materials which would allow the CME to implement cross-margining with the Options Clearing Corporation ("OCC"). The proposed system would permit the cross-margining of positions in certain options cleared by the OCC with positions in certain commodity futures and option contracts cleared by the CME when those positions are held by either a firm which is a clearing member of both the CME and OCC ("Joint Clearing Member") or a pair of affiliated firms ("Affiliated Clearing Members"), one of which is a clearing member at CME and the other of which is a clearing member at OCC. The cross-margining system would apply only to positions in certain OCC-cleared stock index options and CME-cleared stock index futures contracts and options on stock index futures contracts. In addition, the proposed cross-margining system initially would be available only for CME positions that qualified as "proprietary" under Commission Regulation 1.3(y) and OCC positions that qualified as non-customer under Securities and Exchange Commission ("SEC") Rules 8c–1 and 15c2–1. The Commission has determined that this proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act ("Act").

DATE: Comments must be submitted by June 9, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

By letters dated January 19 and 24, 1989, the CME, pursuant to section 5a(12) of the Commodity Exchange Act and Commission Regulation 1.41(b), submitted to the Commission a proposed new rule and rule amendments which would permit the CME to implement cross-margining with the OCC.[1] In connection with these cross-margining rule changes, the CME also submitted (1) the CME-OCC Cross-Margining Agreement, (2) a proposed Cross-Margined Proprietary Account Agreement and Security Agreement for Joint Clearing Members, (3) a proposed Cross-Margined Proprietary Account Agreement and Security Agreement for Affiliated Clearing Members, (4) a proposed Proprietary X-M Pledge Account Agreement for Joint Clearing Members, and (5) a proposed Proprietary X-M Pledge Account Agreement for Affiliated Clearing Members.

The Commission previously has published in the **Federal Register** a request for public comment regarding an Intermarket Clearing Corporation ("ICC") petition to have the Commission issue a rule of general applicability that would have permitted the cross-margining of positions in commodity futures and commodity options with securities options relating to the same underlying assets. 51 FR 41117 (November 13, 1986). This ICC cross-margining proposal would have allowed the cross-margining of ICC clearing member house accounts as well as the accounts of consenting customers specifically designated by ICC clearing members. On June 1, 1988, the Commission approved, on a one-year pilot program basis, a narrower version

[1] The OCC has filed corresponding rule changes in connection with this cross-margining proposa with the SEC. The SEC has published a **Federal Register** release soliciting comments on the OCC's proposed cross-margining rule changes. Securities Exchange Act Release No. 26607, 54 FR 10608 (March 14, 1989).

of the original ICC proposal which permitted the proprietary cross-margining, in house accounts only, of positions in commodity futures and options cleared by the ICC with related securities options cleared by the OCC.[2]

The subject CME–OCC cross-margining proposal differs from the ICC–OCC cross-margining system in several respects: the types of eligible accounts; the legal relationship between the two clearing organizations; and the types of eligible clearing members. These distinctions are discussed below.

The proposed CME–OCC cross-margining system would apply only to positions in certain OCC-cleared stock index options and CME cleared stock index futures and options on stock index futures.[3] In addition, the proposed system initially would be available only for CME positions that qualified as "proprietary" under Commission Regulation 1.3(y) and OCC positions that qualified as "non-customer" under SEC Rules 8c–1 and 15c2–1.[4] Therefore, under the CME-OCC proposal, cross-margining would be available for a clearing member's house proprietary account as well as for accounts containing positions of the member's officers, partners and employees. In this respect, the CME-OCC proposal would expand cross-margining eligibility beyond the ICC-OCC cross-margining system which applies solely to house proprietary accounts.[5]

Under the proposed cross-margining system, a firm that is a clearing member of both the CME and OCC—a Joint Clearing Member—would be eligible to elect cross-margining, as would a pair of affiliated firms, one of which is a clearing member of the CME and the other of which is a clearing member of the OCC—Affiliated Clearing Members.[6] The proposed arrangement differs in this regard from the ICC–OCC cross-margining system which is available solely to joint clearing members.

Each Joint Clearing Member or pair of Affiliated Clearing Members electing cross-margining would be required to establish cross-margining accounts ("X–M Accounts") at each of the clearing organizations. Consequently, an X–M Account at one clearing organization would have a corresponding X–M Account at the other clearing organization with which it would be paired for margin and settlement purposes. Each pair of Affiliated Clearing Members would be required to fully guarantee one another,s cross-margining obligations under the Cross-Margined Proprietary Account Agreement and Security Agreement. Each Joint Clearing Member and each pair of Affiliated Clearing Members must designate either the CME or the OCC as its "Designated Clearing Organization." The Designated Clearing Organization would provide the Joint Clearing Member or pair of Affiliated Clearing Members with a daily Margin and Settlement Report and perform settlement functions on behalf of itself and the other clearing organization in connection with the X–M Accounts.

Under the proposed cross-margining system, a Joint Clearing Member or pair of Affiliated Clearing Members could grant a participating bank (a "Secured Party") a security interest in the positions held in a pair of X–M Accounts, and all proceeds thereof, as security for loans extended by the Secured Party to the Clearing Member or Clearing Members. Such types of X–M Accounts would be designated X–M Pledge Accounts and would be formed pursuant to a standard X–M Pledge Account Agreement executed by the CME, OCC and a Secured Party bank with either a Joint Clearing Member or a pair of Affiliated Clearing Members.

These financing arrangements, which would not be a cross-margining requirement, raise a number of legal and financial issues. The CME asserts, however, that these arrangements could serve to facilitate cross-margining for certain clearing members. The CME states that by granting a security interest to a Secured Party bank, a Joint Clearing Member or a pair of Affiliated Clearing Members should be able to borrow against the value of the option positions in the X–M Pledge Accounts to finance payment of variation margin with respect to the futures positions in the X–M Pledge Accounts.[7] Under the proposal, subject to applicable bankruptcy law priorities, the Secured Party's security interest would be subordinate to that of the CME and OCC, but only to the extent of margin obligations to CME and OCC arising from the X–M Accounts. Consequently, if a Joint Clearing Member or a pair of Affiliated Clearing Members defaulted on a margin obligation and the X–M Account were liquidated, subject to applicable bankruptcy law priorities, the CME and OCC would first be made whole in respect of margin obligations to them arising from the X–M Account and then the Secured Party would be entitled to the remaining proceeds of the positions in the X–M Account, up to the

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[2] The SEC approved a related OCC rule submission on October 3, 1988. Securities Exchange Act Release No. 26153, 53 F.R. 39567 (October 7, 1988). The SEC also granted ICC an 18-month temporary registration as a clearing agency under the Securities Exchange Act of 1934. Securities Exchange Act Release No. 26154, 53 F.R. 39556 (October 7, 1988). Although the SEC did not impose any time limit on its approval of OCC's related rule proposal, the SEC did state that, in light of the temporary nature of its approval of ICC s registration, the "cross-margining is, in effect, a pilot program." *Id.* The ICC–OCC cross-margining system began operating on February 3, 1989. There currently is one joint clearing member which cross-margins positions under the ICC–OCC system. ICC staff has indicated that it believes that this low degree of participation is due to the fact that the cross-margining system is limited to proprietary house positions.

[3] Cross-margining would be permitted between positions in OCC options on the Standard & Poor's ("S&P") 100 Index, the S&P 500 Index, the Major Market Index, the New York Stock Exchange Composite Index, the Financial News Composite Index, or the Institutional Index, and positions in CME S&P 500 futures contracts or options on S&P 500 futures contracts.

[4] Generally, Commission Regulation 1.3(y) defines a proprietary account as a trading account carried on the books of an individual or organization for either (1) the individual or organization itself, (2) a person who holds an officer, director or management position, or significant ownership interest in the individual or organization, or (3) an employee who conducts trading activity on behalf of the customers of the individual or organization. Under SEC Rules 8c–1 and 15c2–1, non-customer accounts are accounts held by "any general or special partner or any director or officer of a [national securities exchange] member, broker, or dealer, or any participant, as such, in any joint group or syndicate account with such member, broker, or dealer or with any partner, officer, or director thereof." Consequently, commodity trades of a clearing member employee would be proprietary under the Commission's regulations, while security trades of such an employee would be customer trades under SEC rules. In addition, trades of floor traders and other market professionals generally would not be considered proprietary trades under Commission Regulation 1.3(y) nor considered non-customer trades under SEC Rules 8c–1 and 15c2–1.

[5] The proposed CME rule changes also have been structured to facilitate the possible future expansion of cross-margining to positions other than those that are "proprietary" within the meaning of the Commission,s regulations and "noncustomer" within the meaning of SEC Rules 8c–1 and 15c2–1.

[6] The CME–OCC Cross-Margining Agreement states that a CME clearing member and an OCC clearing member could only become Affiliated Clearing Members if they were non-customers of one another as interpreted under Commission Regulation 1.3(y) and SEC Rules 8c–1 and 15c2–1. *See* footnote 4 for a discussion of these regulatory definitions. Consequently, a pair of Affiliated Clearing Members usually will have some common ownership interest.

[7] Positions in futures contracts are marked to the market and gains and losses are paid and collected on a daily basis, and thus have no equity value against which to borrow. By contrast, the purchaser of either a security or commodity option which gains value cannot realize that value unless the option is exercised or offset. Under the proposed X–M Pledge Account arrangement, a lender could extend a loan to an option holder and, subject to applicable clearing organization and bankruptcy law priorities generally, receive an interest in the option's value as security for the loan. If, however, the value of the option were to be used to reduce initial margin, which under existing systems is adjusted on a daily basis, there is a question as to the extent to which the same value could be used to support a loan for variation margin.

amount of the secured obligation. Because clearing organization priority is an interest held on behalf of the total membership, the proposed arrangement raises a question concerning the extent to which a clearing organization may cede priority to a secured party interest where there is a deficit in another account of the clearing member. *See* Part 190 of the Commission Regulations.

The CME and OCC each would utilize its own margin system to determine an initial margin amount for the combined positions in the X–M Accounts. The average of the two amounts would be the "Base Margin Requirement." [8] In the event that the Base Margin Requirement were to exceed certain monetary levels, then the total initial margin requirement would be determined by adding a pre-determined "Super Margin" amount to the Base Margin Requirement. The Super Margin amount would range between zero and one hundred percent of the Base Margin Requirement, depending upon the size of the Base Margin Requirement—the larger the Base Margin Requirement, the larger the percentage.[9] The CME has stated that the Super Margin mechanism is intended to protect the clearing organizations in the event of an imbalance in cross-margined positions and to provide a disincentive to designating imbalanced positions for cross-margin treatment.[10]

In addition to the Base and Super Margin Requirements, each clearing organization also would have the authority to require additional margin with respect to any obligations in the X–M Accounts and to cause intra-day margin calls to be made.

Initial margin payments would have to be in the form of cash, United States Treasury securities, letters of credit, common stock, or a combination of the foregoing. Section 6 of the CME–OCC Agreement specifies the requirements for, and the method for holding, each form of margin. A Designated Clearing Organization in receipt of initial margin cash payments would be permitted to invest such monies overnight subject to arrangements mutually agreed to by the CME and OCC.[11]

The cross-margining daily settlement procedures in respect of X–M Accounts are established in Section 7 of the CME–OCC Agreement. By 3:00 a.m. of every business day, the CME and OCC would exchange reports on positions and settlements for each X–M Account. At or prior to 4:30 a.m., the clearing organizations would determine jointly the margin requirement for each pair of X–M Accounts.

By 6:00 a.m., each clearing organization would issue a "Margin and Settlement Report" showing the margin requirement and netted settlement obligation in respect of the pair of X–M Accounts to each Joint Clearing Member or pair of Affiliated Clearing Members for which it is the Designated Clearing Organization. These amounts would be netted with any outstanding margin deficit or excess to determine a single net cash settlement amount for each pair of X–M Accounts.

If a settlement amount remained due from a Joint Clearing Member or pair of Affiliated Clearing Members, the Designated Clearing Organization would issue instructions to the appropriate X–M Clearing Bank at or prior to 6:40 a.m. to transfer such amount from the Joint Member's or Affiliated Members', designated bank account to a Joint Settlement Account—a bank account in the joint names of the CME and OCC at the same X–M Clearing Bank.[12]

Consistent with current practice at the CME, at or prior to 6:40 a.m., the CME would issue instructions to the X–M Clearing Bank to transfer from the Joint Settlement Account to the CME's bank account the net settlement amount due to the CME in respect of all X–M Accounts carried at CME as shown on the Margin and Settlement Reports for that day. Consistent with current practice at OCC, OCC would instruct the X–M Clearing Bank at or prior to 9:00 a.m. to transfer the net amount due to OCC from the Joint Settlement Account to OCC's bank account.

If a cash settlement amount were due to a Joint Clearing Member or pair of Affiliated Clearing Members in respect of its paired X–M Accounts, the CME would issue instructions at or prior to 6:40 a.m. to the X–M Clearing Bank to transfer funds from the CME Account to the Joint Settlement Account. OCC would issue instructions to the X–M Clearing Bank at or prior to 10:00 a.m. to transfer funds from OCC's bank account to the Joint Settlement Account. The Designated Clearing Organization would issue instructions to the X–M Clearing Bank at or prior to 10:00 a.m. to transfer the settlement amount from the Joint Settlement Account to the designated bank account of the Joint Member or pair of Affiliated Members.

The CME–OCC cross-margining proposal also makes specific provisions for the liquidation of positions in X–M Accounts upon the suspension of a Joint Clearing Member or one of a pair of Affiliated Clearing Members by either the OCC or CME. Either clearing organization may suspend a clearing member in accordance with its respective rules. Upon a clearing member suspension, the suspending clearing organization would immediately notify the other clearing organization, and each clearing organization would immediately liquidate the contracts in the X–M Account carried by the suspended Joint Clearing Member or its Affiliated Clearing Member. However, the CME–OCC Agreement also provides that the clearing organizations may agree, consistent with their respective rules, to delay liquidation of some or all of the positions, and also may agree to coordinate liquidation to ensure that both legs of any hedge positions are closed out simultaneously. Each clearing organization would apply any funds received on the liquidation of contracts

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[8] Either clearing organization could in its discretion elect to use as the Base Margin Requirement the margin calculation produced by the other clearing organization's system. The CME has stated that its margining system is very similar to that of OCC and that this margin selection provision is intended for use only in the event that either organization encountered problems (*e.g.*, computer malfunctions) in its margin calculations.

[9] Initially, the CME and OCC have indicated that the Super Margin amount, as a percentage of the Base Margin Requirement, would be:

—0% of the Base Margin Requirement when the Base Margin was up to $16 million;

—25% of the Base Margin Requirement when the Base Margin was between $16 and $32 million;

—50% of the Base Margin Requirement when the Base Margin was between $32 and $48 million;

—75% of the Base Margin Requirement when the Base Margin was between $48 and $64 million; and

—100% of the Base Margin Requirement when the Base Margin was over $64 million.

[10] Theoretically, under the CME–OCC cross-margining proposal it would be possible for a Joint Clearing Member or pair of Affiliated Clearing Members with a large overall position to balance the CME-cleared and OCC-cleared component positions in such a way as to have a small Base Margin Requirement. As proposed, the CME–OCC cross-margining system would encourage clearing members to coordinate their cross-margined positions not only to receive a small Base Margin Requirement but also to avoid any additional Super Margin Requirement.

[11] The CME has stated that this procedure would not be an unusual practice for either the CME or OCC. Both clearing organizations customarily invest initial margin cash payments on an overnight basis, usually executing repurchase agreements in U.S. Treasury securities.

[12] Each Joint Clearing Member and pair of Affiliated Clearing Members would be required to establish a bank account for cross-margining settlement purposes at one of the four Chicago settlement banks currently used by the CME and OCC for their ordinary settlement procedures. The four Chicago settlement banks are Harris Trust and Savings Bank, Northern Trust Company, Continental Illinois National Bank & Trust Company of Chicago, and First National Bank of Chicago. The CME and OCC would establish a Joint Settlement Account at each of these four banks as well.

in an X–M Account to offset funds expended in liquidating contracts in such account.

In the event that the funds from the liquidations of X–M Accounts were insufficient to close out the positions, the CME and OCC would share the shortfall equally, notwithstanding that the shortfall was in the X–M Account of either the CME or the OCC. Section 8 of the CME–OCC Agreement requires that the CME and OCC provide in their rules that their respective Clearing Funds may be used to offset any deficit in an X–M Account.

If there were any funds remaining after the X–M Accounts were closed out, the CME and OCC would each be entitled to apply half of the surplus against defaults in other obligations of the Joint Clearing Member or pair of affiliated Clearing Members. However, if the liquidated account was an X–M Pledge Account, then the surplus would be paid to the Secured Party bank up to the amount of the lesser of (1) the outstanding obligation secured by the security pledge or (2) the net proceeds of the contracts in the X–M Pledge Account. Each clearing organization, if it did not need some portion of such surplus, would be required to make the excess of such surplus available to the other clearing organization. Any funds remaining after all obligations to both clearing organizations had been satisfied would be paid to the Clearing Member or its representative.

As noted above, the CME and OCC would enter into any cross-margining system as independent clearing organizations, unlike the ICC–OCC cross-margining arrangement in which the ICC is a subsidiary of the OCC. Accordingly, the CME–OCC Agreement codifies the cross-margining obligations of both the CME and OCC as described above. In addition, the CME and OCC have agreed that they would indemnify each other against claims incurred as the result of any action or failure to act by one or the other clearing organization, if the action or failure to act constituted a violation of the CME–OCC Agreement (*e.g.*, a failure by one of the clearing organizations to supply a Margin and Settlement Report to a Joint Clearing Member or pair of Affiliated Clearing Members for which it serves as a Designated Clearing Organization), any applicable clearing organization rule, or any governmental law or regulation. Section 10 of the CME–OCC Agreement particularly provides that a clearing organization must indemnify the other clearing organization against claims incurred as the result of any unauthorized investment of cash margin deposits or any defalcation or theft of margin funds by an employee of the indemnifying clearing organization.

The CME and OCC in their Agreement provide that the cross-margining system could be terminated without cause upon thirty days' notice by either the CME or OCC after the Agreement has been in effect for at least a year. The Agreement also could be terminated following a default by one of the clearing organizations which is not promptly cured upon five business days' notice to the defaulting party. Upon any such termination of the cross-margining arrangement, positions in each of the former X–M Accounts thereafter would be subject to the applicable clearing organization's regular margin requirements without regard to positions at the other clearing organization.

II. Request for Comments

The Commission requests comments on any aspect of the proposal that members of the public believe may raise issues under the Commodity Exchange Act or the Commission's regulations.

Copies of the proposed new rule, rule amendments and other information relevant to the CME's proposed cross-margining system with the OCC will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, except to the extent that the submission may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

Any person interested in submitting written data, views or arguments on the proposed CME cross-margining rule and rule amendments, or with respect to other materials submitted by the CME in support of its submission, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on May 4 , 1989.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–11178 Filed 5–9–89; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 27, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Electronic Combat will meet on 13–15 June 1989 from 8:00 AM to 5:00 PM at the Pentagon, Washington, DC.

The purpose of this meeting will be to review the requirements for and the status of Air Force Electronic Combat programs. This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–11188 Filed 5–9–89; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

April 27, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Electronic Combat will meet on 10–21 July 1989 from 8:00 AM to 5:00 PM at the USAF Academy, Colorado Springs, CO.

The purpose of this meeting will be to conduct its Summer Study by reviewing the requirements for and the status of Air Force Electronic Combat programs, developing conclusions and recommendations of the study, and preparing an outbrief. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–11189 Filed 5–9–89; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Finding of No Significant Impact for Proposed Construction of Navy Family Housing on Staten Island, New York

Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–

1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared and that an Environmental Impact Statement is not being prepared for the construction of family housing at St. Michael's and at Arnold Street, Staten Island, New York by private developers for subsequent leasing to the Navy.

The proposed action as discussed in the EA is to reduce the Navy family housing deficit at Naval Station New York, Staten Island, by constructing new housing under provisions of the Section 801 program (10 U.S.C. 2828 (g) & (h)). Under this program, private developers construct new housing on their own sites for subsequent leasing to the Navy for at least 20 years.

In response to a Request for Proposals (RFP), the Navy received three proposals: 203 units located on Arnold Street, 377 units located at Bay Street Landing, and 1,000 units located at St. Michael's. Among the conditions specified in the RFP was the responsibility for compliance with local, county, state or federal codes and regulations and the acquisition of necessary local, county, state or federal permits resting solely with the developer.

As a result of evaluations conducted of these proposals, the Navy has selected two of the development proposals: The Arnold Street site (203 units) and the St. Michael's site (1,000 units), for a total of 1,203 units.

The proposed action will construct up to 1,000 Family Housing units on about 49 acres of a 79-acre parcel at the St. Michael's site, which is located south of Arthur Kill Road, east of West Shore Expressway, between Arden Avenue and Woodrow Road. The proposed action will also construct up to 203 Family Housing units on about 8 acres of land at the Arnold Street site, which is located about 1 mile west of the waterfront in the New Brighton section of Staten Island. Both housing unit designs will consist of two and three level, single family attached and semi-attached structures of one, two and three bedroom. The St. Michael's housing will include a one-car garage per unit. This housing will be utilized by junior enlisted Navy personnel stationed at Naval Station Staten Island, New York. The Navy prepared an Environmental Impact Statement (EIS) in 1985 and a Supplemental Environmental Impact Statement (SEIS) in 1986 for the development of a Surface Action Group (SAG) homeport facility at Staten Island. It was determined during preparation of these documents that current rental rates of available housing were unaffordable to many Navy personnel, particularly junior enlisted personnel. The Navy proposed a series of family housing alternatives in the SEIS to satisfy the projected deficiency of 1,700 units. This EA addresses alternatives to reduce this housing deficit.

Alternatives considered in this EA include no action, military construction (MCON) on Navy owned or private property, construction by private developers on Navy sites or on their own sites with 20-year leases to the Navy under the Section 801 program.

The no action alternative was rejected since affordable housing would not be provided. This would result in Navy personnel leaving their families elsewhere, such as their former duty station, and living aboard ship or in bachelor's quarters in New York. This separation would lead to poor morale and lower retention rates of Navy personnel. The MCON alternative was rejected since no Navy owned land meeting Navy siting requirements for housing is available. Construction of housing under the Section 801 program is the only practicable alternative for providing affordable housing to Navy personnel.

Impacts associated with the proposed action are not considered to be significant. The Arnold Street site is located on a hillside where the average slope is greater than 10%. The proposed action will comply with provisions of the Special Hillside Preservation District zoning overlay that stipulates only 20% of the site may be developed. The St. Michael's site is located on rolling terrain. Site grading and construction operations at both sites will be designed to minimize erosion and to avoid unncessary disturbance of adjacent areas. Appropriate runoff controls will be established to reduce soil erosion.

The Arnold Street site has been disturbed by past land use and supports an urban grass/shrub vegetative complex; dominant species include ragweed and dwarf sumac. No federal or state protected wetlands exist at this site. The St. Michael's site supports upland and wetland forest communities; the upland complex is dominated by oaks while the wetland complex is dominated by red maple. A portion of this site has been mapped as wetlands by the New York Department of Environmental Conservation (NYDEC). While construction will be limited to upland areas, the proposed action will be near wetlands. Wetland buffer areas will be maintained during construction operations in accordance with NYDEC regulations.

Stormwater runoff from the Arnold Street site will be collected by existing stormwater collection systems. Stormwater runoff from the St. Michael's site will be dispersed into the bordering wetland in a fashion which utilizes the absorptive capacity of the wetland to control runoff quantity and quality. The use of wetlands in this manner will eliminate the need for a retention basin, and is consistent with NYDEC regulations.

No federal or state protected endangered species will be impacted at either site as a result of the proposed action.

Both housing locations are in keeping with the residential nature of the areas surrounding these sites, though a zoning variance is being sought for the Arnold Street site for lot coverage controls, maximum floor areas and minimum open space ratios. The St. Michael's site has been reviewed under provisions of the Special South Richmond Development District, in particular with regard to Designated Open Space (DOS). Thirty acres of the site have been mapped as DOS. The proposed action retains this area as open space with slight modifications, as approved by the New York City Department of City Planning.

While the proposed action will not impact archaeological, cultural or historic resources listed or determined eligible for listing on the National Register of Historic Places, additional investigations of archaeological resources that may be present is required prior to development of either site. The Navy will perform these studies and has amended the existing Memorandum of Agreement among the Navy, President's Advisory Council on Historic Preservation, and New York State Historic Preservation Officer which addresses cultural resource related to the SAG homeport. This amendment requires additional archaeological investigations be conducted at these housing sites prior to site disturbance; also, it outlines provisions for the Navy to follow for recovery of any National Register eligible sites prior to construction operations.

The proposed action will not result in adverse significant impacts to noice or air quality from mobile or statutory sources. No adverse impacts to local utility systems will be generated, these systems have adequate capacity to handle the increased demand.

Analysis of traffic impacts associated with the proposed action indicates four

intersections in the vicinity of the proposed sites may require mitigation to reduce increase delays and congestion. These intersections are: Victory Boulevard and Bay Street, Arthur Kill Road and Drumgoole Road West, Arden Avenue and Arthur Kill Road, and Arden Avenue and Woodrow Road. This mitigation will take the form of signal timing changes for all intersections and construction of a left turn storage lane for two intersections. The Navy is committed to working with the appropriate department of transportation to ensure the necessary improvements are implemented.

Schools serving the proposed sites are generally operating below capacity and can accommodate projected increases of students from the surrounding area and the projected number of Navy students with no adverse impacts. It is estimated that the Arnold Street site will generate about 214 additional students (171 elementary/middle school and 43 high school) and the St. Michael's site about 1050 (840 elementary/middle school and 210 high school) in the New York City Community School District 31 (total 1111 elementary/middle school and 253 high school). Elementary and middle schools serving the Arnold Street site are operating well below full student capacity and will not be impacted by this increase in students. Two elementary school serving the St. Michael's site are operating near full student capacity and the increase in students generated by the proposed action may impact upon these schools. However, the District has approved construction of a new elementary school about 3 miles from the site with a projected completion date in 1993. This new facility, along with use of spare capacity in other schools, will provide adequate elementary school space. Middle schools serving the St. Michael's site are operating well below capacity and will not be impacted as a result of the proposed action. High school districts are not defined, as are elementary and middle schools, and students may attend schools outside of the study area. The high school nearest Arnold Street is operating well under capacity and will not be impacted by an increase of students from this site. The high school nearest St. Michael's is operating near capacity and may become over utilized. However, projected overall use of District 31 high schools indicate they are generally operating well below capacity and they can absorb additional students with no adverse impacts.

Based on information gathered during preparation of the EA, the Navy finds that construction of 1,203 family housing units at Arnold Street and St. Michael's, Staten Island, New York will not significantly impact the environment.

The EA prepared by the Navy addressing this action has been placed in the following area libraries:

New York Public Library, St. George Branch, 10 Hyatt Street, Staten Island, NY 10301.

Stapleton Public Library, Accessions Desk, 132 Canal Street, Staten Island, NY 10304.

New York Historical Society Library, 170 Central Park West, New York, NY 10024.

College of Staten Island Library, 715 Ocean Terrace, Staten Island, NY 10018.

Brooklyn Public Library, Grand Army Plaza, Brooklyn, NY 10304.

New York Public Library, Fifth Ave. & 42nd Street, New York, NY 10018.

The EA is also on file and may be reviewed by interested parties at the place of origin, Commanding Officer, Northern Division, Naval Facilities Engineering Command, Building 77L, US Naval Base, Philadelphia, PA 19112-5000 (Attn: Mr. Robert Ostermueller, Code 202.2, telephone (215) 887-6262). A limited number of copies of the EA are available to fill single copy requests.

A final decision by the Navy on this Finding of No Significant Impact will occur in 30 days from the **Federal Register** publication date. The public is invited to submit comments on the proposed action to the address given above prior to the end of this period.

Dated: May 5, 1989.

J.M. Dougherty,

Captain, CEC, USN, Assistant for Civil Engineering, Deputy Chief of Naval Operations (Logistics).

[FR Doc. 89-11283 Filed 5-9-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests; Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before June 8, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Buiding 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 4, 1989

Carlos U. Rice,

Director, Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: New.

Title: Gifted and Talented Education Research Center.

Frequency: On occasion.

Affected Public: State and local Government.

Abstract: This form will be used by eligible applicants to apply for grants under the Jacob K. Javits Gifted and Talented Students Education Program.

The Department uses the information to make grant awards.

Reporting Burden:
Responses: 10.
Burden Hours: 2800.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

Office of Educational Research and Improvement

Type of Review: Extension.
Title: Application for Special Projects Grants under Library Services for Indian Tribes Program.
Frequency: Annually.
Affected Public: State and local governments.
Reporting Burden:
Responses: 75.
Burden Hours: 600.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form is needed to enable Indian Tribes and Hawaiian Natives to apply for Special Project Grants as amended. The Department uses the information to determine compliance with the Act and to make grant awards.

Office of Educational Research and Improvement

Type of Review: Extension.
Title: Library Services and Construction Act (Pub. L. 98–480)—State Administered Program Application and Annual Program Titles, II, and III.
Frequency: Annually.
Affected Public: State or local government.
Reporting Burden:
Responses: 54.
Burden Hours: 2,160.
Recordkeeping Burden:
Recordkeepers: 54.
Burden Hours: 54.
Abstract: These forms will be used by State Library Administrative Agencies that receive funds under the Library Services and Construction Act, as amended. The Department uses the information collected to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Postsecondary Education

Type of Review: Existing.
Title: Call Report—Lender's Annual Report on Guaranteed Student Loans Outstanding.
Frequency: Annually.
Affected Public: Business or other for profit, non-profit institutions.
Reporting Burden:
Responses: 12,000.
Burden Hours: 6,600.
Recordkeeping Burden:
Recordkeepers: 12,000.
Burden Hours: 960.
Abstract: This report is used by all lenders participating in the Guaranteed Student Loan Program to provide the Department with information regarding the lender's loan portfolio.

Office of Vocational and Adult Education

Type of Review: Revision.
Title: Application for the Workplace Literacy Program.
Frequency: Annually.
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.
Reporting Burden:
Responses: 350.
Burden Hours: 7,000.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by public or private agencies, institutions organizations to apply for funding under the Workplace Literacy Program. The Department uses the information to make grant awards.

[FR Doc. 89–11154 Filed 5–9–89; 8:45 am]
BILLING CODE 4000–1–M

DEPARTMENT OF ENERGY

Financial Assistance Award; State of Washington

AGENCY: U.S. Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The DOE Richland Operations Office, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to award a noncompetitive grant to the State of Washington for support of a conference on technology transfer.

Scope: The State of Washington, through its Centennial Commission, is sponsoring a series of international trade/export symposia, including one in Richland, Washington, which will include discussions of barriers to and means of facilitating the transfer to the private sector of technology developed in government laboratories. In accordance with the requirements of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502), DOE wishes to participate in and help support this conference. The proposed award will assure that the Government's role (particularly DOE's) in technology transfer will be addressed, and DOE believes that the purpose and the goals of the Technology Symposium are relevant to the DOE mission. The cost of this conference is expected to be approximately $191,000. DOE's support is proposed to be $50,000.

The DOE has determined that the award on a noncompetitive basis is appropriate because the applicant is already conducting this activity using its own resources and those donated by third parties; however, DOE support would enhance the public benefits to be derived, any effort to support another group for the same purpose would not be in the public interest, and DOE knows of no other entity which is conducting or planning to conduct such an activity.

FOR FURTHER INFORMATION CONTACT: Marji W. Parker, U.S. Department of Energy, Richland Operations Office, Procurement Division, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376–2029.

Date: April 6, 1989.

Robert D. Larson,
Director, Procurement Division, Richland Operations Office.

[FR Doc. 89–11234 Filed 5–9–89; 8:45am]
BILLING CODE 6450–0–M

Advisory Committee on Nuclear Facility Safety; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date and Time: Thursday, May 25, 1989, 9:00 p.m. to 5:00 p.m.; 8:00 p.m. to 10:00 p.m.

Place: Brookhaven National Laboratory, Conference Room B, Berkner, Upton, NY 11973.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

May 25, 1989

9:00–5:00: Subcommittee Reports
Review of Brookhaven National

Laboratory Issues
High Flux Beam Reactor Status and Issues
Environmental Issues
N Reactor Status Report
Selected Technical Issues
Committee Business
5:00: Meeting Adjourned until 8:00 p.m.
8:00–10:00: Public Comment

Public Participation: This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace R. Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 8, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89–11398 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 89–06–NG]

Gas Masters, Inc.; Order Granting Blanket Authorization To Export Natural Gas to Canada and Mexico

AGENCY: Office of Fuels Programs, Department of Energy.

ACTION: Notice of an Order Granting Blanket Authorization to Export Natural Gas to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Gas Masters, Inc. (GMI), authorization to export natural gas from the United States to Canada and Mexico. The order issued in ERA Docket No. 89–06–NG authorized GMI to export a total of up to 100 Bcf of gas during a two-year period beginning on the date of the 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 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–11235 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–21–NG]

Indeck-Yerkes Energy Services, Inc.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 28, 1989, of a application filed by Indeck-Yerkes Energy Services, Inc. (Indeck-Yerkes), for authorization to import up to 4.5 Bcf per year of natural gas from Canada for a term of 15 years. The gas would be transported within the United States through existing and proposed pipeline facilities. Indeck-Yerkes requests that the authorization commence November 1, 1990, the date that the new facilities required to transport this gas are planned to be completed and operational. The gas would be used to fuel the applicant's new cogeneration facility to be constructed near Tonawanda, New York.

The application is filed pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed no later than June 9, 1989.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Natural and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Indeck-Yerkes, an Illinois corporation, is a wholly-owned subsidiary of Indeck Energy Services, Inc. (Services), also an Illinois corporation, with its principal office in Wheeling, Illinois. Services and its subsidiaries are engaged in the development, ownership, operation and maintenance of cogeneration projects. Indeck-Yerkes is currently constructing a new 53-megawatt gas-fired cogeneration facility adjacent to the DuPont-Yerkes plant near Tonawanda, New York. The cogenerator is expected to be completed and in commercial operation by March 1, 1990. It will be operated as a "qualifying facility" under section 201 of the Public Utility Regulatory Policies Act of 1978. In addition, Indeck-Yerkes has filed a Certification of Compliance with the coal capability requirement for proposed new electric powerplants pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended (54 FR 3111, January 23, 1989).

Indeck-Yerkes states that all the natural gas imported under its requested authorization will be used to fuel the new cogeneration facility. Under anticipated normal operating conditions, the cogenerating facility will consume an average of about 12,000 Mcf per day. Indeck-Yerkes asserts that its request for authority to import up to 4.5 Bcf per year is necessary to meet the facility's fuel needs, allow for transportation shrinkage, and provide a reasonable margin for any unforeseen exigency. The electric power to be produced by the facility is under contract for sale to Niagara Mohawk Power Corporation.

Indeck-Yerkes will buy the Canadian gas from Indeck Gas Supply Corporation (Supply), a wholly-owned subsidiary of Services, in accordance with their gas purchase agreement dated December 27, 1988. Supply has agreed to sell and deliver up to a maximum of 14 MMcf of gas per day and up to an annual contract quantity of 4.5 Bcf. The price will equal Supply's weighted average cost of the gas delivered to Indeck-Yerkes, including a management fee described below, and all costs related to transportation in Canada by NOVA Corporation of Alberta and TransCanada PipeLines Limited (TCPL) to the point at the international border where Indeck-Yerkes receives the volumes. The term of the agreement between Indeck-Yerkes and Supply extends through January 1, 2006, with provision for extension for subsequent periods of one year, until terminated by a 12-month notice in writing by either

party. Indeck-Yerkes estimates that the delivered price it will pay Supply during the first year of the proposed import arrangement would be $2.52 per Mcf. Indeck-Yerkes bases this estimate on its calculation of Supply's weighted average cost of gas per Mcf purchased from producers under four contracts submitted as part of this application.

The volumes of gas that Supply has available for resale to Indect-Yerkes will be provided by Northstar Energy Corporation (Northstar), Chesapeake Resources Ltd., *et al.* (Chesapeake, *et al.*), and Bow Valley Industries, Ltd. (Bow Valley). Together, those Canadian producers contractually agreed to sell to Supply, on a firm basis, a total of up to 25.8 MMcf per day and up to 9.34 Bcf of natural gas per year as well as up to .33 Bcf of natural gas per year on an interruptible basis. According to the application, after TCPL's transportation shrinkage allowance, estimated to be approximately 7 percent, these volumes net Supply a total of 9.0 Bcf per year or up to 24.0 MMcf per day for export at the international border. Of the total volumes purchased by Supply from the producers, 4.5 Bcf per year or 12.0 MMcf per day will be sold to Indeck-Yerkes. The remaining 4.5 Bcf purchased annually will be sold by Supply to Indeck-Yerkes' affiliate, Indeck Energy Services of Oswego, Inc. (Indeck-Oswego), to fuel a cogeneration facility it is planning to build near Oswego, New York. Indeck-Oswego has an application for authority to import that gas from Supply pending before the DOE in FE Docket No. 89-22-NG.

Indeck-Yerkes states that the four contracts encompassing the entire quantity of gas purchased by Supply will be administered by a single producer, Bow Valley. Bow Valley will also act as Supply's liaison with TCPL for the transportation of Supply's gas through TCPL's system. For this service, Bow Valley will receive a fee from Supply of approximately $0.02 (U.S.) per Mcf of purchased gas which will be included in the price of gas paid by Indeck-Yerkes.

Indeck-Yerkes described Supply's gas purchase agreements with the Canadian producers as follows:

A. Northstar Agreement

Under the Northstar gas purchase agreement, Supply will purchase with a lump sum payment in the amount of $13.65 million (U.S.) to be paid on November 1, 1989, a total volume of 26 million MMBtu (approximately 26 Bcf) of natural gas to be delivered over a maximum term of 18 years. Additionally, Supply will reimburse Northstar for its actual production taxes, and gathering and processing costs based on an initial rate of $.315 (U.S.) per MMBtu. This initial rate is to be increased annually by an amount equal to the greater of five percent of the U.S. GNP deflator commencing on January 1, 1989. Supply will reimburse Northstar for all related royalty payments and all transportation costs to the point of delivery near Empress, Alberta. Supply also agreed to a minimum take of at least 6,000 MMBtu of gas per day and contends that it is highly unlikely that Supply will be unable to take at least that amount at any time during the term because the average combined daily requirements of the two cogeneration facilities consuming this gas is estimated to total 24,000 Mcf per day.

B. Chesapeake, et al., Agreement

The Chesapeake group of producers have agreed to sell Supply a total of up to 7,078 Mcf per day of natural gas over an initial term of 15 years. Additional non-firm volumes may be purchased if needed in any year. Under the Chesapeake agreement, Supply will take title to the gas delivered to the Alberta border at an initial price of $1.67 (U.S.) per Mcf. Commencing January 1, 1991, and each year thereafter, the contract price will escalate by three percent of the preceding contract year price. Supply also agreed to pay an annual bonus set by a formula essentially fixing the price of the gas, subject to ceiling amounts, to the price received by Indeck-Yerkes' affiliate, Indeck-Oswego, for electric power sold to Niagara Mohawk from its Oswego, New York, cogeneration facility. The bonus payments would start in 1992, when the maximum bonus payment would be $.12 per Mcf and could gradually rise to a maximum of $3.75 per Mcf in 2004 as the price paid for the electric power exceeds the specified floor rate which increases beginning in 1998.

The Chesapeake contract volumes will be produced from dedicated reserves that are to be verified annually by an independent engineering firm. Further, in the event the firm sales volumes are not delivered, Supply's agreement provides that the Chesapeake producers must reimburse Supply for the reasonable cost of securing substitute production from other sources.

C. Bow Valley Agreements

Supply has two contracts with Bow Valley under which Bow Valley will sell Supply, on a firm basis, a combined total of up to 12,500 Ncf of Canadian natural gas per day for an initial term of 15 years. The contracts are dated February 13, and March 13, 1989, respectively. Supply has agreed to take or pay for a total of 4.56 Bcf of gas per year, but is given the right to receive any prepaid volumes at any time up to two years after the end of the term of the agreements. Supply will take title to the gas at a point of interconnection between Bow Valley's TCPL's transmission facilities located in Saskatchewan. The pricing provisions of Bow Valley's February agreement are identical to those of the Chesapeake agreement. The initial price will be $1.67 (U.S.) per Mcf and escalates each year by three percent, plus a bonus to be determined under the same formula contained in the Chesapeake contract. The March agreement provides for the same $1.67 price and bonus formula, but provides for a four percent annual escalation to the initial price. Bow Valley has agreed to pay for the transportation to its interconnection with TCPL and any Canadian taxes, royalties and duties assessed on the delivered gas. Bow Valley will guarantee delivery of at least 12,500 Mcf per day from its own reserves and has agreed to secure substitute production from other sources in the event it incurs a production problem or for some other reason cannot deliver the contract volume as agreed.

The point of delivery for the gas imported by Indeck-Yerkes to enter the U.S. will be at an interconnection between TCPL and a new border facility near and parallel to the existing facilities of Tennessee Gas Pipeline Company (Tennessee) in the vicinity of Niagara Falls, New York. Indeck-Yerkes states that National Fuel Gas Supply (National) will transport up to 12,000 Mcf per day of its imported gas on a firm basis from Niagara Falls through the new Niagara Spur Loop Line that would be constructed and jointly owned by Tennessee, National, and PennEast Gas Service Company, to a point of interconnection with National's existing facilities at East Aurora, New York. From this point, the import will be delivered to National Fuel Gas Distribution Corporation's pipeline facilities for subsequent delivery to Indeck-Yerkes' Tonawanda cogeneration facility.

In support of its application, Indeck-Yerkes states that the imported gas is needed as a long-term fuel supply for its new cogeneration facility and that the gas would be purchased under competitive pricing terms with sufficient flexibility to assure that the imported gas would remain competitive over the term of the requested authorization. Indeck-Yerkes further asserts that Supply's agreements with its several Canadian sources of supply assures it a secure supply of gas over the term.

The decision on Indeck-Yerkes' application for import authroity will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. The FERC, in Docket Nos. CP88–94–000, CP88–194–000, and CP88–171–000, encompassing the projects of National and Tennessee, is currently performing an environmental review of the impacts of constructing and operating the proposed pipeline facilities through which National would transport the import before making its decision on the certificate applications. The DOE will participate in the environmental review process at the appropriate level. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities regarding the Indeck-Yerkes application.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., June 9, 1989.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a conditional or final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Indeck-Yerkes' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–11236 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 89–01–NG]

Tenngasco Corp.; Order Granting Blanket Authorization To Export Natural Gas to Canada and Mexico

AGENCY: Office of Fuels Programs, Department of Energy.

ACTION: Notice of an Order Granting Blanket Authorization to Export Natural Gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notices that it has issued an order granting Tenngasco Corporation (Tenngasco) authorization to export natural gas from the United States to Canada and Mexico. The order issued in ERA Docket No. 89–01–NG authorized Tenngasco to export a total of up to 100 Bcf of gas during a two-year period beginning on the date of the 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 8:00 a.m and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–11237 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–14–NG]

TransAmerican Natural Gas Corp.; Order Granting Blanket Authorization to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas from Canada and Mexico and to Export Natural Gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting TransAmerican Natural Gas Corporation (TransAmerican) blanket authorization to import and export natural gas. The order issued in FE Docket No. 89–14–NG authorizes TransAmerican to import up to 150 Bcf of Canadian and Mexican natural gas

and to export up to 150 Bcf of domestically produced natural gas to Mexico over separate two-year terms beginning on the dates the first import and the first export commence.

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 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–11238 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 89–03–NG]

Washington Natural Gas Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, DOE, Office of Fossil Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Washington Natural Gas Company (Washington Natural) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 89–03–NG authorizes Washington Natural to import up to 150 Bcf of gas 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 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–11239 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–19–NG]

Wisconsin Power and Light Co.; Application for Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for a short-term and a blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 13, 1989, of an application filed by Wisconsin Power and Light Company (WPL) for short-term authority to import from TransCanada PipeLines, Limited (TransCanada) up to 10,718 Mcf per day of natural gas beginning on the date of the first delivery through October 31, 1992. In addition, WPL requests separate blanket authority to import up to 100,000 Mcf per day of spot market natural gas from various Canadian producers over a two-year period beginning on the date of the first delivery. WPL intends to use the imported gas under both short-term and blanket authorizations to supply customers on its system. It is contemplated that the gas supplied under the blanket authorization would be imported by WPL either for its own account, or as broker or agent on behalf of others. WPL states that no new pipeline facilities would be required for the transportation of these imports.

The application is filed pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than June 9, 1989.

FOR FURTHER INFORMATION:

Frank Duchaine, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–8233.

Michael Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: With regard to the requested short-term authorization, WPL furnished with its application a precedent agreement and gas purchase contract with TransCanada dated October 26, 1988. Under the terms of the contract, TransCanada will supply WPL up to a maximum of 4,287 Mcf of gas per day on a firm basis for a term extending through October 31, 1992. The contract contains a provision giving WPL the right to purchase up to 6,431 Mcf per day of additional interruptible supplies that may become available and offered by TransCanada from time to time. According to this application, WPL is not obligated to take or pay for any volume of gas. The contract provides that if, during any contract year, the volumes purchased by WPL fall below 60 percent of the aggregate of the maximum daily quantities, then TransCanada may elect in the succeeding year to reduce the daily contract quantity of 4,287 Mcf.

The proposed gas purchase contract between WPL and TransCanada establishes a two-part rate structure consisting of a monthly demand charge and a monthly commodity charge. The demand charge would equal the product of the daily contract quantity in effect during such month times the sum of the toll charges of TransCanada and Nova Corporation of Alberta for transportation of the gas in Canada. The commodity charge to be paid for each MMBtu of firm supplies at 100 percent load factor is calculated based upon a formula that reflects the price of spot market gas delivered into ANR's gas transmission system at Custer County, Oklahoma. Notwithstanding the actual computed price, the contract contains a provision that WPL would have to pay a delivered border price for the gas of at least $1.50 (U.S.) per MMBtu. For each MMBtu of interruptible supplies, the commodity charge paid by WPL will be based upon the same formula in effect for firm volumes less five cents. The agreement also provides that the parties may negotiate modification of the pricing provisions. In an April 14, 1989, letter, WPL indicated that the pricing formula would result in a delivered charge of $1.43 per MMBtu for April 1989. Thus, the price WPL would pay for April 1989 would be adjusted to $1.50 per MMBtu.

The volumes to be supplied under the agreement with TransCanada would enter the U.S. at a point near Emerson, Manitoba, by means of existing pipeline facilities owned and operated by Midwestern Gas Transmission Company (Midwestern). Midwestern would transport the gas to an interconnection with the facilities of ANR Pipeline Company (ANR) at Marshfield, Wisconsin, which would then use its existing facilities to deliver the gas to WPL's distribution system.

Under the requested blanket authority, the specific terms of each spot market transaction would be negotiated on an individual basis with market-sensitive pricing. No contracts have been executed and therefore the application does not identify the suppliers, buyers, or prices. The spot gas

would be transported by means of existing transmission facilities, however, the location where it would enter the U.S. may vary for different transactions with delivery points to be established during sales contract negotiations.

In support of its application, WPL asserts that the proposed import volumes are needed to meet its system requirements and that the gas purchase agreement with TransCanada provides for a competitive price over the term of the arrangement. In addition, WPL submits that TransCanada has a record of providing reliable gas supplies.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this request is granted, the authorization would be conditioned on the filing of quarterly reports to facilitate monitoring of the operation and effectiveness of DOE's import program.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., e.d.t., June 9, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of WPL's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 28, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89-11240 Filed 5-9-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EC89-12-000, et al.]

Ocean State Power, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Ocean State Power

[Docket No. EC89-12-000]

May 2, 1989.

Take notice that on April 27, 1989, Ocean State Power (Ocean State I) filed an Application with the Federal Energy Regulatory Commission (Commission) in Docket No. EC89-12-000 for Authorization to Transfer Utility Assets pursuant to section 203 of the Federal Power Act (FPA), 16 U.S.C. 824b, and the regulations of the Commission promulgated thereunder at 18 CFR Part 33.

Ocean State I proposes to construct, own and operate a combined cycle electric generating facility in Burrillville, Rhode Island, the first unit (Unit I) of the Ocean State Power Project (Project). The Project will be constructed in two units, each with a capacity of approximately 250 MW. Ocean State I originally intended to construct, own and operate both units. In conjunction therewith, Ocean State I signed four unit power agreements for the capacity and corresponding energy of the second unit (Unit II) with Boston Edison Company, New England Power Company, Montaup Electric Company and Newport Electric Corporation.

Ocean State I and the power purchasers later determined that, to provide separate collateral for the construction financing of Unit II, it would be preferable to establish a separate partnership, Ocean State Power II (Ocean State II), to construct, own and operate Unit II. To this end, Ocean State I proposes to transfer to Ocean State II the Unit II power agreements.

Comment date: May 18, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Company

[Docket No. EC89-11-000]

May 2, 1989.

Take notice that on April 20, 1989, Kentucky Utilities Company tendered for filing an application pursuant to section 203 of the Federal Power Act to acquire from Old Dominion Power Company certain securities issued by Old Dominion Power Company.

Comment date: May 18, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Gulf Power Company, Georgia Power Company, Alabama Power Company, Mississippi Power Company

[Docket No. ER89-338-000, Docket No. ER89-339-000, Docket No. ER89-340-000, Docket No. ER89-341-000]

May 2, 1989.

Take notice that on March 31, 1989, Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Companies) tendered for filing the informational filings required under the transmission service rates contained in the contracts between the Companies and the Southeastern Power Administration.

Comment date: May 18, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER89-252-000]

May 3, 1989.

Take notice that on April 14, 1989, Southern Company Services, Inc. tendered for filing an amendment to its February 24, 1989, filing which sets forth procedures to be used in reviewing annual informational filings.

Comment date: May 15, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Yankee Atomic Power Company)

[Docket No. ER89-365-000]

May 4, 1989.

Take notice that on April 21, 1989, Maine Yankee Atomic Power Company (Maine Atomic) tendered for filing its Report under the FERC Reporting Requirements No. 582.

Comment date: May 19, 1989, in accordance with Standard Paragraph end of this notice.

6. Alamito Company

[Docket No. ER89-370-000]

May 4, 1989.

Take notice that on April 24, 1989, Alamito Company (Alamito) tendered for filing an executed 1989 Power Sales Agreement between Alamito and Salt River Project Agricultural Improvement and Power District (Salt River). The Contract provides for the sale to Salt River of up to 194 MWh per hour of energy in the month of June 1989. Power sales are contingent on the availability of the San Juan Unit No. 3. Alamito asks for waiver of the notice requirements so that the submittal can become effective on June 1, 1989.

Because the aforementioned Contract, by its terms, remains in effect only for the month of June, Alamito has concurrently filed a Notice of Cancellation of the applicable rate schedule to become effective as of July 1, 1989.

Comment date: May 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER89-298-000]

May 4, 1989.

Take notice that on April 19, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to its March 28, 1989 filing. PG&E states that it has filed the following:

(1) Revised summary cost support data for §§ 35.13(c)(2), 35.12(b)(5) and 35.13(h)(37) as required pursuant to § 35.13(a)(2) of the commission's regulations.

(2) Revised Attachment 2, Test Year 1989 Estimated Statements BK and BL.

(3) Revised Attachment 2, Test Year 1989 Estimated Statements BK and BL.

Copies of this filing were served upon City and the California Public Utilities Commission.

Comment date: May 19, 1989, 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. 89-11130 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-4-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 4, 1989

Take notice that Carnegie Natural Gas Company ("Carnegie") on May 1, 1989, tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Fourteenth Revised Sheet No. 47
Fourteenth Revised Sheet No. 48
First Revised Sheet No. 92h

Carnegie states that pursuant to the Purchased Gas Adjustment in Article 22 of its FERC Gas Tariff, it proposes to adjust its rates effective June 1, 1989, to reflect a $.1335 per Dth increase in the applicable commodity components of its LVWS and CDS Rate Schedules, a $.0327 per Dth increase in the D-1 components, and a $.0034 per Dth decrease in the D-2 components of those Rate Schedules. The proposed increase in the LVIS Rate Schedule is $.1177 per Dth.

Carnegie also proposes to track standby charges billed to Carnegie by Texas Eastern Transmission Corporation in accordance with the Commission's decision in *CNG Transmission Corp.*, 45 FERC ¶ 61,361 (1988).

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–11131 Filed 5–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–4–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on May 1, 1989, pursuant to section 4 of the Natural Gas Act, Part 154.309 of the Commission's regulations (18 CFR Part 154.309) and § 12.5 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

Eighth Revised Sheet No. 31

The filing constitutes CNG's regular quarterly PGA filing to become effective on June 1, 1989.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214 and 385.211). All motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–11132 Filed 5–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–164–000]

Eastern Shore Natural Gas Co.; Tariff Filing

May 4, 1989.

Take notice that on May 1, 1989, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets for inclusion in its FERC Gas Tariff proposed to be effective June 1, 1989:

Forty-Seventh Revised Sheet No. 5
Forty-Seventh Revised Sheet No. 6
Forty-Seventh Revised Sheet No. 10
Forty-Seventh Revised Sheet No. 11
Forty-Eighth Revised Sheet No. 12
Twenty-Fourth Revised Sheet No. 13
Eighteenth Revised Sheet No. 14

Eastern Shore states that the proposed tariff sheets reflect an annual increase in jurisdictional revenue of approximately $1,522,000. The proposed rates and charges are based on the overall cost of service for the test period consisting of actual experience for the twelve months ended December 31, 1988, adjusted for known and measurable changes through September 30, 1989. The overall cost of service underlying the revised tariff sheets includes the annual effect of increases in operating and maintenance expenses, taxes other than income taxes, and depreciation on new plant facilities for which necessary certificates have been issued and which will have been constructed and placed in service by the end of the test period. In addition, included for the first time in its cost of service is a projection of Account 401–858 costs—Transmission and Compression of Gas by Others.

Copies of this filing have been mailed to each of Eastern Shore's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or 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 Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–11133 Filed 5–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–6–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

May 4, 1989.

Take notice that on May 1, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing with the Commission Twenty-Sixth Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1, containing changes in rates for effectiveness on May 1, 1989.

According to Granite State, the revised rates are applicable to jurisdictional sales services rendered to its two affiliated distribution company customers. Bay State Gas Company and Northern Utilities, Inc. It is said that the revised rates result principally from increases in the costs for purchases of spot market gas for the remainder of the second quarter that were not reflected in its quarterly purchased gas cost adjustment, effective April 1, 1989, and to the costs for purchases of Rate Schedule CD–6 from Tennessee Gas Pipeline Company (Tennessee) for storage injection by its customers. According to Granite State, the purchases of the Rate Schedule CD–6 gas relate to the continuing irresolution of Tennessee's authority to transport third party gas for storage, at issue in Docket No. CP84–441–000. Granite State further states that its revised rates reflect (1) reduced estimates of customers' requirements for the remainder of the second quarter; (2) currently effective costs for the purchases from Boundary Gas Inc.; and (3) reduced purchases from Shell Canada Limmited because of operating constraints on Granite's System.

According to Granite State, copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc. and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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 20226, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–11134 Filed 5–9–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87-86-007, RP86-11-004, RP85-11-021, RP89-110-001, RP89-111-001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

May 4, 1989.

Take notice that K N Energy, Inc. ("K N") on April 28, 1989 tendered for filing revised tariff sheets in compliance with the Commission's April 12, 1989 Order Accepting for Filing and Suspending Tariff Sheets, Subject to Refund and Conditions, Granting Waiver, and Establishing Hearing Procedures. The proposed effective date for these tariff sheets is April 1, 1989.

Copies of the filing were served upon K N's jurisdictional customers, interested public bodies, and all parties on the official service list.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before May 11, 1989, 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11135 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-158-000]

Mississippi River Transmission Corp.; Tariff Filing

May 4, 1989.

Take notice that on April 28, 1989, Mississippi River Transmission Corporation ("MRT") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Tariff Sheet	Proposed effective date
Twelfth Revised Sheet No. 4A	April 1, 1989.
Third Revised Sheet No. 4A.1	May 1, 1989.
Substitute Third Revised Sheet No. 4A.2.	May 1, 1989.
Original Sheet No. 4A.3	April 1, 1989.
Original Sheet No. 4A.4	May 1, 1989.
Seventh Revised Sheet No. 62	April 1, 1989.
Fourth Revised Sheet No. 63	April 1, 1989.

MRT states that the purpose of its filing is to reflect the flow-through of additional fixed take-or-pay charges allocated to MRT by United Gas Pipe Line Company ("United") in Docket Nos. RP89-138-000 and RP89-147-000; Natural Gas Pipeline Company of America ("Natural") in Docket Nos. RP88-94-019 and RP89-131-000; and Trunkline Gas Company ("Trunkline") in Docket No. RP89-129-000.

MRT states that it is allocating the additional fixed take-or-pay charges it will be billed by United in Docket No. RP89-138-000 by utilizing the same cumulative purchase methodology as used by it in Docket No. TA88-2-25-000, *et al.* for allocation of United's take-or-pay charges. MRT is also using the same deficiency methodology as used by United in its allocation of take-or-pay charges in Docket No. RP89-147-000.

MRT states that its filing includes revised and original tariff sheets for flow-through of fixed take-or-pay charges to be incurred from Natural in Docket Nos. RP88-94-019 and RP89-131-000. MRT asserts that it is using the same cumulative purchase deficiency allocation method based upon the same base and deficiency periods as used by Natural in its allocations of fixed take-or-pay charges to MRT.

MRT further states that its filing includes revised and original tariff sheets for flow-through of fixed take-or-pay charges to be incurred by MRT from Trunkline in Docket No. RP89-129-000. MRT asserts that it is allocating such costs by utilizing the same cumulative deficiency methodology as contained in MRT's primary method included in its compliance filing in Docket No. RP89-12-002 filed with the Commission on April 26, 1989.

MRT states that its filing is being submitted without prejudice to its continuing challenges to the requirements that it pay various of the subject costs which it is here proposing to recover, and that it allocate and recover such costs on the basis of the cumulative purchase deficiency methodology as previously required by the Commission.

MRT states that copies of its filing have been served on all jurisdictional sales customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11136 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-2-26-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

May 4, 1989.

Take notice that on April 28, 1989, Natural Gas Pipeline Company of America (Natural) submitted for filing Fifth Revised Sheet Nos. 169 and 170, and Alternate Fifth Revised Sheet Nos. 169 and 170, to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective June 1, 1989.

Natural states that the purpose of this filing is to recover accrued interest for the month of May 1989 in accordance with the semi-annual adjustment provision set out in § 33.2(a) of Natural's tariff. Interest is accrued only on paid transition costs included for recovery in Natural's prior filings under this proceeding.

Natural's filing includes tariff sheets and supporting workpapers generated under two different methodologies for determining the cost allocation factors for each customer. Natural requests that the Commission approve the Alternate tariff sheets which reflect the cost allocation methodology chosen by Natural for reasons explained in its April 14, 1989 motion to substitute tariff sheets under Docket No. RP88-94-020.

Finally, Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheets to become efective June 1, 1989. A copy of the filing was mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88-94-000.

Any person desiring to be heard or to protest the subject 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 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11137 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-011]

Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1989.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on April 28, 1989, tendered for filing revised changes in its FERC Gas Tariff in compliance with the Commission's Order dated March 31, 1989 in this proceeding.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation and gathering services under its FERC Gas Tariff and to interested State Commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 89-11138 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

May 4, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on April 28, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-First Revised Sheet No. 3-A
Forty-Eighth Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is June 1, 1989.

Panhandle states that these revised tariff sheets filed herewith reflect a commodity rate decrease of (5.97¢) per Dt in the projected purchased gas cost component.

Panhandle further states that these revised tariff sheets filed herewith also reflect the following changes to Panhandle D1 and D2 demand rates: (1) an increase of $0.33 for D1 and (2) an increase of 0.02¢ for D2 to reflect the current rate changes in Section 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline supplier demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with Section 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to Section 18 (Purchased Gas Adjustment Clause) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional rates effective June 1, 1989.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11139 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-70-001]

Stingray Pipeline Co.; Compliance Filing

May 4, 1989.

Take notice that Stingray Pipeline Company (Stingray) on May 1, 1989, tendered for filing certain revised tariff sheets in compliance with Ordering Paragraph (B) of the Commission's Order dated March 31, 1989.

Stingray states that copies of its filing have been served on all parties and customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Regulations. All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11140 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-163-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

May 4, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 1, 1989, tendered for filing, pursuant to Order No. 500-F, certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are included in Appendix A attached to the filing. The proposed effective date of the revised sheets is June 1, 1989.

Transco states that the purpose of its tariff filing is to implement the partial recovery of approximately $20.4 million of Litigant Producer Settlement Payments (LPSP), pursuant to section 33 of its General Terms and Conditions. Transco proposes to recover 25% of the LPSP amounts through a direct billed charge and 50% of the LPSP amounts through a commodity surcharge on all pipeline throughput. The remaining 25% will be absorbed by Transco. The LPSP costs are proposed to be recovered over

a one-year amortization period beginning June 1, 1989 through May 31, 1990.

Transco further states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions and interested parties. In accordance with the provisions of Section 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energry Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11141 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

May 4, 1989.

Take notice that Trunkline Gas Company (Trunkline) on April 28, 1989, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Sixty-Eighth Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is June 1, 1989.

Trunkline states that this revised tariff sheet filed herewith reflects a commodity rate decrease of (1.17¢) per Dt in the projected purchased gas cost component.

Trunkline states that the above-referenced tariff sheet is being filed in accordance with §154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to Section 18 (Purchased Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to refelect the changes in Trunkline's jurisdictional rates effective June 1, 1989.

Trunkline states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11142 Filed 5-9-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Small Business Innovation Research Commercialization Assistance Projects; Grants

AGENCY: Department of Energy.

ACTION: Notice of Program Solicitation—Reissuance.

SUMMARY: This Notice of Program Solicitation was previously published in the **Federal Register** on January 10, 1989. Since the closing date, additional funding has become available to the SBIR program office. We have therefore decided that a revised solicitation will be issued to reflect an increase in the available funding from $20,000 to $50,000

The Department of Energy (DOE), Office of Energy Research, through Oak Ridge Operations Office, invites organizations with appropriate capability to submit applications for financial assistance for planning and implementing a commercialization project for Phase II awardees under the Small Business Innovation Research (SBIR) Program.

The objective of this project is to help SBIR awardees to commercialize their products and processes, and may include:

1. Assistance to awardees in determining approaches to be taken in marketing the results of their research and development.

2. Providing opportunities for awardees to contact or meet with potential investors or licensors for the purpose of developing arrangements for pursuing commercial use of their results.

DATES: To be eligible, applications must be submitted to Ms. Susan G. Hiser, U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, Tennessee 37830, by 4:30 P.M. June 30, 1989.

FOR FURTHER INFORMATION CONTACT: All technical questions concerning this Program Soliciation should be directed to Dr. Samuel J. Barish, SBIR Program Manager, ER-16, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20545, telephone: (301) 353-3054. All other inquiries should be directed to Ms. Susan G. Hiser, Contracting Officer, Procurement and Contracts Division, Oak Ridge Operations, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37831-8758, telephone: (615) 576-6367

Authority: 10 CFR Part 600

SUPPLEMENTARY INFORMATION:

Eligibility: This solicitation is open to private and public entities (except Federal Agencies) within the United States and its territories, including industry, associations, schools, colleges, universities, and state, local and regional government oganizations, small business concerns and individuals.

Award Size and Duration: The FY 1989 budget for this project is $50,000. It is anticipated that one award will be made for a 12 month period.

No fee will be paid in accordance with 10 CFR Part 600.103(h).

Evaluation Process and Selection Criteria: Applications will be judged competitively to select for award the application offering the best value to the Government on the following criteria:

1. The approach shown in the application, and the likelihood that it will be successful in helping SBIR awardees to commercialize their products and processes.

2. The qualifications and experience of the Project Manager and other key staff, and their ability to carry out the project.

3. The company experience in or related to: (a) Marketing high technology innovation, (b) Providing training for marketing and commercialization.

More specific evaluation criteria will be available in the "Guide for the Preparation of Applications for an SBIR Commercialization Assistance Project—1989."

Application Preparation Guidelines: Applications submitted in response to this solicitation shall contain the

information required in the "Guide for the Preparation of Applications for an SBIR Commercialization Assistance Project—1989," Program Solicitation Number DE–PS05–89ER80688. Copies of the guide are expected to be ready for mailing by May 15, 1989. Qualified applicants may obtain a copy of the guide by writing to the U.S. Department of Energy, Oak Ridge Operations, Procurement and Contracts Division, ATTN: Susan G. Hiser, P.O. Box 2001, Oak Ridge, Tennessee 37831–8758, telephone number: (615) 576–6367.

DOE assumes no responsibility for any costs associated with application preparation under this announcement.

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Operations.

[FR Doc. 89–11233 Filed 5–9–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3568–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202 382–2740).

DATE: Comments must be submitted on or before June 9, 1989.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Control Strategy for Combined Sewer Overflows (CSOs) (EPA ICR #1497). This is a new collection.

Abstract: States with approved NPDES programs submit to EPA strategies for CSO compliance. These include lists of communities having combined sewers, and an inventory of all overflow discharge points accompanied by the permitting status for each point. This information will be used to identify unpermitted CSOs for program oversight and to target where point source controls are necessary.

Burden Statement: The estimated public reporting burden for this collection of information is 741 hours per respondent, per year. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States

Estimated No. of Respondents: 32

Estimated Total Annual Burden on Respondents: 23,710 hours

Frequency of Collection: One-time only.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460.

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530

Date: May 1, 1989.

Paul Lapsley, *Director, Information and Regulatory Systems, Division.*

[FR Doc. 89–11232 Filed 5–9–89; 8:45 am]

BILLING CODE 6560.50

Office of Research and Development

[FRL–3568–1]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53, has designated another manual equivalent method for the determination of lead in suspended particulate matter collected from ambient air. The new method is identified as follows: EQL–0589–072, "Determination of Lead Concentration in Ambient Particulate Matter by Energy Dispersive X-Ray Fluorescence Spectrometry (NEA, Inc.)".

The applicant's request for an equivalent method determination for the above method was received on January 23, 1989. Additional requested information pertinent to the original submittal was received on March 10, 1989.

This method has been tested by the applicant, Nuclear Environmental Analysis, Inc., in accordance with the test procedures prescribed in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at EPA's Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina, and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

This method uses the sampling procedure specified in the reference method for the determination of lead in suspended particulate matter collected from ambient air (43 FR 46258). The lead content of the sample is analyzed by energy-dispersive X-ray fluorescence spectrometry using a radioactive-source excited system. The NEA method uses an EG&G Ortec TEFA III system. Technical questions concerning the method should be directed to Nuclear Environmental Analysis, Inc., 10950 SW. 5th Street, Suite 260, Beaverton, Oregon 97005.

As a designated equivalent method, this method is acceptable for use by states and other control agencies under requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes the method must be used in strict accordance with the procedures and specifications provided in the method description. States or other agencies wishing to use energy-dispersive X-ray fluorescence spectrometric methods that employ procedures and specifications significantly different from those in this method must seek specific approval for their particular method under the provisions of § 2.8 of Appendix C to 40 CFR Part 58 (Modification of Methods by Users) or may seek designation of such methods as equivalent methods under the provisions of 40 CFR Part 53.

Additional informtion concerning this action may be obtained from Frank F. McElroy, Quality Assurance Division (MD–77), Atmospheric Research and Exposure Assessment Laboratory, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2622.

Erich W. Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89–11087 Filed 5–9–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100059; FRL–3568–5]

Labat-Anderson, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Labat-Anderson, Inc. (LAI) will perform work specified in a Task Order issued under EPA contract number 68–01–7352. This work will be done for the EPA Office of Pesticide Programs, Field Operations Division, Public Information Branch and will require access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed as confidential business information (CBI) by submitters. This information will be transferred to LAI as authorized by 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively.

This tranfer will enable LAI to fulfill the terms of the Task Order, and this notice serves to notify affected persons.

DATE: LAI will be given access to this information no sooner than May 17, 1989.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4460.

SUPPLEMENTARY INFORMATION: Under a Task Order for EPA Contract No. 68–01–7352. LAI will provide services of a librarian to sort and index documents that make up the three categories of files in the OPP Public Docket: (1) **Federal Register** comments, (2) documents placed for public display, (3) documents [science chapters and studies] concerning special review and registration standards. All documents will be indexed by chemcial. In the process of filling a docket request, LAI will need to review the indexed documents to assure that all CBI has been removed (by OPP staff) and approved for release to the public. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by LAI to information on all pesticide chemicals is necessary for the performance of this Task Order.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3) and 2308(i)(2) LAI shall not use the information for any purpose other than the purposes specified in the Task Order; shall not disclose the information in any form to a third party without prior written approval from the Agency or affected business; and shall require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. No information will be provided to LAI until the above requirements have been fully satisfied. LAI will provide the above services within EPA facilities and will handle documents in accordance with the FIFRA Information Security Manual. Records of information provided to LAI will be maintained by the Task Order Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to LAI by EPA for use in connection with this Task Order will be returned to EPA when LAI has completed its work.

Dated: April 27, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89–11091 Filed 5–9–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–64011–FRL–3568–6]

Heptachlor for Seed Treatment; Modification of Existing Stocks Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On March 6, 1978 EPA issued an Order announcing the cancellation of various pesticide products containing chlordane or heptachlor as active ingredients. EPA has recently discovered that substantial amounts of heptachlor for seed treatment remain in this country. EPA does not believe that continued sale or use of canceled heptachlor seed treatment products more than 10 years after the cancellation Order is consistent with section 6(a)(1) of FIFRA. The Agency is therefore by this Notice prohibiting any further sale or use of heptachlor for seed treatment. Under the special circumstances presented here, the Agency is also providing holders of existing stocks of products affected by this Notice an opportunity to demonstrate to the Agency that continued sale or use of their products would not be inconsistent with the purposes of FIFRA and would not have undreasonable adverse effects on the environment. If such a demonstration is made, the Agency will reconsider its action announced herein.

DATES: A request to the Agency to modify its existing stocks determination announced herein must be received by July 10, 1989. Any other person who wishes to comment on whether the Agency should modify its existing stocks detemination must provide those comment by July 10, 1989.

ADDRESS: Requests for modification of, or comments applicable to, the existing stocks determination should be submitted to: Public Docket and Freedom of Information Section, Field Operations Division (TS–787C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Senior Agricultural Advisor (H7506C), Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 710 Crystall Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone: (703) 557–5664.

SUPPLEMENTARY INFORMATION: This Notice is organized into two parts. Part I provides a history of the regulatory actions taken by the Agency applicable to registration of heptachlor for seed treatment. Parts II contains the Agency's determination pursuant to section 6(a)(1) of FIFRA applicable to existing stocks of such registrations.

I. Regulatory History

A. Notice of Intent to Cancel

Prior to 1974, heptachlor (along with a related compound, chlordane) was registered for a wide variety of insecticide uses. In the **Federal Register** of November 26, 1974 (39 FR 11298), the Administrator issued a notice of intent to cancel registrations for most uses of heptachlor (and chlordane). The basis for the notice of intent to cancel was evidence that helptachlor and chlordane has demonstrated toxis effects which may have significant adverse effecs on human health, and evidence that both chemicals persist in the environment for many years after application and as such are subject to considerable movement from the site of actual application. The evidence on toxicity demonstrated that heptachlor and its metabolite, heptachlor epoxide, had been found to induce tumors in mice and that there was evidence of embryotoxicity in mice and possibly rats

as well. Because of the persistence and wide application of heptachlor and chlordane products, heptachlor epoxide residues were routinely found in water, food sources, and human adult and fetal tissue. The Administrator therefore proposed to cancel all registered uses of chloradane and heptachlor except those uses for subterranean termite control and dipping of nonfood plants.

b. The Suspension of Heptachlor Products

On July 29, 1975, the Administrator issued a notice of intent to suspend the registration of heptachlor and chlordane that were subject to the notice of intent to cancel. The grounds for the notice of intent to suspend were "new evidence * * * which confirm(ed) and heighten(ed) the human cancer hazard posed by (chlordane and heptachlor)" and the Adminstrator's determination that the cancellation proceeding resulting from the notice of intent to cancel would not be complete in time to "avert substantial additions of these persistent and ubiquitous compounds to already serious human and environmental burden." The notice of intent to suspend applied to all uses covered by the notice of intent to cancel.

An evidentiary hearing on the proposed suspension took place between August and December of 1975. On December 12, 1975, the hearing examiner published a recommended decision dismissing the notice of intent to suspend. The basis for this recommendation was the hearing examiner's unwillingness to find "conclusively" that heptachlor and chlordane are carcinogens in laboratory animals.

The recommended decision discussed in some detail the potential hazards and benefits associated with chlordane and heptachlor use. Included in the recommended decision was a discussion of the use of heptachlor for seed treatment. The decision noted that approximately 200,000 pounds of heptachlor had been used for seed treatment in 1974, and that inadequate alternatives for seed treatment existed at that time. The hearing examiner therefore recommended that heptachlor for seed treatment not be suspended even if the Administrator were to disagree with the examiner on the question of the hazard posed by chlordane and heptachlor.

On December 24, 1975, the Administrator issued his decision on the proposed suspension of chlordane and heptachlor products. *See* 41 FR 7572. In his decision, the Administrator disagreed with the hearing examiner and determined that the evidence at the hearing on the question of whether chlordane and heptachlor posed a risk of cancer to man did support a finding of "imminent hazard" sufficient to justify a suspension pursuant to section 6(c). The Administrator therefore ordered a suspension of a number of chlordane and heptachlor uses during the pendency of the cancellation hearing. As to seed treatment however, the Administrator found that no adequate alternatives to treatment with heptachlor existed at that time, and therefore found that the need for heptachlor for seed treatment exceeded the risks of such use during the time necessary to complete the cancellation hearing. Heptachlor for seed treatment was thus not one of the uses suspended by the Administrator.

The Administrator's suspension order as upheld by the United States Court of Appeals for the District of Columbia. *See Environmental Defense Fund* v. *EPA*, 548 F.2d 998 (1976). The Court of Appeals specifically upheld the Administrator's findings with respect to the cancer hazards posed by chlordane and heptachlor. 548 F.2d at 1006–1010.

C. Settlement of the Cancellation Proceeding

The cancellation proceeding continued until November of 1977, at which time the parties entered into settlement negotiations. The negotiations resulted in an agreement which was ratified in a Final Order issued by the Administrator on March 6, 1978, and which was published in the **Federal Register** of March 24, 1978 (43 FR 12372). The Final Order resulted in the eventual cancellation of all products subject to the original notice of intent to cancel. Some of the cancellations became effective on the date of the Final Order, while other cancellations were to become effective according to a "phased out" schedule incorporated in the Order. For seed treatment, the effective date of cancellation was September 1, 1982, for barley, oats, wheat, rye, and corn, and July 1, 1983, for sorghum. The Order also contained production limitations; production of heptachlor for seed treatment was limited to 175,000 pounds annually from 1978 to 1982 and to 100,000 pounds in 1983.

In addition to the Final Order, the Administrator issued a Statement as to Basis for Settlement on March 6, 1978 (43 FR 12375). In this Statement, the Administrator noted that even though the settlement made it unnecessary for him to resolve the dispute concerning the hazards of chlordane and heptachlor, "(t)here is much to be said for a policy that continued human exposure to persistent pesticides such as (chlordane and heptachlor) that raise a question of risk even though unresolved and residues resulting from their use should be restricted and eventually eliminated wherever the pesticide use can be dispensed with * * *" The purpose of the phased cancellations was to provide a "transition period" to allow users to make an orderly adjustment to alternative crops or pest control technologies where possible or to promote development of alternative pest control technologies where none then existed.

II. Existing Stocks Determination

The sale and use of existing stocks of pesticide products canceled after a notice of intent to cancel is issued pursuant to section 6(b) of FIFRA are controlled by section 6(a)(1), which provides in pertinent part: "the Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under [section 6(b)] to such extent, under such conditions, and for such uses as he may specify if he determines that such sale or use is not inconsistent with the purposes of (FIFRA) and will not have unreasonable adverse effects on the environment." In the Final Order of cancellation issued on March 6, 1978, the Administrator established a schedule calling for phased cancellations with production limits, and announced that the Agency would permit continued sale and use of existing stocks after a particular cancellation took effect.

As noted earlier, the purpose of the phased cancellation was to allow for an orderly transition away from the canceled uses. The limitation on production was with an eye towards assuring that the transition would be a relatively short one (as mentioned, the limit for production of heptachlor for seed treatment was 175,000 pounds per year, less than the annual amount believed to have been used in 1974 for seed treatment). At the time the Agency issued the Final Order, it was expected that sale and use of existing stocks of canceled products would cease approximately within 1 year of the effective cancellation date.

The existing stocks allowance and phased cancellation was thus expected to result in a transition period of approximately 6 years (until 1984) for users of heptachlor treated seeds. The Agency has learned, however, that heptachlor continues to be available for seed treatment today, more than 10 years after the settlement leading to cancellation of that use. The information available to the Agency suggests that

approximately 160,000 pounds of heptachlor remain available for use in seed treatment; that approximately 2,000 pounds are used each year; and thus at current rates, heptachlor could continue to be used on seeds for another 80 years.

Under section 6(a)(1), the Agency may permit the continued sale and use of existing stocks of a canceled pesticide only if the Agency determines that such sale and use will be consistent with FIFRA and will not result in unreasonable adverse effects on the environment. In determining whether sale or use of a pesticide will result in unreasonable adverse effects on the environment, the Agency must examine the risks and benefits associated with the use of such pesticide. *See* FIFRA section 2(bb). Despite the hazards associated with heptachlor use, in 1978 the Agency determined that the lack of alternatives to heptachlor for seed treatment tipped the risk/benefit scale in favor of continued use of heptachlor for a transitional period.

The 6-year transitional period contemplated in 1978 would have ended more than 4 years ago. The Agency believes that 10 years was more than sufficient for users to find alternatives to heptachlor seed treatment. Moreover, although some heptachlor continues to be used, the amounts used today suggest that alternatives now exist; the transition way from heptachlor seed treatment has largely been completed (the amount of heptachlor used for seed treatment in 1987 was only 1 percent of the amount used in 1974). Thus the special benefits associated with potential dislocation during a transitional period no longer apply to continued sale and use of heptachlor for seed treatment.

While the benefits associated with heptachlor seed treatment have greatly diminished in the past 10 years, the Agency's general concerns with the use of heptachlor for any of the uses covered by the 1974 notice of intent to cancel have not diminished. The Agency is aware of at least two instances where seeds treated with heptachlor eventually found their way (contrary to label requirements) into cattle mash, resulting in the contamination of a large number of cows and a significant volume of milk. In one of these instances, total losses for all affected parties are anticipated to exceed 16 million dollars; in the other instance, over 1,100 cattle were contaminated with heptachlor epoxide residues. The Agency has also received reports of other incidents of heptachlor epoxide contamination in swine and poultry which may also have resulted from the misuse of treated seed, although specific causes of the contamination have not been confirmed by the investigations. If heptachlor seed treatments continue, such misuse could well occur again; an investigation by the United States Food and Drug Administration and the Department of Agriculture uncovered over 100 violations involving the illegal use of obsolete pesticide treated seeds in animal feeds. While the potential for misuse is substantial, it must also be kept in mind that the Agency action taken in the 1970's was based upon concerns associated with approved label use of heptachlor as well as with misuse.

Under all the circumstances, the Agency can no longer find that continued sale or use of heptachlor for seed treatment will be consistent with FIFRA and will not have unreasonable adverse effects on the environment. The Agency therefore no longer believes that such sale or use is consistent with section 6(a)(1) of FIFRA. Where the Agency finds that continued sale and use of existing stocks of a canceled pesticide would not be consistent with section 6(a)(1), the Agency may not permit such continued sale or use. Accordingly, the Agency is hereby serving notice that sale or use of heptachlor stocks for seed treatment is no longer permitted, and that any further sale or use, unless specifically permitted by the Agency, shall be a violation of section 12(a)(1)(A) and/or section 12(a)(2)(K) of FIFRA.

Given all the circumstances of this case, the Agency believes it appropriate to provide any interested person with the opportunity to demonstrate to the Agency that continued sale or use of heptachlor for seed treatment would be consistent with FIFRA and would not result in unreasonable adverse effects on the environment. Any person who wishes to make such a demonstration, must submit to the Agency by July 10, 1989 factual information sufficient to support a finding that continued sale and/or use of heptachlor for seed treatment would be consistent with section 6(a)(1). Such a submission should include information concerning the extent of existing stocks, information on the economic, social or environmental benefits associated with the continued use of such stocks, and information addressing the hazards associated with heptachlor use as set forth in the notice of intent to cancel in 1974, and the notice of intent to suspend, the preliminary decision on suspension, and the Administrator's final decision on suspension in 1975 and 1976. In addition, such a submission should address the means to reduce or eliminate the potential for misuse of heptachlor treated seeds. Any other person wishing to comment on whether continued sale or use of existing stocks of heptachlor for seed treatment should be permitted must also supply such comments by July 10, 1989. All submissions and comments should be addressed to the address listed under the ADDRESS unit.

If a timely request to allow sale or use of existing stocks is received, the Agency will consider the request and make a final determination as to whether sale or use of existing stocks should be permitted. Unless and until a final determination to the contrary is made, no sale or use of heptachlor stocks for treatment of seeds will be permitted. If no request to allow sale or use of existing stocks is received within 60 days of publication of this Notice, the prohibition on sale and use of existing stocks announced in this Notice shall become final.

Any disposal of heptachlor resulting from this Notice must be in accordance with all applicable Federal, State, and local laws and regulations, including the Resource Conservation and Recovery Act (RCRA). In this regard, it should be noted that products that contain heptachlor as the sole active ingredient are subject to the provisions of Subtitle C of RCRA and are potential "P" wastes as specified in 40 CFR 261.33. A separate fact sheet has been prepared which provides additional guidance regarding the status of heptachlor seed treatment products as hazardous wastes. Copies may be obtained from James G. Touhey at the address listed under the ADDRESS unit.

Dated: April 26, 1989.

William K. Reilly,

Administrator.

[FR Doc. 89-11090 Filed 5-9-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100061; FRL-3568-4]

Eastern Research Group, Inc. and Life Systems, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Eastern

Research Group, Inc. and its subcontractor, Life Systems, Inc. have been awarded a contract to perform work for EPA's Office of Drinking Water and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Eastern Research Group, Inc. and Life Systems, Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), respectively. This transfer will enable Eastern Research Group, Inc. and Life Systems, Inc. to fulfill the obligations of the contract. Through this notice EPA is notifying persons who have submitted this information.

DATE: Eastern Research Group, Inc. and Life Systems, Inc. will be given access to this information no sooner than May 17, 1989.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–C8–0033, Eastern Research Group, Inc. and Life Systems, Inc. will provide technical support to EPA's Office of Drinking Water in the development of drinking water criteria documents and health advisories, including program outreach activities.

The Office of Drinking Water and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals potentially in drinking water will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA. A list of pesticide chemicals appears below. Other pesticide chemicals may be included at a later time. Readers may contact the person named above in approximately 1 year to learn if chemicals other than those on this list will be involved in this contract.

1,3-Dichloropropene, 2,4,5-T, Aciflurofen, Aldrin, Ametryn, Ammonium sulfamate, Atrazine, Baygon, Bentazon, Bromacil, Butylate, Carbaryl, Carboxin, Chloramben, Chlorothalonil, Chlorpyrifos, Cyanazine, DCPA/Dacthal, Dalapon, Diazinon, Dicamba, Dieldrin, Dimethrin, Dinoseb, Diphenamid, Disulfoton, Diuron, ETU/EDBCs, Endothall, Endrin, Fenamiphos, Fluometuron, Fonofos, Glyphosate, Hexazinone, MCPA, Malathion, Maleic hydrazide, Methomyl, Methyl parathion, Metolachlor, Metribuzin, Paraquat, Picloram, Prometon, Pronamide, Propachlor, Propazine, Propham, Simazine, Tebuthiuron, Terbacil, Terbufos, Treflan/Trifluralin.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), and 2.308(i)(2) the contract with Eastern Research Group, Inc. and Life Systems, Inc. prohibits use of the information for any purposes other than the purpose specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, Eastern Research Group, Inc. and Life Systems, Inc. are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor and subcontractor will be maintained by the Project Officer for this contract in the EPA Office of Drinking Water. All information supplied to Eastern Research Group, Inc. and Life Systems, Inc. by EPA for use in connection with this contract will be returned to EPA when Eastern Research Group, Inc. and Life Systems, Inc. have completed their work.

Dated: April 27, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89–11084 Filed 5–9–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36171; FRL–3567–7]

Pesticide Registration Standards; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft standards for comment.

SUMMARY: This notice announces the availability of draft pesticide Registration Standard documents for comment. The Agency has completed a review of the listed pesticides and is making available documents describing its regulatory conclusions and actions.

DATE: Written comments on the Registration Standards should be submitted on or before July 10, 1989.

ADDRESSES: Three copies of comments identified with the docket number listed with the Registration Standard should be submitted to: By mail:

Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, DC 20460.

In person, deliver comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: To request a copy of a Registration Standard, contact the Public Information Branch, in Rm. 246 at the address give above (703–557–2805). Requests should be submitted no later than June 9, 1989 to allow sufficient time for receipt before the close of the comment period.

For technical questions related to the Registration Standard, contact the Review Manager listed for that Standard, at the phone number given.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency conducts a systematic review of pesticides to determine whether they meet the criteria for continued registration under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That review culminates in the issuance of a Registration Standard, a document describing the Agency's regulatory conclusions and positions on the continued registrability of the pesticide. In accordance with 40 CFR 155.34(c), before issuing certain Registration Standards, the Agency makes the draft document available for public comment.

Draft Registration Standards for the following pesticides are now available:

Name of pesticide	Docket number	Contact person
Butylate	2008-41-5	Dona Williams, 703-557-0639.
Warfarin and its sodium salt.	81-81-2	Phil Hundemann, 703-557-0933.

Copies of the Registration Standards may be obtained from the Agency at the address listed under **FOR FURTHER INFORMATION CONTACT.** Because of the length of the Standards and the limited number of copies available for distribution, only one copy can be provided by mail to any one individual or organization. The Registration Standards are also available for inspection and copying in EPA Regional offices at the addresses listed below after June 9, 1989.

List of EPA Regional Offices

Pesticides and Toxic Substances Branch, EPA—Region I, JFK Federal Building, Boston, MA 02203, Contact person: Marvin Rosenstein.

Pesticides and Toxic Substances Branch, EPA—Region II, Woodbridge Avenue, Edison, NJ 08837, Contact person: Ernest Regna.

Toxics and Pesticides Branch, EPA—Region III, 841 Chestnut St., 7th Fl., Philadelphia, PA 19107, Contact person: Larry Miller.

Pesticides and Toxic Substances Branch, EPA—Region IV, 345 Courtland St., NE., Atlanta, GA 30365, Contact person: Richard DuBose.

Pesticides and Toxic Substances Branch, EPA—Region V, 230 South Dearborn St., Chicago, IL 60604, Contact person: Phyllis Reed.

Pesticides and Toxic Substances Branch (6T-PT), EPA—Region VI, 1445 Ross Avenue, Dallas, TX 75270, Contact person: Robert Murphy.

Pesticides and Toxic Substances Branch, EPA—Region VII, 726 Minnesota Ave., Kansas City, Kan. 66101, Contact person: Leo Alderman.

Toxic Substances Branch, EPA—Region VIII, 999 18th St., Suite 500, Denver, CO 80202, Contact person: C. Alvin Yorke.

Pesticides and Toxic Branch (T-5-1), EPA—Region IX, 215 Fremont St., San Francisco, CA 94105, Contact person: Davis Bernstein.

Pesticides and Toxic Substances Branch, EPA—Region X, 1200 6th Ave., Seattle, WA 98101, Contact person: Jon Heller.

Dated: April 27, 1989.

Douglas Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89-11086 Filed 5-9-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200242

Title: North Carolina State Ports Authority Terminal Agreement.

Parties: North Carolina State Ports Authority (SPA) Columbus Line (SSA)(Columbus).

Synopsis: The Agreement provides that Columbus has agreed to move a minimum of 300 containers per year for each contract year at a unit rate of $70.00 per container loaded to or discharged from its vessels along side wharves or piers of SPA. The unit rate includes receiving, grounding delivering, mounting and per diem when applicable. The initial term of the Agreement shall be for a period of one year. The charge to Columbus for any other service furnished by SPA shall be at the rate specified in SPA's Terminal Tariff.

Dated: May 4, 1989.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-11126 Filed 5-9-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-10]

Safbank Line Ltd., v. The Hairlox Co., Inc., Filing of Complaint and Assignment

May 4, 1989.

Notice is given that a complaint filed by Safbank Line Limited ("Safbank") against The Hairlox Company, Inc. ("Hairlox") was served May 4, 1989. Safbank alleges that Hairlox has violated section 10(b)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1) by failing to remit the ocean freight and terminal handling charges due and payable on a shipment of hair care products between Baltimore, Maryland and Durban, South Africa.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by May 4, 1990, and the final decision of the Commission shall be issued by September 4, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 89-11127 Filed 05-09-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Dennis L. Anderson, et al.

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 may 23, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dennis L. Anderson*, Rapid City, South Dakota; to acquire and additional 18.60 percent of the voting shares of American State Bank, Rapid City, South Dakota, for a total of 36.67 percent.

2. *First Interstate Bank of Fargo, N.A. and Affiliates ESOP*, Fargo, North Dakota; to acquire an additional 5.82 percent of the voting shares of First Interstate of North Dakota, Inc., for a total of 19.43 percent and thereby indirectly acquire First Interstate Bank of Fargo, Fargo, North Dakota.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dennis C. or Betty L. Houghton*, and Mark C. Houghton, both of McPherson, Kansas; to each acquire an additional 5.1 percent of the voting shares of PBT Bancshares Inc., McPherson, Kansas, for a total of 25.0 percent and thereby indirectly acquire Peoples Bank & Trust Company, McPherson, Kansas.

2. *Gerard J. Mos, Jr.*, Kansas City, Missouri; to acquire an additional 2.67 percent for a total of 10.28; Richard H. Mos, Jr., Lathrop, Missouri, to acquire an additional 0.25 percent for a total of 1.25 percent; and High Life Sale Company, Kansas City, Missouri, to acquire and additional 2.59 percent for a total of 8.33 percent of the voting shares of Northland Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire First National Bank of Platte County, Kansas City, Missouri.

Board of Governors of the Federal Reserve System, May 4, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–11164 Filed 5–9–89; 8:45 am]

BILLING CODE 6210–01–M

Bank of Boston Corp., et al., Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 26, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation*, Boston, Massachusetts; to engage *de novo* through its subsidiary, BancBoston Trust Company of New York, New York, New York, in trust company activities pursuant to § 225.25(b)(3) (i) and (ii) of the Board's Regulation Y.

B. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midland Bank PLC*, London, England; to engage *de novo* through its subsidiary, Samuel Montagu, Inc., in providing advice (including valuation services and the rendition of fairness options) to nonaffiliated financial and nonfinancial institutions in connection with mergers, acquisitions, restructurings, reorganizations, and divestitures and in connection with financial transactions including public and private financings, loan syndications, interest rate swaps, and interest rate caps pursuant to *Signet Banking Corporation*, 73 Fed. Res. Bull. 59 (1987). The valuation services will include providing appraisals of real estate and personal property pursuant to § 225.25(b)(13) of the Board's Regulation Y. Comments on this application must be received by May 23, 1989.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-America Bancorp*, Louisville, Kentucky; to engage *de novo* through its subsidiary, Mid-America Money Order Company, Louisville, Kentucky, in issuing and selling retail money orders and similar consumer-type payment instruments having a face value of not more than $1,000 pursuant to § 225.25(b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 4, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–11165 Filed 5–9–89; 8:45 am]

BILLING CODE 6210–01–M

MNC Financial, 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 a 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 May 26, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *MNC Financial, Inc.*, Baltimore, Maryland; to acquire Prime Rate Premium Finance Corporation, Florence, South Carolina, and Prime Rate Systems, Inc., Florence, South Carolina in financing insurance premiums for persons purchasing automobile insurance policies from the state's assigned risk pool and other personal insurance lines pursuant to § 225.25(b)(1); and providing data processing services and related equipment, all designed to support the premium financing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 4, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-11166 Filed 5-9-89; 8:45 am]

BILLING CODE 6210-01-M

Saban S.A., 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 May 26, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Saban S.A.*, Panama City, Panama; to acquire 34.77 percent of the voting shares of Safra National Bank of New York, New York, New York.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hershare Financial Corporation*, Herscher, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Herscher, Herscher, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bosshard Banco, Ltd.*, La Crosse, Wisconsin; to acquire 94.6 percent of the voting shares of Ferryville State Bank, Ferryville, Wisconsin, and 97.8 percent of the voting shares of Bank of Stoddard, Stoddard, Wisconsin.

Board of Governors of the Federal Reserve System, May 4, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-11167 Filed 5-9-89; 8:45 am]

BILLING CODE 6210-01-M

Metrocorp, Inc., East Moline, IL; Order for Hearing

Metrocorp, Inc., East Moline, Illinois ("Metrocorp"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage, through its *de novo* subsidiary, Metro Armored Courier, Inc., in armored car services, including the following:

(1) Fully insured transportation of cash, negotiable instruments, securities, and valuables; collecting currency and checks from commercial customers and nonbank financial institutions and transporting and depositing these collections at financial institutions; and delivering cash, negotiable instruments, securities, and valuables to commercial customers and nonbank financial institutions; and

(2) Providing related services such as interbank transfers, coin wrapping, change delivery, mail delivery, and payroll check cashing.

By notice published in the **Federal Register** (53 **Federal Register** 50,292 (1988)), the Board invited interested persons to express their views on the questions of whether the proposed activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto, and 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 resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The notice further provided that any request for a hearing on this question should be accompanied by a statement summarizing the reasons why 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.

The National Armored Car Association ("Protestant"), Seattle, Washington, has submitted written comments in opposition to approval of the application. Protestant contends that the proposed armored car activities are not closely related to banking, and challenges whether banks or bank holding companies generally engage in armored car services. Protestant further contends that services provided by armored car companies are not functionally similar to those offered by banks. Protestant also argues that the proposed activity would not be a proper incident to banking, it would not result in any significant public benefits, and would result in undue concentration of resources, decreased or unfair competition, conflicts of interest, and unsound banking practices. Finally, Protestant argues that the proposal violates state branch banking laws and raises the issue of whether Metrocorp's bank subsidiary would violate the restrictions on payment of interest on demand deposits set forth in the Board's Regulation Q. Protestant has requested a hearing to establish a more complete record on which to base a determination concerning the issues raised.

In view of the issues raised by the application, the Board has concluded that a hearing would be appropriate in this case. Accordingly, *it is hereby ordered* That a formal and public administrative hearing be held with

respect to the application by Metrocorp to engage in armored car activities. The hearing shall be conducted in accordance with Subpart A of the Board's Rules of Practice for Hearings (12 CFR Part 263) and will commence before a hearing officer at the offices of the Board, Washington, DC, or such other place as the hearing officer shall deem appropriate. The Board believes it appropriate that the hearing be concluded as expeditiously as possible and, accordingly, orders that the hearing shall be held no later than 45 days from the date of this Order, at a date set by the hearing officer, and that the recommended decision be filed with the Board within 60 days of the conclusion of the hearing, in accordance with the Board's Rules of Practice for Hearings.

It is further ordered That the issues to be considered at this hearing are whether the proposed armored car services are so closely related to banking or managing or controlling banks as to be a proper incident thereto, and whether 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. Further, the Board requests evidence on the risks of conducting the activity, including the availability of adequate insurance against risk of loss. Finally, the Board requests the parties to the hearing to address any issues raised by the proposed activity under relevant state branching restrictions and other relevant laws.

By Order of the Board of Governors, [1] May 4, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-11177 Filed 5-9-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Request for Comments and Secondary Data on Occupational Noise Exposures

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of request for comments and secondary data.

SUMMARY: In response to the Mine Health Research Advisory Committee's continued interest in this area of occupational safety and health, NIOSH is requesting comments and secondary data from all interested parties concerning occupational noise exposures in the mining industry. Interested parties may submit information on the health and safety hazards of occupational noise exposures in mines, including but not limited to: (1) Operation or equipment descriptions, (2) exposure data or results of epidemiological or laboratory animal studies, (3) descriptions of work practices, protective equipment, and control technology in use today, or (4) technical problems in the monitoring or control of noise exposures. Similar information developed in other industries (e.g., construction, maritime and general) may also be submitted.

DATES: Comments concerning this notice should be submitted by July 10, 1989.

ADDRESSES: Any information, comments, suggestions, or recommendations should be submitted in writing to: Dr. Richard Niemeier, Acting Director, Division of Standards Development and Technology Transfer, NIOSH, CDC, 4676 Columbia Parkway, C-14, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Chan, Division of Standards Development and Technology Transfer, NIOSH, CDC, 4676 Columbia Parkway, C-32, Cincinnati, Ohio 45226, (513) 533-8341, or FTS 684-8341.

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, et seq.), NIOSH is directed to develop recommendations for improving occupational safety and health standards. NIOSH has long been concerned with the health effects and safety-related injuries that occur from occupational noise exposures, including: (1) Temporary and permanent losses in hearing sensitivity, (2) physical and psychological disorders, (3) interference with speech communications or the reception of other wanted sounds, and (4) disruption of job performance.

NIOSH is interested in obtaining existing and available materials (e.g., reports and research findings) pertaining to the following in the mining industry (or in other segments of industry, if pertinent):

1. Noise-producing operations and/or equipment.
2. Noise exposure data and data concerning any associated effects (e.g., hearing loss as supported by audiometric test data, increased frequency of accidents) observed in workers.
3. Synergistic effects of other physical or chemical agents (e.g., carbon monoxide) which may accelerate noise-induced hearing loss.
4. Laboratory animal studies that supplement epidemiological data on noise.
5. Innovative work practices, engineering controls, personal protective equipment and training programs being employed for protection against noise.
6. Technical problems, if any, relating to noise exposure monitoring and evaluation.
7. Technical difficulties, if any, in employing conventional noise engineering controls.
8. Technical difficulties, if any, in using personal hearing protection.

All information received in response to this notice, except that designated as trade secret and protected by section 15 of the Occupational Safety and Health Act, and personal identifying information contained in medical case reports or data, will be available for public examination and copying at the above address.

Dated: May 4, 1989.

Larry W. Sparks,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 89-11161 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-19-M

[Program Announcement 924]

Public Health Conference Support Grant Program for Human Immunodeficiency Virus Prevention (HIV) Availability of Funds for Fiscal Year 1989

Introduction

The Centers for Disease Control (CDC) announces that grant applications are to be accepted for the Public Health Conference Support Grant Program related to Human Immunodeficiency Virus (HIV) prevention.

Authority

This program is authorized under sections 301 and 317 of the Public Health Service Act, as amended. Program Regulations are set forth in 42 CFR, Part 51b.

[1] Voting for this action: Chairman Greenspan and Governors Johnson, Seger, Angell, Heller, and Kelley. Absent and not voting: Governor LaWare.

Eligible Applicants

Eligible applicants include non-profit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, public and private organizations, State and local health departments and small, minority and/or woman-owned businesses are eligible for these grants.

Availability of Funds

Approximately $225,000 will be available in Fiscal Year 1989 to fund approximately 15 awards. The awards will range from $5,000 to $50,000 with the average award being approximately $15,000. The awards will be funded with a 12-month budget and project period. The funding estimate outlined above may vary and is subject to change.

The following are examples of the most frequently encountered costs which may or may not be charged to the grant:

1. Grant funds may be used for direct cost expenditures: salaries, speaker fees, rental of necessary equipment, registration fees, transportation costs (not to exceed economy class fare), and travel of non-Federal employees.

2. Funds may *not* be used for the purchase of equipment, payments of honoraria, indirect costs, organizational dues, entertainment/personal expenses, cost of travel and payment of a full-time Federal employee or for per diem or expenses other than local mileage for local participants.

Purpose

The purpose of the HIV-related conference support grants are to provide partial support for non-Federal conferences to intensify efforts to prevent the transmission of HIV infection.

Program Requirements

The programmatic areas of interest in which applications are being solicited by CDC for HIV-related conferences are: (1) Disease prevention; (2) information/education (specificaly regarding the cause and transmission of the virus); and (3) biostatistics.

Evaluation Criteria

The review of applications will be conducted in accordance with PHS Grants Administration Manual, Part 134, Objective Review of Grant Applications. Applications for support of the types of conferences listed in the Program Requirements section above will be evaluated and ranked for funding.

The major factors to be considered in the evaluation of responsive applications will include:

1. *Proposed Program* (50%).
2. *Program Personnel* (30%).
3. *Applicant Capability* (20%).
4. *Program Budget*—(Not Scored) Comments Only.

Other requirements

Recipients must comply with the document titled: Content of Aids-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Education Sessions (October 1988) [54 FR 10049, March 9, 1989]. In complying with the Program Review Panel requirements contained in the document, recipients are encouraged to use an existing Program Review Panel such as the one created by the health department's AIDS/HIV Prevention Program.

E.O. 12372 Review

Applications are not subject to review as governed by Execuvtive Order 12372, entitled Intergovernmental Review of Federal Programs.

CFDA Number

The Catalog of Federal Domestic Assistance number is 13.118.

Application Submission and Deadline

The original and two copies of the application shall be submitted on Form PHS 5161–1 in accordance with the following schedule. The schedule also sets forth *anticipated* award date:

Deadline Date

Application: June 15
Award Date: September 1

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE Room 415, Mailstop E 14, Atlanta, Georgia 30305.

Deadline:

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications:

Applications which do not meet the *Deadline* criteria, outlined in the paragraph immediately above, are considered late applications, will not be considered in the current competition, and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures and an application package may be obtained from Ms. Donna M. Rushin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disase Control, 255 East Paces Ferry Road, NE Room 415, Mailstop E 14, Atlanta, Georgia 30305, (404) 842–6545 or FTS 236–6545.

Please refer to Announcement Number 924 when requesting information and submitting any application on the Request For Assistance.

Dated: May 3, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Contron.

[FR Doc. 89–11162 Filed 5–9–89; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Request for Nominations for Voting Members; Science Advisory Board

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Science Advisory Board to the National Center for Toxicological Research. Three vacancies will occur on the committee on June 30, 1989.

DATE: Nominations should be submitted by June 15, 1989.

ADDRESS: All nominations for membership should be submitted to Ronald F. Coene (address below).

FOR FURTHER INFORMATION CONTACT: Ronald F. Coene, National Center for Toxicological Research (HFT–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3155.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of members to serve on the Science Advisory Board. The function of the board is to advise the Director, National Center for Toxicological Research, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his responsibilities. The board provides the extra-agency review to ensure that research programs and methodology

development at the National Center for Toxicological Research are scientifically sound and pertinent to environmental problems.

Criteria for Members

Persons nominated for membership on the Science Advisory Board shall have adequately diversified experience appropriate to the work of the board in such fields as biomedical research and toxicology. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is normally 4 years.

Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is willing to serve as a member of the advisory committee and appears to have no conflict of interest that would preclude committee membership. FDA asks potential candidates to provide detailed information concerning such matters as employment, financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: May 3, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-11172 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0115]

Huls America, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Huls America, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the additional use of Nylon 12 in coatings for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Maco, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4137) has been filed by Huls America, Inc., 80 Centennial Avenue, Piscataway, NJ 08855-0456 proposing that § 177.1500 *Nylon resins* (21 CFR 177.1500) be amended to permit the additional use of Nylon 12 in coatings intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 28, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11173 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89G-0126]

Gist-Brocades Inc.; Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Gist-brocades Inc., has filed a petition (GRASP 9G0349) proposing that chymosin derived from the fermentation of a genetically modified *Kluyveromyces marxianus* var. *lactis* (*K. lactis*) be affirmed as generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by July 10, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eric L. Flamm, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 9G0349) has been filed by Gist-brocades Inc., P.O. Box 241068, Charlotte, NC 28224, proposing that chymosin derived by fermentation from *K. lactis* genetically modified to contain and express a prochymosin gene be affirmed as GRAS for use as a direct human food ingredient.

The GRAS affirmation petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before July 10, 1989 review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 1, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11174 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89E-0128]

Determination of Regulatory Review Period for Purposes of Patent Extension; Cefpiramide Sodium for Injection

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Cefpiramide Sodium for injection and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce (PTO), for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDS's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product Cefpiramide Sodium for injection. Cefpiramide Sodium for injection is indicated for the treatment of serious infections caused by susceptible strains of the designated microorganisms in the following diseases: (1) Pneumonia caused by *streptococcus pneumoniae haemophilus influenza* (*beta*-lactamase negative), and *staphylococcus aureus* (including penicillinase-producing and methecillin-susceptible strains); and (2) skin and skin structure infections caused by *staphylococcus aureus* (including penicillinase-producing and methicillin-susceptible strains), *streptococcus pyogenes*, and *streptococcus agelactiae*.

Subsequent to this approval, PTO received a patent term restoration application for Cefpiramide Sodium for injection (U.S. Patent No. 4,156,724) from Sumitomo Chemical Co. Ltd., and requested FDA's assistance in determining the eligibility of this patent for patent term restoration. In a letter dated April 18, 1989, FDA advised PTO that the human drug product had undergone a regulatory review period. The letter also stated that the active ingredient, Cefpiramide Sodium, represented the first permitted commercial marketing or use. Shortly thereafter, PTO requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Cefpiramide Sodium for injection is 2,015 days. Of this time, 1,464 days occurred during the testing phase of the regulatory review period, while 551 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 29, 1983. FDA has verified the applicant's claim that July 29, 1983, is the date that the investigational new drug application (IND) became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 507 of the Federal Food, Drug, and Cosmetic Act:* July 31, 1987. FDA has verified the applicant's claim that the date the new drug application (NDA 50-633) was initially submitted to FDA was on July 31, 1987.

3. *The date the application was approved:* January 31, 1989. FDA has verified the applicant's claim that NDA 50-633 was approved on January 31, 1989.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension In its application for patent extension, the applicant seeks 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 10, 1989 submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 6, 1989, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 1030.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 3, 1989

Stuart L. Nightingale

Associate Commissioner for Health Affairs

[FR Doc. 89-11175 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89E-0096]

Determination of Regulatory Review Period for Purposes of Patent Extension; Mesnex™; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice of its determination of the regulatory review period for purposes of patent extension for Mesnex™ (mesna) that appeared in the **Federal Register** of April 12, 1989 (54 FR 14685). The notice stated that the patent applicant requested 730 days of patent extension. It should have stated that 819 days of patent extension were requested. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: I. David Wolfson, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: In FR Doc. 89–8603, appearing on page 14685 in the Federal Register of Wednesday, April 12, 1989, the following correction is made: On page 14685, in the third column, in the fourth complete paragraph, in line 9, "730 days" is corrected to read "819 days".

Dated: May 4, 1989.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 89–11176 Filed 5–9–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Project Grants for Renovation or Construction of Non-Acute Care Intermediate and Long-Term Care Facilities for Patients With Acquired Immune Deficiency Syndrome (AIDS)

AGENCY: Health Resources and Services Administration, PHS, DHHS.

ACTION: Notice of availability of funds.

SUMMARY: The Bureau of Maternal and Child Health and Resources Development (BMCHRD), Health Resources and Services Administration (HRSA) announces that Fiscal Year 1989 funds are available for project grants for the renovation or construction of non-acute care intermediate and long-term care facilities for persons with AIDS (PWA). Funds were appropriated for this purpose by Pub. L. 100–436 under the authority of Section 1610(b) of the Public Health Service (PHS) Act.

DATE: To receive consideration, applications for the renovation or construction of facilities for patients with AIDS must be received by the close of business July 10, 1989 by Ms. Dorothy Hodgkin at the address below. Applications will meet the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date, and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted instead of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Hand delivered applications must be received by 5:00 p.m. July 10, 1989. Grant applications that are received after the deadline date will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Ms. Katharine Buckner, Office of Health Facilities (OHF), BMCHRD, Room 11A10, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–0271. Requests for grant application materials should be made in writing to Ms. Dorothy Hodgkin, Grants Management Specialist, BMCHRD, Room 11A18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440. Applicants for grants will use Form PHS 5161–1 with revised face sheet Standard Form 424, approved under OMB Control Number 0348–0043.

SUPPLEMENTARY INFORMATION:

Authority

Public Law 100–436 provides funds for grants under the authority of section 1610(b) of the PHS Act, for the renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients. Section 1610(b) requires that such grants will provide services for medically underserved populations and that the amount of any grant may not exceed 80 percent of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 percent of such costs. (Urban or rural poverty area is defined as a medically underserved area (MUA) designated by the Secretary (42 CFR 51c.102).) For information regarding the current MUA list, contact Mr. Richard C. Bohrer, Director, Division of Primary Care Services, Rm. 7A55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or telephone (301) 443–2260.

Availability of Funds

A total of $3,903,000 is available in FY 1989 to be awarded for the renovation and construction of non-acute care intermediate and long-term care facilities for AIDS patients. It is anticipated that awards will be made for a minimum amount of $50,000.

Eligible Applicants

To be eligible, applicants must: (1) Be a public or private nonprofit entity; (2) have a source of funding to meet the non-Federal portion of the eligible construction costs; (3) be located in a high AIDS incidence area (i.e., within a Standard Metropolitan Statistical Area (SMSA), with a total number of over 400 cases of AIDS as reported by the Centers for Disease Control (CDC) as of September 12, 1988, see Appendix A.); and (4) provide non-acute care intermediate and/or long-term care for persons with AIDS or other Human Immunodeficiency Virus (HIV) related conditions in conjunction with the project.

Further, applicants must agree in writing to provide:

(1) An assurance that, after such application is approved, the facility or portion thereof to be constructed or renovated will always be made available to all persons residing or employed in the area served by the facility, in accordance with 42 CFR Part 124, Subpart G; and

(2) An assurance that a reasonable volume of services will be available to persons unable to pay for care in the facility or a portion thereof which is to be constructed or renovated, in accordance with 42 CFR Part 124, Subpart F (OMB Clearance Number 0915–0077).

Program Objective

The objective of this funding is to support the construction and/or renovation of facilities that provide a comprehensive and cost-effective approach to non-acute care intermediate and/or long-term care for patients with AIDS or HIV infections. Examples of such projects may include:

(1) Projects for the renovation of existing traditional health care facilities such as hospitals, nursing homes, or hospices. For example, funds might be used to convert a small number of existing beds (i.e., 5–10) or to expand a facility to include several new beds for AIDS patients;

(2) Projects for the construction of new health care facilities to provide comprehensive intermediate and/or long-term care for some or all of the various stages of illness of the AIDS patient. Services may include, among others, outpatient care, skilled nursing care and hospice care; and

(3) Projects for the renovation of existing facilities other than traditional health care facilities, such as residential housing. Applicants must demonstrate that health care services, under the general direction of a physician, are an essential part of the programmatic scope of the project and will be routinely available in space at the facility.

Evaluation Criteria

To receive an award, applicants must demonstrate their ability to provide health care services which meet the need for non-acute care intermediate and/or long-term care for PWAs. Projects will be selected on a competitive basis by an objective review committee based on the following evaluation criteria:

(1) Applicant's qualifications and experience in providing health care and treatment of AIDS/HIV patients;

(2) Clearly defined goals and objectives with the specific activities required to accomplish the goals of the proposed project;

(3) A clearly documented needs assessment which justifies the scope of services proposed by the project;

(4) The reasonableness and justification for the itemized costs in the construction budget;

(5) Documentation of reimbursement sources and other funding sources sufficient to support program operations and to maintain the ongoing financial viability of the project after the grant funds have expired;

(6) The ability of applicant to provide more than the minimally required matching amount of the cost for the construction project;

(7) The appropriateness of the project design, facility construction/renovation plans and time frames for completion of the project;

(8) A plan for case management to assure the coordination of health services for the PWA. At a minimum, case management should: (a) Provide a confidential identification system that establishes which medical and support services the client is utilizing; and (b) provide consultation to clients on the availability of community-based treatment alternatives, medical services, and other support services.

(9) Letters of support or other documents from State and/or local community organizations and health care providers who render services to PWAs, validating the need for the proposed services and project. Projects which will be located in the service area of a HRSA funded AIDS Service Demonstration Project must also submit a letter of endorsement from that project (See Appendix B.); and

(10) The quality and scope of medical care as well as qualifications of the staff who will ensure appropriate medical care of AIDS patients.

(11) Demonstration of applicant's intent to maintain the portion of the facility receiving this Federal assistance exclusively for AIDS-related care for a period of twenty years.

Technical Assistance Workshops

The Bureau will conduct three program technical assistance workshops to answer questions from potential applicants. The workshops will be held soon after publication of this **Federal Register** Notice at the following locations:

Earl Cabell Federal Building, 1110 Commerce Street, Dallas, TX 75202.

Federal Office Building, 50 United Nations Plaza, (Seventh and Market Streets), San Francisco, CA 94102.

Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10278.

Applicants who wish to attend a workshop should contact Ms. Katharine Buckner, at (301) 443–0271, for the schedule of dates and times. Applicants must confirm their participation as to which workshop they will attend and the number of individuals in their party.

Expenses incurred by the workshop attendees will not be reimbursed by the Federal Government. Participation in the technical assistance workshops does not assure approval and funding of prospective applications.

Allowable Costs

A successful applicant under this notice must spend funds it receives according to the approved application and budget; the authorizing legislation; terms and conditions of the grant award; the regulations of the Department and the PHS applicable to grants; the applicable Office of Management and Budget (OMB) circular for public and private non-profit grantees; and Appendix II of the PHS Grants Policy Statement applicable to construction.

Other Award Information

Grants awarded under this notice are subject to the provisions of Executive Order 12372, as implemented under 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications within their States for assistance under certain Federal programs. The application packages to be made available by HRSA will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for the review. Applicants should promptly contact their State Single Point of Contact (SPOC) and follow their instructions prior to the submission of an application.The SPOC has 60 days after the application deadline date to submit its review comments.

The OMB Catalog of Federal Domestic Assistance number for section 1610(b) is 13.887.

Date: May 4, 1989.

John H. Kelso,

Acting Administrator.

Appendix A

Standard Metropolitan Statistical Areas With More Than 400 Cases of AIDS as Reported to The Centers for Disease Control as of September 12, 1988

Standard Metropolitan statistical area	Cities and counties included in the SMSA
1. New York, NY-NJ	New York—New York City, Bronx County, Kings County, New York County, Putnam County, Queens County, Richmond County, Rockland County, Westchester County. New Jersey—Bergen County.
2. San Francisco-Oakland, CA.	San Francisco City, Oakland City, Alameda County, Contra Costa County, Marin County, San Francisco County, San Mateo County.
3. Los Angeles-Long Beach, CA.	Los Angeles City, Long Beach City, Los Angeles County.
4. Houston, TX	Houston City, Brazoria County, Fort Bend County, Harris County, Liberty County, Montgomery County, Wallter County.
5. Newark, NJ	Newark City, Essex County, Morris County, Somerset County, Union County.
6. Washington, DC	Washington, DC—Maryland—Charles County, Montgomery County, Prince George's County. Virginia—Arlington County, Fairfax County, Loudon County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas City Park.
7. Chicago, IL	Chicago City, Cook County, DuPage County, Kane County, Lake County, Will County.
8. Miami, FL	Miami City, Dade County.
9. Philadelphia, PA-NJ.	Pennsylvania—Philadelphia City, Bucks County, Chester County, Delaware County, Montgomery County, Philadelphia County. New Jersey—Burlington County, Camden County, Gloucester County.
10. Dallas-Fort Worth, TX.	Dallas City, Fort Worth City, Collin County, Dallas County, Denton County, Ellis County, Rockwall County, Tarrant County, Wise County.
11. Atlanta, GA	Atlanta City, Butts County, Cherokee County, Clayton County, Cobb County, DeKalb County, Douglas County, Fayette County, Forsyth County, Fulton County, Gwinnett County, Henry County, Newton County, Paulding County, Rockdale County, Walton County.

Standard Metropolitan statistical area	Cities and counties included in the SMSA
12. Boston, MA	Boston City, Essex County, Beverly City, Boxford Town, Danvers Town, Hamilton Town, Lynn City, Lynnfield Town, Manchester Town, Marblehead Town, Middleton Town, Nahant Town, Peabody City, Salem City, Saugus Town, Swampscott Town, Topsfield Town, Wenham Town. Middlesex County, Acton Town, Arlington Town, Bedford Town, Belmont Town, Boxborough Town, Burlington Town, Cambridge City, Carlisle Town, Concord Town, Everett City, Framingham Town, Holliston Town, Lexington Town, Lincoln Town, Malden City, Medford City, Melrose City, Matick Town, Newton City, North Reading Town, Reading Town, Sherborn Town, Somerville City, Stoneham Town, Sudbury Town, Wakefield Town, Waltham City, Watertown Town, Wayland Town, Weston Town, Wilmington Town, Winchester Town, Woburn City. Norfolk County, Bellingham Town, Braintree Town, Brookline Town, Canton Town, Cohasset Town, Dedham Town, Dover Town, Foxborough Town, Franklin Town, Holbrook Town, Medfield Town, Medway Town, Millis Town, Milton Town, Needham Town, Norfolk Town, Norwood Town, Quincy City, Randolph Town, Sharon Town, Stoughton Town, Walpole Town, Wellesly Town, Westwood Town, Weymouth Town, Wrentham Town. Plymouth County, Abington Town, Duxbury Town, Hanover Town, Hingham Town, Hull Town, Kingston Town, Marshfield Town, Norwell Town, Pembroke Town, Rockland Town, Scituate Town. Suffolk County, Boston City, Chelsea City, Revere City, Winthrop Town.
13 San Diego, CA	San Diego City, San Diego County.
14 Jersey City, NJ	Jersey City, Hudson County.
15 Ft Lauderdale-Hollywood, FL	Fort Lauderdale City, Hollywood City, Broward County.
16 Nassau-Suffolk, NY	Nassau County, Suffolk County.
17 Seattle-Everett, WA	Everett City, Seattle City, King County, Snohomish County
18 San Juan, PR	San Juan Municipio, Bayamon Municipio, Canovanas Municipio, Carolina Municipio, Catano Municipio, Guaynabo Municipio, Loiza Municipio, Toa Baja Municipio, Trujillo Alto Municipio.
19. Baltimore, MD	Baltimore City, Anne Arundel County, Baltimore County, Carroll County, Hartford County, Howard County.
20. Denver-Boulder, CO.	Boulder City, Denver City, Adams County.
21. West Palm Beach-Boca Raton, FL.	Boca Raton City, West Palm Beach City, Palm Beach County.
22. New Orleans, LA	New Orleans City, Jefferson Parish, Orleans Parish, St. Bernard Parish, St. Tammany Parish.
23. Tampa-St. Petersburg, FL.	St. Petersburg City, Hillsborough County, Pasco County, Pinellas County.
24. Anaheim-Santa Ana-Garden Grove, CA.	Anaheim City, Garden Grove City, Santa Ana City, Orange County.
25. Detroit, MI	Detroit City, Lapeer County, Livingston County, Macomb County, Oakland County, St. Clair County, Wayne County.
26. Phoenix, AZ	Phoenix City, Maricopa County.
27. Riverside-San Bernardino Ontario, CA.	Ontario City, Riverside City, San Bernardino City, Riverside County, San Bernardino County.
28. Paterson-Clinton-Passaic, NJ.	Passaic City, Paterson City, Passaic County.

Appendix B—AIDS Service Demonstration Projects Directory

Serving Phoenix, Arizona

Department of Health Services, 1825 East Roosevelt, Phoenix, AZ 85006. Ernest Feigenbaum, M.D. (602) 258–6381.

Serving San Francisco, California

San Francisco Department of Public Health, AIDS Office, 1111 Market Street, 3rd floor, San Francisco, CA 94103. George W. Rutherford, Director, AIDS Office (415) 864–5571.

Serving San Diego, California

Office of AIDS Coordination, San Diego County, Department of Health Services, P.O. Box 85524, San Diego, CA 92138–5524. Ms. Binnie Callender, Chief (619) 495–5477.

Serving Los Angeles, California

AIDS Program Office, Los Angeles County Department of Health Services, 313 N. Figueroa, Room 1014, Los Angeles, CA 90012. Mr. Robert Frangenberg, Program Director (213) 974–7803.

Serving Santa Ana-Anaheim, California

County of Orange, Health Care Agency, 515 N. Sycamore, Santa Ana, CA 92701. Dr. Penny C. Weismuller, AIDS Coordinator (714) 834–2015.

Serving Washington, DC

Department of Human Services, Commission of Public Health, Office of AIDS Activities, 1875 Connecticut Ave. NW., Suite 838, Washington, DC 20009. Ms. Jane Silver, M.P.H., Chief, Office of AIDS Activities (202) 673–3679.

Serving Palm Beach, Florida

Comprehensive AIDS Program of Palm Beach County, Inc., P.O. Box 3084, Lantana, FL 33465–3085. Ms. Shauna Dunn, Director (305) 582–4357.

Serving Dade County, Florida

Public Health Trust of Dade County (Miami), Jackson Memorial Hospital, 1611 NW 12th Avenue, Miami, FL 33316. Mr. Philip J. Plummer, Administrator, AIDS Program (305) 549–7744.

Serving Ft. Lauderdale, Florida

Public Health Trust of Dade County (Ft. Lauderdale), Jackson Memorial Hospital, 1611 NW 12th Avenue, Miami, FL 33316. Mr. Philip J. Plummer, Administrator, AIDS Program (305) 549–7744.

Serving Atlanta, Georgia

AID Atlanta, 1132 W. Peachtree St., Atlanta, GA 30309. Mr. Buren Batson, Executive Director (404) 872–0600.

Serving Chicago, Illinois

AIDS Foundation of Chicago, 2035 N. Lincoln Avenue, Chicago, IL 60614. Marcia J. Lipetz, Ph.D. (312) 525–9466.

Serving New Orleans, Louisiana

Associated Catholic Charities of New Orleans, New Orleans AIDS Project, 1231 Prytania St., New Orleans, LA 70130. Ms. Rebecca Lomax, M.S.W., B.C.S.W. (504) 523–3755, Ext. 324.

Serving Boston, Massachusetts

Fenway Community Health Center, 93 Massachusetts Ave., Boston, MA 02115. Ms. Dale Orlando, Executive Director (617) 267–0900.

Serving Newark, New Jersey

New Jersey State Department of Health, Division of Narcotic and Drug Abuse Control, CN 360, Trenton, NJ 08625–0362. Mr. Steve Young, Coordinator, AIDS Health Services (609) 292–4414.

Serving New York City, New York

Health Research, Inc. and the New York State Department of Health, 359 Corning Tower Building, Albany, NY 12237. Mr. Jim Bulger, Deputy Director of AIDS Institute (518) 473–7238.

Serving Nassau-Suffolk, New York

Nassau-Suffolk Health Systems Agency, 1537 Old County Road, Plainview, NY 11803. Ms. Linda Wenze (516) 293–5740.

Serving Philadelphia, Pennsylvania and Camden, New Jersey

Philadelphia Health Management Corp., 260 S. Broad Street, 20th floor, Philadelphia, PA 19102–3890. Mr. John Loeb (215) 985–2502.

Serving San Juan, Puerto Rico

Puerto Rico Department of Health, Box 70184, San Juan, Puerto Rico 00936. Dr. Jose Marti-Nunez (809) 766–1616.

Serving Dallas, Texas

Community Council of Greater Dallas AIDS ARMS Network, 2121 Main Street, Suite 500 Dallas, TX 75201–4321. Mr. Warren W. Buckingham (214) 521–5191.

Serving Houston, Texas

City of Houston, Department of Health and Human Services, 8000 North Stadium Drive, Houston, TX 77054. Dr. John E. Arradondo (713) 794–9311.

Serving Seattle, Washington

AIDS Health Service Program, 1116 Summit Avenue, Suite 200, Seattle, WA 98101. Mr. Andy Kruzich, Project Coordinator (206) 269–4649.

[FR Doc. 89–11117 Filed 5–9–89; 8:45 am]

BILLING CODE 4160–15–M

Availability of Funds to Provide Health Services in the Pacific Basin

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that up to $740,000 is available in Fiscal Year 1989 under section 301 of the Public Health Service (PHS) Act, 42 U.S.C. 241, for funding public and nonprofit private entities for projects to build capacity and improve health services and systems, particularly preventive health services, in the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Federated States of Micronesia, Republic of the Marshall Islands and the Republic of Palau and to provide technical assistance relative to such projects. These funds will be available only to entities currently receiving funds under the section 301 Pacific Initiative grant authority, which apply for supplemental grants to modify project activities, or apply for competing continuation grant awards to extend project activities. No new projects will be funded during this fiscal year. In recognition of the extent of funding available, these funds will be available only for support of project modifications through supplemental grants and/or extensions of project periods for current grants receiving funds under the section 301 Pacific Initiative grant authority.

DATE: To receive consideration, applications must be received in the Health and Human Services Regional Office by June 15, 1989. Applications will be considered on time if they are received on or before the established deadline date, or sent on or before the established deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing. Any application which does not meet the deadline will be returned to the applicant.

ADDRESS: Application for grants is made on PHS form 5161–1 (approved under OMB #0348–0006). Grant application guidelines, applications forms and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this notice may be obtained from: Mr. Alan S. Harris, Chief, Office of Grants Management, Public Health Service, Region IX, Room 335, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–2595.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Holloway, Director, Division of Special Populations Program Development, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A–22, Parklawn Building, Rockville, Maryland 20857, 301 443–8134.

SUPPLEMENTARY INFORMATION: The funds were appropriated to provide health services to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Federated States of Micronesia, Republic of the Marshall Islands and the Republic of Palau. The provision of technical assistance relating to such projects is authorized under the appropriation. Funding will be provided to support project modifications of current section 301 Pacific Initiative grants only. Project costs related to construction, acquisition or renovation of health facilities and costs of health care which, otherwise, would be the legal responsibility of the local jurisdiction will not be approved.

An objective review will be conducted by the Bureau of Health Care Delivery and Assistance, HRSA. Grant awards will be issued by the Bureau.

Other Award Information

This program is considered to be subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100. Executive Order 12372 allows States/territories the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Guam and the Commonwealth of the Northern Mariana Islands have established such contact points for this review and application packages to be made available under this notice will provide information on the point of contact in these jurisdictions. Since 60 days is allowed for this review, applicants are advised to discuss projects with, and provide copies of their applications to, contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to the Grants management Branch, Region IX.

Catalog of Federal Domestic Assistance: In the OMB Catalog of Federal Domestic Assistance Health Services in the Pacific Basin Grant Program is listed as number 13.163.

Dated: April 5, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–11118 Filed 5–9–89; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Health Research and Teaching Facilities and Training of Professional Health Personnel; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of March 24, 1989, from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, the Administrator has redelegated all of the authorities vested in the Administrator under Title VII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), as amended, pertaining to health research and teaching facilities and training of professional health personnel to the following Health Resources and Services Administration Bureau Directors:

1. To the Director, Bureau of Health Professions, all of the authorities delegated under Title VII of the Public Health Service Act, as amended, excluding the authorities delegated to the Director, Bureau of Maternal and Child Health and Resources Development, and the Director, Bureau of Health Care Delivery and Assistance.

2. To the Director, Bureau of Maternal and Child Health and Resources Development, all of the authorities delegated under Part B, Title VII, of the Public Health Service Act, as amended, providing for grants and loan guarantees and interest subsidies for construction of teaching facilities for medical, dental, and other health personnel. The Administrator also delegated to the Director, Bureau of Maternal and Child Health and Resources Development, the authority under section 788B(f) of the Public Health Service Act, as amended, providing for oral health care to patients.

3. To the Director, Bureau of Health Care Delivery and Assistance, all of the authorities under section 751 of the Public Health Service Act, as amended, providing for an allied health professions loan repayment program.

The delegation excluded the authority to promulgate regulations, establish advisory committees and councils, select members to advisory councils, and submit reports to Congress or to a congressional committee. Also excluded was the authority under section 794, Statistics and Annual Report.

Redelegation

These authorities may be redelegated subject to section 707 of the Public Health Service Act.

Prior Delegations

All previous delegations were superseded. Provision was made for all previous redelegations to continue in effect, provided they were consistent with this delegation.

Effective Date

This delegation was effective on May 3, 1989.

John H. Kelso,

Acting Administrator.

Date: May 3, 1989.

[FR Doc. 89-11120 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-15-M

Section 204 of Pub. L. 100-177, Entitled "Special Repayment Provisions" Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of March 15, 1989, from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, the Administrator, Health Resources and Services Administration, has redelegated the authorities delegated to him under section 204 of Pub. L. 100-177, entitled "Special Repayment Provisions," to the Director, Bureau of Health Care Delivery and Assistance, excluding the authority to issue regulations.

Redelegation

These authorities may be redelegated.

Effective Date

This delegation became effective on May 3, 1989.

John H. Kelso,

Acting Administrator.

Date: May 3, 1989.

[FR Doc. 89-11119 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-15-M

Health Services With Respect to Acquired Immune Deficiency Syndrome; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of March 24, 1989, from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, the Administrator has redelegated all of the authorities vested in the Administrator under Part A (Formula Grants to States for Home and Community-Based Health Services) and Part B (Subacute Care) and section 2441 (Demonstration Projects for Individuals with Positive Test Results) to the Director, Bureau of Maternal and Child Health and Resources Development, excluding section 2411(h) of Title XXIV of the Public Health Service Act, as amended. The delegation excluded the authority to issue regulations, submit reports to Congress or a congressional committee, or appoint members to an advisory committee.

Redelegation

This authority may be redelegated.

Effective Date

This delegation was effective on May 3, 1989.

John H. Kelso,

Acting Administrator.

Date: May 3, 1989.

[FR Doc. 89-11121 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-15-M

Development of Model Protocols for Clinical Care of Infected Individuals; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of March 24, 1989, from the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration, the Administrator has redelegated to the Director, Bureau of Maternal and Child Health and Resources Development, all of the authorities vested in the Administrator under section 2318 of Title XXIII of the Public Health Service Act, as amended, pertaining to Development of Model Protocols for Clinical Care of Infected Individuals, excluding the authorities to issue regulations, submit reports to Congress or a congressional committee, or appoint members to an advisory committee.

Redelegation

This authority may be redelegated.

Effective Date

This delegation became effective on May 3, 1989.

Date: May 3, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-11122 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-15-M

Assessment of Medical Technology; Implantation of Automatic Defibrillators

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of patient selection criteria for implantation of automatic defibrillators. The implantable automatic defibrillator is an electronic device designed to detect and treat life-threatening tachyarrhythmias. The device consists of a pulse generator and electrodes for sensing and defibrillating.

Currently, implantation of automatic defibrillators is recommended as a treatment of last resort for patients who have had a documented episode of life-threatening ventricular tachyarrhythmia or cardiac arrest not associated with myocardial infarction. Patients must also be found, by electrophysiologic (EP) testing, to have an inducible tachyarrhythmia that proves unresponsive to medication or surgical therapy (or be considered unsuitable candidates for surgical therapy).

We are interested in those patients in whom no inducible tachyarrhythmia can

be provoked during baseline electrophysiologic testing, but who are still at continued high risk of recurrent sudden cardiac arrest. Specifically, we are interested in: (1) The value and role of electrophysiologic testing in evaluating and determining prognosis of patients with ventricular tachyarrhythmias, (2) the risk of recurrent cardiac arrest in subgroups of noninducible patients, (3) the appropriateness of implantation of automatic defibrillators for subgroups of patients with noninducible tachyarrhythmias, and (4) patient selection criteria to identify patient populations that would benefit from this procedure. The PHS seeks to determine whether this procedure should be considered a treatment of last resort for these patients.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than August 25, 1989 or within 90 days from the date of publication of this notice. This information can be made public unless otherwise directed.

Written material should be submitted to: Mr. Martin Erlichman, Health Science Analyst, Office of Health Technology Assessment, 5600 Fishers Lane, Room 18A-27, Rockville, MD 20857, 301 443-4990.

Date: April 26, 1989.

Donald E. Goldstone,

Acting Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 89-11218 Filed 5-9-89; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: May 10, 1989.

ADDRESS: For further information, contact Morris Bourne, Department of Housing and Urban Development, Room 9140, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, D.C.D.C. No. 88-2503-OG, HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: May 3, 1989.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 89-11129 Filed 5-9-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4212-13; I-22486]

Issuance of Land Exchange Conveyance Document; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to Kenneth L. and Teresa L. Campbell, Hyde Park, Utah 84318, for the following-described lands under section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian

T. 15 S., R. 30 E.
Sec. 4, lots 13, 14, 15, 18, 19, and Parcel A, lot 20.
Comprising 230.23 acres of public land.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian

T. 14 S., R. 30 E.
Sec. 16, N½.
Comprising 320.00 acres of private land.

The purpose of the exchange was to acquire the non-federal lands which have high public value for elk winter range. The public interest was well served through completion of this exchange.

The values of the federal public land and the non-federal land in the exchange were both appraised at $16,000.

Dated: April 27, 1989.

Jimmie Buxton,

Acting Deputy State Director for Operations.

[FR Doc. 89-11148 Filed 5-9-89; 8:45 am]

BILLING CODE 4310-66-M

[ID-020-9-4212-11—I-26445]

Recreation and Public Purposes (R&PP) Act Classification; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action to classify land for lease or conveyance.

SUMMARY: The following described lands in Cassia County, Idaho have been examined and found suitable for classification for lease or conveyance to the City of Oakley, Idaho under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The City of Oakley proposes to use the lands for an emergency aircraft landing facility.

T.14 S., R.22 E., B.M.
Sec. 04: E½E½SW¼SE¼
Containing 10 acres, more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. A right-of-way to the City of Oakley for access roads I–26286 and I–26679.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Burley District, 200 South Oakley Highway, Burley, Idaho.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Burley District Office, Route 3, Box 1, Burley, Idaho 83318. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Date: May 1, 1989.

Marvin R. Bagley,
Associate District Manager.

[FR Doc. 89–11191 Filed 5–9–89; 8:45 am]
BILLING CODE 4310–GG–M

[NV–930–09–4212–14; N–50987]

Recreation and Public Purposes (R&PP) Act Classification; Nevada

Effective Date: June 9, 1989.

ACTION: Notice of Realty Action—Advertisement of public land to be sold at fair market value by noncompetitive land sale procedures. The land is located in Humboldt County, Nevada. The sale of public land will resolve unauthorized use and occupancy.

SUMMARY: Notice is hereby given that pursuant to the Act of October 21, 1976 (43 U.S.C. 1713, Section 203), the Bureau of Land Management will set at fair market value the following described parcels of public land by noncompetitive land sale procedures:

Mount Diablo Meridian, Nevada

T. 44 N., R. 31 E.
Sec. 20: E½NE¼SE¼NE¼SE¼, NE¼SE¼SE¼NE¼SE¼, E½E½NE¼SE¼, SE¼SE¼SE¼NE¼SE¼

Containing 5 acres.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445.

FOR FURTHER INFORMATION CONTACT: Hal Green, District Realty Specialist, Bureau of Land Management, Winnemucca District Office, 705 E. 4th St., Winnemucca, NV 89445 (702) 623–3676.

SUPPLEMENTARY INFORMATION: The parcels of public land border private land in northern Humboldt County. Competitive interest could not be determined at the time of sale preparation. In order to eliminate conflicts of interest in land ownership, noncompetitive land sale procedures have been used.

Dated: May 4, 1989.

Publication of this notice in the **Federal Register** shall segregate the public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequent application shall not be considered as filed and shall be returned to the applicant. This segregative effect of the Notice of Realty Action shall terminate upon issuance of the patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of publication, whichever occurs first. Payment for the property shall be by cash, certified check, postal money order, bank draft, or cashier's check made payable to the Dept. of the Interior-BLM.

The Authorized Officer may withdraw the parcel from sale if it is determined that consummation of the sale would be inconsistent with the provisions of existing law or policy.

The land sale is consistent with federal regulations contained in Title 43 CFR, specifically:

43 CFR 2710.0.6(3)(iii) Direct sale as provided for in 2711.3–3 of this title may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by State or local governments or nonprofit corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy of said lands.

43 CFR 2711.3–3(a)5 A need to resolve inadvertent unauthorized use or occupancy of the lands.

Dated: May 4, 1989.

Reservations to the Federal Government:

1. Rights-of-way for ditches and canals constructed under the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All [1] mineral deposits together with the right to prospect for, mine, and remove the same.

3. Patent, when issued, will be subject to the following right-of-way of record: N–1461, 24.9 kv Harney Electric Cooperative, Inc.

Robert J. Neary,
Acting District Manager, Winnemucca.

Dated: May 4, 1989.

[FR Doc. 89–11192 Filed 5–9–89; 8:45 am]
BILLING CODE 4310–NC–M

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. P–99]

Passenger Train Operation; Chicago & North Western Transportation Co.

To: Chicago and North Western Transportation Company.

The National Railroad Passenger Corporation (AMTRAK) has established through passenger train service between San Francisco, California and Chicago, Illinois. The operation of these trains requires the use of tracks and other facilities of the Burlington Northern Railroad Company (BN). A portion of the BN tracks near Ottumwa, Iowa are temporarily out of service because of a derailment. An alternate route is available via the Chicago and North Western Transportation Company (CNW) between Omaha, Nebraska and Chicago, Illinois.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

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[1] The mineral deposits or interests having no known mineral value will be conveyed simultaneously with the surface estate at the time of sale. The purchaser will be required to remit $50.00, nonrefundable fee. Failure to do so will result in the cancellation of the sale.

It is ordered,

(a) Pursuant to authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company is directed to operate trains of the National Railroad Passenger Corporation (AMTRAK) between Omaha, Nebraska and Chicago, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 9:00 a.m. (EDT), April 20, 1989.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (CDT), April 21, 1989, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (AMTRAK), and a copy of this order shall be filed with the Director, Office of the **Federal Register.**

Issued at Washington, DC, April 20, 1989.
Interstate Commerce Commission

William J. Love,

William J. Love, Agent.

Noreta R. McGee,

Secretary.

[FR Doc. 89-11180 Filed 5-9-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 295X)]

Burlington Northern Railroad Co.—Abandonment Exemption—in Franklin, Adams, Whitman, Lincoln, and Spokane Counties, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Burlington Northern Railroad Company of 130 miles of rail line in Franklin, Adams, Whitman, Lincoln, and Spokane Counties, WA. The exemption is subject to standard labor protective conditions, salvage conditions, and a public use condition. In addition, a Notice of Interim Trail Use or Abandonment has been granted.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 9, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 22, 1989, petitions to stay must be filed by May 26, 1989, and petitions for reconsideration must be filed by June 5, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 295X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and,

(2) Petitioner's representative: Ethel A. Allen, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: April 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Andre concurred with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-11181 Filed 5-9-89; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.* 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[Docket No. AB-55 (Sub-No. 285X)]

CSX Transportation, Inc.—Abandonment Exemption—in Fayette and Nicholas Counties, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of 5 miles of rail line in Fayette and Nicholas Counties, WV, subject to standard labor protective conditions and certain environmental conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 13, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 22, 1989, petitions to stay must be filed by May 30, 1989, and petitions for reconsideration must be filed by June 8, 1989.

Requests for a public use condition must be filed by May 22, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 285X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and,

(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street—J150, Jacksonville, FL 32202.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721).

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

Decided: May 1, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Chairman Gradison commented with a separate expression. Commissioner Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-11182 Filed 5-9-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; United States v. Richmond, Fredericksburg & Potomac Railroad Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 1, 1989, a proposed Consent Decree in *United States* v. *Richmond, Fredericksburg & Potomac Railroad Company*, Civil No. 89-0651-A, was lodged with the United States District Court for the Eastern District of Virginia. The proposed Consent Decree arises from a civil action filed simultaneously under the Comprehensive Environmental Response, Compensation, & Liability Act, 42 U.S.C. 9601 *et seq.*, seeking clean-up and the recovery of costs incurred by the United States in responding to the creosote and metals contamination of the L.A. Clarke Site in Fredericksburg, Virginia, caused by wood treating operations on the property. The Consent Decree requires Defendant to implement a remedial action selected by the U.S. Environmental Protection Agency ("EPA") in its March 31, 1988 Record of Decision for the Site, estimated to cost $23 million, to reimburse the United States for its costs incurred in connection with implementation of this remedy, and to pay $280,000 of the past response costs of $1.4 million incurred by EPA at the site.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Richmond, Fredericksburg & Potomac Railroad Company*, DJ Ref. 90-11-2-400.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Virginia, 1101 King Street, Suite 502, Alexandria, Virginia, and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy please enclose a check in the amount of $8.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-11152 Filed 5-9-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on April 11, 1989, filed written notifications, on behalf of Bellcore and PictureTel Corporation (hereinafter known as "PictureTel") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

PictureTel is a Delaware corporation with its principal place of business at One Corporation Way, Peabody, Massachusetts 01960.

Bellcore and PictureTel entered into an agreement effective March 20, 1989 to collaborate on research to better understand the needs and applications for new video communication services and equipment and to improve their active participation in the ANSI and CCITT video communications standardization committees.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-11149 Filed 5-9-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on April 11, 1989, filed written notifications, on behalf of Bellcore and VideoTelcom Corporation, (hereinafter known as "VTC") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

VTC is a Texas corporation with its principal place of business at 1908 Kramer Lane, Austin, Texas 78758.

Bellcore and VTC entered into an agreement effective March 4, 1989 to collaborate on research to better understand the needs and applications for new video communication services and equipment and to improve their active participation in the ANSI and CCITT video communications standardization committees.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-11150 Filed 05-09-89; 8:45 am]

BILLING CODE 4410-010-M

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc.

("Bellcore") on April 11, 1989, filed written notifications, on behalf of Bellcore and Supercomputer Systems, Inc. (hereinafter known as "SSI") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

SSI is a Nevada corporation with its principal place of business at 1414 W. Hamilton, Eau Claire, Wisconsin 54701.

Bellcore and SSI entered into a written agreement on November 11, 1988 to collaborate on research to better understand the application of integrated optoelectronic technology, including technology and devices for optical transmission, interconnection, and distribution of clock and data signals, for high speed telecommunications, including exchange and exchange access services, and data processing and to demonstrate the feasibility of research concepts by experimental prototypes and experimental systems incorporating such technology and devices.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-11151 Filed 5-9-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-21,802 and TA-W-21,802A]

Broughton Offshore Ltd., Lafayette, LA; Broughton Offshore Ltd., Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 27, 1989 applicable to all workers of Broughton Offshore Ltd., Lafayette, Louisiana.

Based on new information from the company, additional workers were separated from Broughton Offshore Ltd., in Houston, Texas during the period applicable to the petition. The notice, therefore is amended by including the Houston, Texas location.

The amended notice applicable to TA-W-21,802 is hereby issued as follows:

All workers of Broughton Offshore Ltd., Lafayette, Louisiana and Houston, Texas who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of April 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-11214 Filed 5-9-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 951 et al.]

Schlumberger Well Services Coastal East Division; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Schlumberger Well Services Coastal East Division TA-W-21,951 Headquartered in Lafayette, LA and Operating in the following Districts
TA-W-21,951A Lafayette, LA
TA-W-21,951B Belle Chasse, LA
TA-W-21,951C Lake Charles, LA (Land)
TA-W-21,951D Lake Charles, LA (Offshore)
TA-W-21,951E Houma, LA
TA-W-21,951F New Iberia, LA
TA-W-21,950 Broussard, LA
Schlumberger Well Services, TA-W-21,952, Magnolia, Arkansas

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 17, 1989 applicable to all workers of Schlumberger Well Services operating in Broussard, Louisiana, Lafayette, Louisiana and Magnolia, Arkansas.

The certification is being amended to properly reflect the correct workers group for TA-W-21,951. The new information from the company provides a specific identification of the division and all of its reporting districts. Also, the company reported that additional workers were separated from Schlumberger Well Services Coastal East Division's district office prior to the July 1988 merger. The notice, therefore is amended by including the Division Office in Lafayette, Louisiana and seven subordinate district offices. Workers in the Broussard, Louisiana district office were previously certified under TA-W-21,950 and workers at Magnolia, Arkansas who are not a part of Schlumberger's Coastal East Division were previously certified under TA-W-21,952.

The amended notice applicable to TA-W-21,950, TA-W-21,951 and TA-W-21,952 is hereby issued as follows:

All workers of Schlumberger Well Services' Coastal East Division headquartered in Lafayette, Louisiana and operating in the following district offices in Louisiana: Lafayette, Belle Chasse, Lake Charles (Land), Lake Charles (Offshore) Houma and New Iberia who became totally or partially separated from employment on or after October 1, 1985 and before July 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Workers of Schlumberger Well Services' Coastal East Division in Broussard, Louisiana were certified earlier under TA-W-21,950 and workers of Schlumberger Well Services in Magnolia, Arkansas were certified earlier under TA-W-21,952.

Signed at Washington, DC, this 27th day of April 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-11215 Filed 5-9-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,029 et. al.]

Schlumberger Well Services, Coastal West Division; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Schlumberger Well Services, Coastal West Division, TA-W-21,029 Headquartered in Corpus Christi, TX and Operating in the following Districts:
TA-W-21,029A Corpus Christi, TX
TA-W-21,029B Alice, TX
TA-W-21,029C Brenham, TX
TA-W-21,029D Edinburg, TX
TA-W-21,029E Liberty, TX
TA-W-21,029F Laredo, TX
TA-W-21,029G Pleasanton, TX
TA-W-21,029H Victoria, TX
TA-W-21,029I Wharton, TX

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 18, 1988 applicable to all workers of Schlumberger Well Services, Corpus Christi, Texas and Schlumberger Offshore Services, Corpus Christi, Texas.

The certification is being amended to properly reflect the correct worker group. The new information from the company provides a specific identification of the division and all of

its reporting districts. Also, the company reported that additional workers were separated from Schlumberger Well Services Coastal West Division's district offices prior to the July 1988 merger. The notice, therefore is amended by including the Division Office in Corpus Christi, Texas and nine subordinate district offices.

The amended notice applicable to TA-W-21,029 and TA-W-21,138 is hereby issued as follows:

All workers of Schlumberger Well Services' Coastal West Division headquartered in Corpus Christi, Texas and operating in the following district offices in Texas: Corpus Christi, Alice, Brenham, Edinburg, Liberty, Laredo, Pleasanton, Victoria and Wharton and Schlumberger Offshore Services in Corpus Christi, Texas who became totally or partially separated from employment on or after October 1, 1985 and before July 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of April 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-11216 Filed 5-9-89; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89-34)]

Government-owned Inventions; Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic, and possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service, Springfield, VA 22161. Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent applications sold to avoid premature disclosure.

DATE: Date published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, Harry Lupuloff, Director of Patent Licensing, Code GP, Washington, DC 20546, Telephone (202) 453-2430, Fax (202) 755-2371.

Patent Application 266,045: Processable Polyimide Adhesive and Matrix Composite Resin; filed November 2, 1988.

Patent Application 267,146: Tensile Film Clamps and Mounting Block for the Rheovibron and Autovibron Viscoelastometer; filed November 4, 1988.

Patent Application 270,189: Method and System for Monitoring and Displaying Engine Performance Parameters; filed November 14, 1988.

Patent Application 277,596: A Compact Fast Wide Angle Broad Spectrometer Optical System; Filed November 29, 1988.

Patent Application 278,137: Spiral Vane Bioreactor; filed November 29, 1988.

Patent Application 279,624: Light Weight Polymer Matrix Composite Material; filed December 5, 1988.

Patent Application 07/279,625: Internal Wire Guide for GTAW Welding; filed December 5, 1988.

Patent Application 07/279,677: Electrode Carrying Wire for GTAW Welding; filed December 5, 1988.

Patent Application 07/283,106: A Method of Up-Front Load Balancing for Local Memory Parallel Processors; filed December 12, 1988.

Date: May 2, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89-11207 Filed 5-9-89; 8:45 am]

BILLING CODE 7510-01-M

[Notice 89-36]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Medicine Advisory Committee.

DATE AND TIME: June 1, 1989, 9 a.m. to 5:30 p.m., and June 2, 1989, 9 a.m. to 5 p.m.

ADDRESS: Holiday Inn-Capitol, Columbia South Room, 550 C Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Janis H. Stoklosa, Code EBM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1530).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range planning of aerospace medicine research. The Committee will meet to discuss the NASA leadership changes, budget status and the future of life sciences and life support. The Committee is chaired by Dr. Harry C. Holloway and is composed of 24 members. The meeting will be open to the public up to the seating capacity of the room (approximately 45 people including members of the Subcommittee).

Type of Meeting: Open.

Agenda

Thursday, June 1

9 a.m.—Welcome and Opening Remarks.
9:30 a.m.—NASA Leadership Changes/ Budget Status/Future of Life Sciences and Life Support.
10:30 a.m.—NASA Budget Status/Impact on Life Sciences and Life Support.
3:30 p.m.—Status of Space Station Planning.
4:30 p.m.—Committee Discussion.
5:30 p.m.—Adjourn.

Friday, June 2

9 a.m.—Status of Coordination and Planning with other Advisory Committees.
11 a.m.—NASA Life Support Working Group.
1 p.m.—Committee Discussion on Budget/Impact on Life Sciences and Life Support.
4 p.m.—Closing Remarks.
5 p.m.—Adjourn.

May 4, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-11208 Filed 5-9-89; 8:45 am]

BILLING CODE 7510-01-M

[Notice 89-35]

NASA Wage Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Wage Committee.

DATE AND TIME: June 21, 1989, 1:30 p.m. to 3:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John N. Remissong, Code NPM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2593).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Assistant Associate Administrator for Personnel Management, on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92–392.

Type of Meeting: Closed.

Purpose of Meeting: The Committee will consider wage survey data, local reports, recommendations, and statistical analyses and proposed wage schedule review therefrom.

May 4, 1989.

John Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89–11209 Filed 5–9–89; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities, NFA&H.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before June 9, 1989.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0494) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0494) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504 (h).

Category: Revisions

Title: General Programs: Humanities Projects in Media/Guidelines and Application Instructions

Form Number: Not Applicable

Frequency of Collection: Twice a year at each deadline

Respondents: Public radio and television stations, private, non-profit organizations, colleges and universities, or branches of state or local governments.

Use: Application for funding

Estimated Number of Respondents: 288

Frequency of Response: once

Estimated Hours for Respondents to Provide Information: 40 per respondent

Total Annual Reporting and Recording Burden: 11,520

Susan H. Metts,

Assistant Chairman for Administration.

[FR Doc. 89–11143 Filed 05–09–89; 8:45 am]

BILLING CODE 7356–01–M

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, NFA&H.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before June 9, 1989.

ADDRESSES: Send comments to Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202–786–0494) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, National Endowment for the Humanities, Grants Office, Room 310, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202)786–0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Classification of the Amount of Request for Payment on Letter of Credit.

Form Number: NEH 1023.

Frequency of Collection: On Occasion.

Respondents: National Endowment for the Humanities Grantees.

Use: To Request Payment through Letter of Credit (LOC–TFCS).

Estimated Number of Respondents: 20.

Frequency of Response: On Occasion.

Estimated Hours for Respondents to Provide Information: 45.

Estimated Total Annual Reporting and Recording Burden: 85.

Susan M. Metts,

Assistant Chairman for Administration.

[FR Doc. 89–11144 Filed 5–9–89; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Joint Subcommittees on Thermal Hydraulic Phenomena and Core Performance; Meeting

The ACRS Subcommittees on Thermal Hydraulic Phenomena and Core Performance will hold a joint meeting on May 23, 1989, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, May 23, 1989—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss: (1) The NRC-RES thermal hydraulic research program plan as documented in NUREG–1252, and a proposed SECY paper and (2) the status of the ongoing effort to address the implications of the core power oscillation event at LaSalle Unit 2.

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 open to the public, 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 Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, the BWR Owners Group, 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 member, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. 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., which may have occurred.

Date: May 1, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–11114 Filed 5–9–89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Auxiliary and Secondary Systems; Meeting

The ACRS Subcommittee on Auxiliary and Secondary Systems will hold a meeting on May 24, 1989, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting will be as follows:

Wednesday, May, 24, 1989—8:30 a.m. Until 1:00 p.m.

The Subcommittee will discuss the proposed Generic Letter on Service Water System Problems Affecting Safety-Related Equipment, Biofouling problems at nuclear power plants, and other related matters.

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, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, 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 member, Mr. Sam Duraiswamy (telephone 301/492–9522) between 7:30 a.m. and 4:15 p.m. 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., which may have occurred.

Date: May 2, 1989.

Gary Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–11115 Filed 5–9–89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–254]

Commonwealth Edison Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Commonwealth Edison Company (licensee) for an amendment to Facility Operating License No. 29 issued to the licensee for operation of the Quad Cities Power Station, Unit No. 1, located in Rock Island County, Illinois. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on December 31, 1987 (52 FR 49539).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) requirements regarding operability of recirculation jet pump flow instrumentation.

The NRC staff has advised the licensee that the proposed amendment is denied since the licensee has failed to respond to the Commission's request for additional technical information in a timely manner to support their application.

The licensee was notified of the Commission's denial of the proposed change by a letter dated April 26, 1989.

By June 9, 1989, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW.; Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated November 16, 1987, and (2) the Commission's letter to the licensee dated April 26, 1989.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW.,

Washington, DC, and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 26th day of April 1989.

For the Nuclear Regulatory Commission.

Thierry M. Ross,

Project Manager, Project Directorate III–2, Division of Reactor Projects–III, IV, V, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–11193 Filed 5–9–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Co.; Withdrawal of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by Maine Yankee Atomic Power Company to withdraw its January 16, 1984 application for an amendment to Facility Operating License No. DPR–36 issued to the licensee for operation of the Maine Yankee Atomic Power Station located in Lincoln County, Maine. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on March 22, 1984 (49FR10737).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) pertaining to 10CFR50 Appendix R requirements.

Subsequently the licensee informed the staff that the amendment is no longer requested. Thus, the amendment application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated January 16, 1984.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Dated at Rockville, Maryland the 2nd day of May, 1989.

For the Nuclear Regulatory Commission.

Patrick M. Sears,

Project Manager, Project Directorate I–3, Division of Reactor Projects I/II.

[FR Doc. 89–11194 Filed 5–9–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–293, et al.]

Boston Edison Co., et al.[1]; (Pilgrim Nuclear Power Station, et al.); Issuance of Director's Decision Under 10 CFR 2.206

Notice [1] is hereby given that the Director, Office of Nuclear Reactor Regulation (NRR), has issued a Director's Decision concerning a Petition dated July 22, 1988, filed by Ms. Susan Hiatt, on behalf of Ohio Citizens for Responsible Energy Inc. The Petition asked the Director, NRR, to take immediate action to relieve what the Petitioner alleged to be undue risks to the public health and safety posed by the termal-hydraulic instability of boiling-water reactors (BWRs), as revealed by the power oscillation event at LaSalle Unit 2 on March 9, 1988 (LaSalle Event). The specific relief requested was to order all BWR licensees to (1) place their reactors in cold shutdown, (2) develop and implement specified procedures relating to the thermal-hydraulic instability issues, (3) demonstrate that certain specified training has been provided relating to these procedures, (4) demonstrate the capability of instrumentation related to power oscillations, (5) develop simulators capable of modeling power oscillations similar to those occurring at LaSalle and out-of-phase power oscillations, (6) report to the NRC regarding all past and future incidents in which recirculation pumps have tripped off, (7) submit to the NRC justification for continued operation of BWRs, and (8) submit a report to the NRC within one year demonstrating compliance with Criterion 12 given in 10 CFR Part 50, Appendix A (GDC–12). In addition, the Commission was requested to reopen Generic Issues B–19 and B–59, reopen the ATWS rulemaking proceeding, and reconsider the use of the end-of-cycle circulation pump trip on BWRs. Ms. Hiatt gave as grounds for the Petition that the LaSalle Event has serious safety implications for all BWRs and that the Nuclear Regulatory Commission (NRC) had failed to take appropriate regulatory action in response to the LaSalle Event.

On August 26, 1988, the Director, Office of Nuclear Reactor Regulation (NRR), acknowledged receipt of the Petition. He informed Ms. Hiatt that (1) her request for immediate relief was denied because the allegations that formed the basis for the Petition did not reveal any new operational safety issues which posed an immediate safety concern for continued BWR operation, (2) the Petition would be treated under 10 CFR 2.206 of the Commission's regulations and (3) appropriate action would be taken within a reasonable time.

In the August 26, 1988 letter, the Director, NRR, acknowledged Ms. Hiatt's request to reopen and ATWS rulemaking proceedings as a request which would be treated pursuant to 10 CFR 2.206. This request, however, will not be treated pursuant to 10 CFR 2.206 but is being treated separately as a petition for rulemaking under 10 CFR 2.802 of the Commission's regulations.

[1] The Director has now determined that all of Ms. Hiatt's requests, except for her request to reopen the ATWS rulemaking, should be denied for the reasons set forth in the "Director's Decision Pursuant to 10 CFR 2.206" (DD–89–03). The Decision is available for inspection and copying in the Commission's Public Document Room,

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[1] Carolina Power & Light Co. (Brunswick Station, Units 1 and 2, Docket Nos. 50–324 and 50–325)

Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1, Docket No. 50–440)

Commonwealth Edison Co. (Dresden Nuclear Power Plant, Units 2 and 3, Docket Nos. 50–237 and 50–249), (Quad Cities Nuclear Power Plant, Units 1 and 2, Docket Nos. 50–254 and 50–265), (LaSalle County Station, Units 1 and 2, Docket Nos. 50–373 and 50–374)

Consumers Power Co. (Big Rock Point, Docket No. 50–155)

Detroit Edison Co. (Fermi Unit 2, Docket No. 50–341)

General Public Utilities (Oyster Creek Station, Docket No. 50–219)

Georgia Power Co. (Hatch Nuclear Power Plant, Units 1 and 2, Docket Nos. 50–321 and 50–366)

Gulf States Utilities Co. (River Bend Station, Docket No. 50–458)

Illinois Power Co. (Clinton Nuclear Power Plant, Docket No. 50–461)

Iowa Electric Light & Power Co. (Duane Arnold Nuclear Power Plant, Docket No. 50–331)

Long Island Lighting Co. (Shoreham Nuclear Power Plant, Docket No. 50–322)

Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Docket No. 50–416)

Nebraska Public Power District (Cooper Station, Docket No. 50–298)

Niagara Mohawk Power Corp. (Nine Mile Point, Units 1 and 2, Docket Nos. 50–220 and 50–410)

Northeast Utilities (Millstone Unit 1, Docket No. 50–245)

Northern States Power Co. (Monticello Nuclear Power Plant, Docket No. 50–263)

Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2, Docket Nos. 50–387 and 50–388)

Philadelphia Electric Co. (Peach Bottom Nuclear Station, Units 2 and 3, Docket Nos. 50–277 and 50–278), (Limerick Nuclear Power Plant, Unit 1, Docket No. 50–352)

Power Authority of the State of New York (James A. Fitzpatrick Station, Docket No. 50–333)

Public Service Electric & Gas Co. (Hope Creek Generating Station, Docket No. 50–354)

Tennessee Valley Authority (Browns Ferry Nuclear Station, Units 1, 2, and 3, Docket Nos. 50–259, 50–260, and 50–296)

Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Plant, Docket No. 50–271)

Washington Public Power Supply System (WNP Unit 2, Docket No. 50–397)

2120 L Street NW., Washington, DC 20555 and at the Local Public Document Rooms near the facilities listed below. The addresses and hours of operations for the local public document rooms may be obtained by calling the following toll-free number: 1–800–638–8081.

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission on its own motion institutes review of the Decision within that time.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland, this 27th of April 1989.

[FR Doc. 89–11195 Filed 5–9–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–71]

Initiation of Section 302 Investigation and Notice of Public Hearing: Compliance With Trade Agreement Obligations by the European Community With Respect to Processing Subsidies on Canned Fruit

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation under section 302 of the Trade Act of 1974, as amended; request for written comments; and notice of public hearing.

SUMMARY: The United States Trade Representative (USTR) has determined to initiate an investigation under Section 302 of the Trade Act with respect to compliance by the European Community with a trade agreement with the United States in which the Community agreed to limit processing subsidies granted on canned fruit. USTR invites written comments and will conduct public hearings on this matter.

DATES: This investigation was initiated on May 8, 1989. The hearing will be held on June 9, 1989. Written comments from interested persons not participating in the hearing are due June 5, 1989. Rebuttal briefs are due June 16, 1989.

ADDRESS: Comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura Anderson, Director, European Community Affairs, (202) 395–3074.

SUPPLEMENTARY INFORMATION: On December 10, 1981, in response to a petition filed by the California Cling Peach Advisory Board and others, the USTR initiated an investigation on certain subsidy practices of the European Community with respect to production of canned fruit. After consultations under the General Agreement on Tariffs and Trade (GATT) on February 25, 1982, the United States requested a GATT dispute settlement panel on March 31, 1982. On August 17, 1982, the President directed USTR to expedite dispute settlement (47 FR 36403).

After several GATT panel meetings and report revisions, a final panel report favorable to the United States was issued on July 20, 1984. The panel found that the production aids granted to processors of canned fruit nullified and imparied tariff concessions granted by the EC on those products, and the panel suggested that the EC restore the competitive relationship between imported U.S. and domestic EC canned fruit. The United States requested adoption of the panel report in GATT Council meetings of April 30, May 29, June 4 and July 16, 1985, but Council action was deferred because the EC was not prepared to accept adoption of the report.

On September 7, 1985, the President directed USTR to recommend section 301 retaliation unless this case was resolved by December 1, 1985. On November 30, 1985, the U.S. and the EC reached a settlement under which, in addition to subsidy reductions already implemented on canned pears, the EC agreed to eliminate the canning element of its processing subsidies for canned peaches. USTR closely monitored implementation of this agreement from 1986–1988.

In August 1988, the United States informed the EC Commission that new subsidy levels implemented in July 1988 exceeded allowable levels under the agreement. Since October 1988 USTR has been consulting with the EC regarding both the new subsidy levels and the methodology for calculation of its subsidies, but the EC continues to subsidize at levels which are inconsistent with the agreement.

Investigation

Pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended, the USTR has determined that an investigation under section 302 should be initiated with respect to the EC policy and practice in this manner, in order to determine whether it is actionable under section 301.

Public Hearing

A public hearing regarding this matter will be held at 2:00 PM on June 9, 1989 in Courtroom A, Room 100, at the International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Interested persons wishing to testify orally must provide a written request to do so by noon on May 30, 1989, to Ms. Dorothy Balaban, Staff Assistant to the Section 301 Committee, Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20506. In addition, they must provide the following information: (1) Name, address, telephone number, and firm or affiliation; and (2) a summary of their presentation. After consideration of a request to present oral testimony at the public hearing, the Chairman of the Section 301 Committee will notify the applicant of the time of his or her testimony, if the request conforms to the requirements of 15 CFR 2006.8(a). Remarks at the hearing will be limited to 5 minutes.

In addition, persons presenting oral testimony must submit 20 copies of their complete written testimony, in English, by noon on June 1, 1989, to Ms. Balaban at the address listed above. All written submissions must be filed in accordance with 15 CFR part 2006.8.

The public is invited to comment on: (1) Whether the EC policy and practice at issue is actionable under section 301, including comments on whether it violates a trade agreement; and if so, (2) the appropriateness of subjecting the products listed in Annex A to an increase in duties or to other trade restrictions in response to the EC practice; and (3) the amount of the burden or restriction on U.S. commerce caused by the EC practice; (4) levels at which U.S. customs duties or other import restrictions on particular products should be set; and (5) the degree to which increased duties or other import restrictions might have an adverse effect on U.S. consumers of the products concerned. The comments submitted will be considered in determining actionability under section 301 and in recommending any action under section 301 to the USTR.

In order to assure each party an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any party, in accordance with 15 CFR 2006.8(c), by noon on June 16, 1989.

A. Jane Bradley,

Chairman, Section 301 Committee.

ANNEX

Articles, the product of the European Community, classified in the following provisions of the Harmonized Tariff Schedule of the United States (HTS) are being considered for increased duties or other import restrictions:

HTS heading or subheading [1]	Article
	[The bracketed language in this list is included only to clarify the scope of the numbered subheading which are being considered, and such language is not itself intended to describe articles which are under consideration.]
	Vegetables provisionally preserved (for example, by sulfur dioxide gas, in brine, in sulfur water or in other preservative solutions), but unsuitable in that state for immediate consumption:
	[Onions, olives, capers; cucumbers including gherkins]
	Other vegetables; mixtures of vegetables:
	[Leguminous vegetables; mushrooms]
0711.90.60	Other vegetables; mixtures of vegetables
	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried:
	Figs:
	Whole:
0804.20.40	In immediate containers weighing with their contents over 0.5 kg each
0804.20.60	Other
	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices:
	[Ginger; saffron; turmeric (curcuma; thyme; bay leaves; curry]
	Other spices:
	[Mixtures referred to in note 1(b) to this chapter]
	Other:
	Origanum (*Lippia* spp.):
0910.99.20	Crude or not manufactured
	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:
	[Cucumbers including gherkins; onions]
	Other:
	[Capers]
	Other:
	[Vegetables; chestnuts; mangoes; walnuts]
2001.90.60	Other
	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
2008.40.00	Pears
	Apricots:
	[Pulp]
2008.50.40	Other
2008.70.00	Peaches

[1] Harmonized Tariff Schedule of the United States (USITC Publication 2030).

POSTAL RATE COMMISSION

[Docket Nos. C89-1, RM89-4]

Monopoly Theory Inquiry; Order Dismissing Complaint and Establishing Alternative Proceeding

Issued May 4, 1989.

Before Commissioners Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W. H. Trey LeBlanc, III.

Introduction and summary. In this Order, we dispose of the issues raised by the Postal Service's motion to dismiss the complaint filed by Third Class Mail Association (TCMA).[1] While we are granting that motion, we do not do so on the grounds suggested (essentially, lack of subject matter jurisdiction) but because consideration of the issues raised and the procedural suggestion made by the complainant's February 15, 1989,[2] pleading indicate that the complaint procedure would be an unproductive one, ill-suited to the types of issues raised. Accordingly, we have determined on using a much less formal method to shed some light on the significant issues of underlying theory to which TCMA points.

Jurisdictional arguments. The Postal Service generally asserts that we lack jurisdiction to consider the propriety of applying the statutory (39 U.S.C. 601) letter monopoly to addressed third-class advertisements. The motion practice on this issue has largely concerned our Order No. 133 (August 6, 1976, in Docket No. RM76-4); it has been questioned whether the "ancillary jurisdiction" principle announced in Order 133 applies to this case at all, as well as whether the case meets its standards.

We think a practical resolution of the present problem does not require us to delve into those matters. TCMA has made it clear that its first object is a relatively informal [3] phase designed to illuminate the present state of economic theory concerning the justification for the monopoly. TCMA, indeed, believes that the mainstream of theory today is materially different from what it was approximately 15 years ago, when the Board of Governors issued its statutorily-mandated report on the Private Express Statutes.

Centrality of the theory question. In its February pleading, TCMA leaves no doubt that obtaining a clear picture of the relevant economic theory is of the first importance; its further proposal for an evidentiary "Phase II" depends on the outcome of that inquiry:

> * * * the conduct of Phase II of this proceeding before the completion of Phase I is pointless because it proceeds on a very different conceptual model of the role of competition in the modern postal system than now exists.

[1] The Service filed its Motion to Dismiss on November 16, 1988, together with an Answer. The Office of the Consumer Advocate (OCA) supported the motion (Answer, November 23, 1988), as did the American Postal Workers Union (APWU) and National Association of Letter Carriers (NALC) (Joint Answer, December 5, 1988) and National Newspaper Association (Response, December 5, 1988). TCMA and United Parcel Service (UPS) each filed responses opposing the motion (December 5, 1988). On December 8, 1988, the Service responded to TCMA's opposition, eliciting a further Statement (December 9, 1988) from TCMA. On February 28, 1989, the Staff of the Bureau of Economics, Federal Trade Commission, filed comments generally supporting TCMA, and on April 12, 1989, Direct Marketing Association, Inc. (DMA) also filed comments supporting TCMA.

[2] This pleading responded to Order No. 812 (December 21, 1988), which directed TCMA (and any other interested participant) to state what witnesses might be called and the general subject matters of their testimony, together with an explanation of "how the evidence it intends to present will support the final determination it requests from this Commission." Order No. 812, at 2.

[3] Specifically, TCMA suggests use of notice and comment procedures. TCMA Response to Order 812, at 1, 6-7, 9-10.

Response to Order 812, at 10.

We are inclined to agree with this much, at least, of TCMA's position. It is true that the period since postal Reorganization has seen major additions to the theory used in eccnomic analysis of the multiproduct firm. New cost and pricing concepts have been developed that can provide theoretical insights into both justifications for, and challenges to, a statutory monopoly. Much of this theoretical work appears to have focused on the problem of a regulated monopoly facing competition in some markets.

Appropriate procedural arrangements. Our agreement that it would be useful to assemble a variety of views on the theoretical questions raised by TCMA does not, on the other hand, entail treating the matter simply as a section 3662 complaint. First, the invocation of a statutory procedure implying at least the opportunity for formal hearings is unnecessary where the end result is a comprehensive view of the state of economic theory, as of 1989, on a question that arguably has not been examined in depth since the early '70s. These question do not lend themselves to the making of findings by the Commission [4] that one school of thought is "right" and another "wrong." Whether a clear direction emerges from the theoretical contributions, whether it is squarely or only marginally relevant to the postal situation, and how far policy choices are to be guided by economic theory should other considerations point in a different direction, are not, or not solely, Commission questions. It is nonetheless true that all those with an interest or a policymaking role as regards the monopoly should have a clearer picture than we believe now exists of the theory relevant to it.

Accordingly, we have determined to dismiss the complaint, not because it is beyond our jurisdiction as interpreted in Order 133 (a point on which we express no view) but because it is a fundamentally unproductive way in which to attack the question.

We will, therefore, schedule a period for the submission of written comments on:

1. The fundamental question of the present state of economic theory regarding the possible justifications for monopoly [5], with particular reference to developments that have occurred in the last 15 to 20 years; as well as

2. The applicability of the theory, in light of such newer developments, to the letter monopoly in general, and, in particular, to its application to third-class addressed advertisements.

These comments may be in whatever written format the submitter considers most useful, and, specifically, may include scholarly papers (either new or previously published) as well as comments of the type more commonly found in rulemaking proceedings. Full references to relevant theoretical literature are encouraged. Following the submission of comments, and a period for interested parties to read and analyze them, a nonadversarial, nonevidentiary ("legislative-type") hearing will be scheduled, at which authors of material submitted are encouraged to appear and, after presenting a brief summary of their views, respond to questions from the Commission. The final written product, we anticipate, will contain all the comments filed and the transcript of the hearing proceedings. The Commission will distribute it to those interested in the question, including the Postal Service and its Board of Governors.

It Is Ordered:

(A) Docket No. C89-1 is terminated.

(B) Docket No. RM89-4 is established for the purpose of assembling the papers and comments, conducting the hearing, and making publicly available the materials so assembled, all as described in the body of this Order.

(C) The Secretary shall promptly publish this Order in the Federal Register.

(D) Papers and written comments in Docket No. RM89-4 will be received at any time through September 1, 1989.

(E) The hearing will be held beginning October 17, 1989.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-11160 Filed 5-9-89; 8:45 am]

BILLING CODE 7715-01-M

[4] Whose expertise in pure theory is, in any case, relatively limited compared with that of some potential authors of comments and other material likely to be submitted to it.

[5] Here we contemplate comments pro and con on the justification of monopoly both for efficiency reasons and for equity reasons.

SECURITIES AND EXCHANGE COMMISSION

[34-26784; DTC-88-19]

Self-Regulatory Organizations; Depository Trust Co.; Order Temporarily Approving Proposed Rule Change

May 4, 1989.

On November 23, 1988, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-88-19) under section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] to implement the Automated Tender Offer Program ("ATOP"). Notice of the proposal was published in the **Federal Register** on December 13, 1988.[2] No comments were received. On February 13, 1989, the Commission granted temporary approval of the proposal for a period of 90 days.[3] Subsequently, on April 13, 1989, DTC filed an amendment to the proposal that included ATOP operating procedures and an ATOP agent agreement.[4]

DTC plans to begin operation of ATOP on a pilot basis on or around May 1, 1989 with a limited number of tender offers. The current pilot period, however, expires May 14, 1989. In order to provide DTC With an opportunity to run the pilot for a sufficient length of time to gain operational experience and to make any necessary adjustments to its operational procedures, the Commission is extending the pilot for an additional 90 days. Depending on the operational experience of ATOP during the pilot and how fast DTC decides to expand the number of tender offers eligible for ATOP, DTC, prior to the expiration of the pilot period, will either request an extension of the pilot or permanent approval of ATOP pursuant to Rule 19b-4.

It is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (File No. SR-DTC-88-19) be and hereby is, approved on a pilot basis until August 12, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-11222 Filed 5-9-89; 8:45am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78(b)(1)

[2] Securities Exchange Act Release No. 26344 (December 7, 1988), 53 FR 50145.

[3] Securities Exchange Act Release No. 26538 (February 13, 1989), 54 FR 7316.

[4] Securities Exchange Act Release No. 26757 (April 21, 1989), 54 FR 18619.

[Rel. No. 34-26783; File No. SR-NSCC-89-02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change

On February 8, 1989, the National Securities Clearing Corporation ("NSCC") filed with the Commission a proposed rule change under section 19(b) of the Securities Exchange Act of

1934 ("Act"). As discussed in detail below, the proposal provides for accelerated comparison of securities transactions. Notice of the proposed rule change was published in the **Federal Register** on March 8, 1989, to solicit comments from interested persons.[1] No comments were received.[2] This order approves the proposal.

I. Description of the Proposal

The proposed rule change consists of fundamental modifications to Section II (captioned "Trade Comparison Service") of NSCC's Procedures.[3] In general, the proposal would shorten the comparison cycle for all regular-way,[4] non-systematized trades.[5] It would implement an initial match routine on the night of trade date and move up the trade resolution process by one day.[6] The NSCC states in its filing that the proposal would apply to transactions in equity securities (*i.e.*, stocks, rights, and warrants) [7] executed over-the-counter ("OTC") and on national securities exchanges other than the New York Stock Exchange ("NYSE").[8] The NSCC notes that it also has other procedures under development that would shorten the comparison time frames for transactions executed on the NYSE.[9]

Specifically, the proposal provides that NSCC clearing members must submit all non-systematized transactions to NSCC no later than 2:00 a.m. on the day after the trade date (*i.e.*, on "T+1"), which is a proposed acceleration of 11 hours (from 1:00 p.m. on T+1). Clearing members could delete trades only until 2:00 a.m., a proposed acceleration of 13 hours (from 3:00 p.m. on T+1). The NSCC would be required to produce regularway contract lists by 7:00 a.m. on T+1, a proposed acceleration of 25 hours.[10]

Moreover, under the proposal, clearing members, upon receiving their contract lists on T+I, would have until 2:00 p.m. on T+I to submit adjustments, a proposed acceleration of 24 hours (from 2:00 p.m. on T+2). NSCC would be required to issue the corresponding output by 7:00 a.m. on T+2. Thereafter, clearing members could submit adjusting information to NSCC, generating corresponding output, until the final comparison output on T+3.

II. Rationale

The NSCC states in its filing that the proposal, by shortening the comparison cycle, would: (1) Increase the efficiency of the post trade comparison process, and (2) shorten the length of time that investors and NSCC clearing members are exposed to the risk of market fluctuations on uncompared trades. The NSCC states that, consequently, as required in section 17A(b)(3)(F) of the Act, the proposal would protect investors and the public interest.

Further, the NSCC states that, as required in section 17A(b)(3)(F), the proposal, by shortening the comparison cycle, would help promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

III. Discussion

The Commission believes that this proposal is consistent with the Act. The proposal, by shortening the comparison cycle for OTC and non-NYSE exchange trades, would reduce the risk exposure to investors and to NSCC clearing members as well as contribute to the prompt and efficient clearance and settlement of securities transactions.

The NSCC's proposal marks the first major overhaul to its comparison system since the 1970s. Moreover, this proposal constitutes only one phase of the contemplated redesign of the NSCC's comparison operations, with related efforts that involve the NYSE.[11]

The Commission notes, as a general matter, that the goal of prompt and efficient clearance and settlement of securities transactions (including the comparison of securities transactions) and the use of automated systems in pursuit of this goal are expressly contemplated in section 17A(a)(1) of the Act. Congress stated in that provision that inefficient procedures for the clearance and settlement of securities transactions impose unnecessary risks and costs on investors and that prompt and accurate clearance and settlement are necessary for investor protection.

Congress further stated in sections 6(b)(5), 15A(b)(6), and 17A(b)(3)(F) that the rules of exchanges, securities associations, and clearing agencies, respectively, should be designed to promote the prompt and accurate clearance and settlement of securities transactions. Moreover, in section 17A(a)(2) of the Act, Congress directed the Commission to use its authority to facilitate a national system for the prompt and accurate clearance and settlement of securities transactions.

The risks posed by uncompared trades came under intense scrutiny following the Market Break of October

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[1] *See* Securities Exchange Act Release No. 26585 (March 1, 1989); 54 FR 9958.

[2] As discussed below, however, one comment letter was received by NSCC in response to a pre-filing notice to its broker-dealer participants.

[3] Trade comparison, or the matching of the buy and sell sides of a securities transaction, is the process after a trade has been executed by which broker-dealers confirm with each other the trade's terms (*e.g.*, security, number of units, and price) and the existence of a contract. This process results in a compared trade. Comparison is the first of the three basic steps in processing a securities transaction (the other two being clearance and settlement). *See* Division of Market Regulation, *The October 1987 Market Break*, Ch. 10 at 2–4 (hereinafter *Division Report*); NSCC Procedures, Sect. II.A.

[4] A "regular-way" transaction means settlement on T+5, the ordinary time-frame for settlement of transactions in stocks, rights, and warrants, and certain other securities. *See* D. Scott, *Wall Street Words* 291 (1988).

[5] A "systematized" or "locked-in" trade refers to a trade in an automated system. Under the locked-in comparison method, the entity (*e.g.*, the exchange) that operates the system becomes the contra-side to each half of the trade. A "non-systematized" trade refers to the traditional two-sided comparison method where trade input data come from the buying and selling brokers to the clearing agency. *See Division Report, supra* note 3, at 10–3.

[6] The NSCC notes that acceleration of its comparison cycle is being developed in conjunction with the Automated Confirmation Transaction System ("ACT"), currently under development by the National Association of Securities Dealers. *See* NSCC Important Notice A3097, dated November 16, 1988, which appears as *Exhibit C* in the instant file.

[7] The Commission notes that the NSCC's use of the term "equity securities" to mean stocks, rights, and warrants is for the purposes of this rule proposal and does not constitute a definition of the term. *See* Section 3(a)(11) of the Act. *See also* M. Thomsett, *Investment & Securities Dictionary* 99 (1986).

[8] Stated positively, the proposal would apply to equity transactions executed in the OTC market and on the following securities exchanges: the American Stock Exchange, the Boston Stock Exchange, the Cincinnati Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, and the Philadelphia Stock Exchange (*i.e.*, all United States securities exchanges except the Chicago Board Options Exchange, the Spokane Stock Exchange, and, as stated in the proposal, the New York Stock Exchange).

[9] In this connection, the NSCC and the NYSE currently are engaged in a cooperative effort to reduce the comparison cycle for equity transactions executed on the NYSE from T+5 to T+1. That effort is independent of the instant proposal. *See, e.g.*, Order Approving Proposed Rule Change, Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [File No. SR–NYSE–88–36]; Notice of Proposed Rule Change, Securities Exchange Act Release No. 26742 (April 18, 1989), 54 FR 18063 [File No. SR–NSCC–89–04].

[10] NSCC's "clearing member reports" (also known as "contract sheets" and "contract lists") list: (1) Compared trades, (2) uncompared trades, and (3) advisory trades. Uncompared trades are trades by a clearing member that have not been matched. Advisory trades are trades submitted by the contra-side, against the member, that have not been matched. *See* NSCC Procedures, Sect. II.B.; *Division Report, supra* note 3, at 3.

[11] *See, supra*, note 9.

1987.[12] During the Market Break, uncompared trades on all securities markets (including the exchanges and the OTC market) increased substantially and, for several reasons, became a major stress point in the clearance and settlement process. First, uncompared trades required special labor-intensive treatment ("exception processing") under working conditions already rendered chaotic by record trading volume.[13] Second, the rate of uncompared trades did not remain at its usual percentage of trading volume, but as trading volume increased to 2½ times normal levels during the week of October 19–23, uncompared trades doubled as a percentage of total trades.[14] And, third, the record market volatility (primarily downward) threatened to impose financial penalties on those firms that could not resolve trade comparison errors quickly, or at any rate before settlement with their customers on T+5.[15]

Based on the experience of October 1987, with its unprecedented trading volume and price volatility, the Commission concluded that, among other things, efficient markets will require same-day, floor-derived trade comparison.[16] Thus, the NSCC's proposal (which will shrink the comparison cycle from T+2 to T+1), while it does not meet the Commission's final objective of same-day comparison, is consistent with the Commission's desire to shorten the comparison cycle. The NSCC's proposal likewise is consistent with the *Working Group Report*, which concluded that the development of on-line trade matching systems would enhance the capacity of market participants to monitor their intra-day exposure.[17] The proposal also is consistent with the intermarket clearing and credit mechanisms espoused by the *Brady Report* to reduce market exposure to clearing corporations.[18]

The Commission favors the efforts of this proposal to reduce the length of the comparison cycle. The Commission also expects that the NASD and NSCC will consider its proposed comparison system not to be a final goal but only a near-term phase in its efforts toward the development and implementation of a same-day comparison system.[19] In this regard, the Commission notes that clearing members rely on NSCC's two sided comparison system to process the majority of their OTC trades in corporate equity securities.[20]

While the Commission has received no comments in response to its notice of this proposal in the **Federal Register**, the NSCC reported in its filing that it had received one comment letter in response to its November 16, 1988 Important Notice. The commentator, Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation ("Pershing"), an NSCC clearing member, stated that under present comparison rules it is able to review trades from introducing brokers prior to their input to NSCC and to delete such infrequent trades as fail to meet its standards, but that, under the accelerated comparison cycle, it will lack the time to make an informed review,[21] and that, accordingly, it will have to delete a large number of trades based on general standards rather than an informed review.[22]

Consequently, the commentator requested an accommodation from the NSCC whereby, when the comparison process is accelerated, any party whose name is given up for clearance by another party would continue to have the unilateral opportunity to delete any transaction until 3:00 p.m. on T+1.[23] In response, the NSCC noted, among other things, clearing members are obligated for trades of the firms to whom they provide clearance services and

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[12] *See, e.g., Division Report, supra* note 3, Ch. 10 at 5–13; *Report of the Presidential Task Force on Market Mechanisms* 51–52, Study VI at 48–49 (January 8, 1988) (hereinafter the *Brady Report*); *Interim Report of the Working Group on Financial Markets*, Appendix D at 6 (May 1988) (hereinafter *Working Group Report*).

[13] *See Division Report*, Ch. 10 at 5. During the Market Break, the exchanges, NASD, and NSCC took unusual steps to resolve uncompared trades. During the week of October 19, 1987, the NYSE required its member organizations and specialists to meet in the morning before trading opened, in the evening after trading closed, and on weekends to resolve uncompared trades. The NASD operated its Trade Acceptance and Resolution System, or TARS, from 10:00 a.m. to 6:00 p.m. on Saturday, October 23 to resolve uncompared trades. The NSCC extended its 6:00 p.m. deadline to as late as 1:00 a.m. for its clearing members to report the resolution of unmatched trades, and the NSCC was open on Saturday, October 23 to receive reports of compared trades for processing on the following Monday. Additionally, from October 23 to 30, all of the exchanges and NASDAQ closed trading two hours early to allow firms to catch up on their back office work. *See id.* at 10–9.

[14] For OTC executions during the week of October 19, 1987, T+2 uncompared trades processed by two-sided comparison increased from an average rate of 5.6% to 10.6%. *See Division Report*, Ch. 10 at 8.

For OTC executions on October 19 and 20, T+2 uncompared trades for two-sided input increased from an average of 5.6% to 22.3% and 11.5%, respectively. In arithmetic terms, however, uncompared trades on T+2 increased from a daily average of 6,200 to 27,685 and 27,035 for executions on October 19 and October 20, respectively. *See id.*, Table 10–2 at Ch. 10, p. 60. *See also Brady Report*, Study IV at 48.

[15] *See Division Report*, Ch. 10 at 5–6. In terms of price volatility, on Monday, October 19, 1987, the Dow Jones Industrial Average ("DJIA") closing value had declined a record 508.32 points (22.6%, also a record) from its previous close, *i.e.*, from 2246.74 to 1738.41. After two more daily reversals of over 100 points, the DJIA closed out the week on Friday, October 23, 1987, at 1950.76, a net 5-day decline (from Friday, October 16) of 295.98 points (13.2%). *See id.*, Appendix D at Tables 2 and 3.

[16] See Securities and Exchange Commission Recommendations regarding the October 1987 Market Break, contained in Testimony delivered by David S. Ruder, Chairman, SEC, before the Senate Committee on Banking, Housing and Urban Affairs, 23–24 (February 3, 1988). *See also Division Report*, Ch. 10 at 12; *Working Group Report*, Appendix D at 6.

[17] *The Working Group Report* called for same-day, floor-derived comparison of securities transactions. *See Working Group Report*, Appendix D at 6.

[18] *See Brady Report* at 64–65.

[19] The Commission's staff has met with the NSCC's staff and the staffs of securities markets and has discussed the technical and other problems associated with a change to a same-day comparison system. The Commission is cognizant of the various concerns, including: (1) The need for further systems development; (2) the competing demands for space, as on a trading floor; (3) the possible need for expanded clerical staffs; (4) the potential disruptions to operations during the phasing-in period; and (5) the financial cost of the undertaking.

The Commission also notes that several regional exchanges (*e.g.*, the Options Floor of the Philadelphia Stock Exchange) already have floor-derived comparison systems in operation on their trading floors. With these systems, all trades are matched on the floor at the time of execution. Such automated systems, by locking-in the trade data in this manner, can almost totally eliminate uncompared trades. *See Division Report*, Ch. 10, note 1 at 2.

[20] In an effort to streamline comparison and clearance of OTC trades, the NASD is developing the Automated Confirmation Transaction System ("ACT"). *See, supra*, note 6. ACT is being designed to lock-in the terms of OTC trades among market makers for submission to the NMS high-speed ticker and to NSCC for clearance and settlement. ACT, a trade confirmation and reporting facility (which will not be designed as a trade execution facility), will apply to conventionally-handled OTC trades that are negotiated by telephone (as distinct from trades executed in automated systems). After a trade has been negotiated, the parties (*i.e.*, the market maker side and the order entry side) will enter trade data for automatic matching or display on the contra party's terminal. When all elements of a trade have been entered into the system and match, the trade will be treated as locked-in and forwarded automatically to the NSCC. The NASD plans to begin testing ACT in June 1989. The Commission notes that before ACT can be implemented, it will have to be filed with the Commission as a rule proposal under Section 19(b)(2) of the Act.

[21] A clearing member's opportunity to delete the trades of its introducing firms would be reduced by the proposal from 3:00 p.m. on T+1 to 2:00 a.m. on T+1, *i.e.*, by 13 hours.

[22] *See* letter from Joseph D. Donnelly, Senior Vice President, Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation, to NSCC, dated November 29, 1988. A copy of this letter is included in NSCC's rule proposal as *Exhibit D*.

[23] The term "give-up" in this context describes a broker's acting in behalf of another broker, as where an introducing broker in placing an order "gives up" the name of a clearing broker, indicating that it is acting on that firm's behalf. *See* M. Thomsett, *Investment & Securities Dictionary* 120 (1986).

concluded that, it would not be appropriate for NSCC to offer such firms a unilateral T+1 delete capability.[24] Moreover, NSCC has reported that the proposed acceleration of trade data submission will not otherwise burden clearing members because most NSCC clearing members voluntarily submit OTC trade data for comparison within the proposed earlier trade data submission time frame on T+1.

The Commission recognizes that the NSCC's OTC trade comparison process, in order to operate smoothly, requires cooperation from many different parties, including: Market makers, clerical staff, clearing members, service bureaus, the staff of NASDAQ and the NSCC. The Commission believes that shortening the OTC trade comparison cycle will provide improved efficiencies in clearance and settlement of these trades and will reduce clearing agency, clearing member and investor risks because firms will know their trading positions and market exposures on a timely basis.

The Commission believes that clearing firms must maintain appropriate risk control mechanisms and recognizes that clearing firms are reviewing the adequacy of those control mechanisms. For example, the Commission understands that (1) some clearing firms have been developing new credit systems with regard to introducing firms that will provide clearing firms with better financial controls, and (2) the NASD is developing a risk management module for use with ACT that would allow clearing firms to establish, on an automated basis, preset credit limits for their introducing firms.

Although the Commission believes it is appropriate for clearing firms to develop rigorous risk control mechanisms, the Commission does not believe it would be appropriate to require NSCC to provide clearing firms an extended opportunity to delete the trades of introducing firms. The Commission believes that certainty and finality of trades is critical to the efficient operation of the OTC market. Indeed, the Commission is concerned that the asserted authority of clearing firms to dishonor trades, if exercised, could substantially reduce market confidence in market makers who are introducing firms. Accordingly, the Commission believes that providing a more extended opportunity for clearing firms to exercise their asserted authority to delete trades until 3:00 p.m. on T+1, a full day after their execution, would raise doubts about the finality of trades with non-clearing firm market makers and the general reliability of the clearance and settlement system. The Commission also does not believe that NSCC's rule proposal imposes improper burdens on clearing firms, particularly in light of the increased efficiency and reduced risks obtained from earlier trade comparison.

To summarize, the proposed rule change, by shortening the NSCC's comparison cycle, would make the NSCC's comparison procedures: (1) Safer with regard to the risks of market price volatility, and (2) more efficient in terms of the time and expense involved in trade processing. Further, the proposal would help protect investors and other persons that safeguard investors' funds and facilitate their transactions. Moreover, the Commission believes that the proposal is consistent with the Act, particularly sections 6(b)(5), 15A(b)(6), and 17A of the Act, and that it warrants approval.

IV. Conclusion

For the reasons discussed in this order, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b) of the Act that the above-mentioned proposed rule change (File No. SR–NSCC–89–02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 4, 1989.

Jonathan G. Katz,
Secretary.

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[24] *See* letter from Karen L. Saperstein, Vice President and Associate General Counsel, NSCC, to Joseph D. Donnelly, Senior Vice President and General Counsel, Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation, dated March 16, 1989.

[Rel. No. 34–26781; File No. SR–PSE–89–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc.; Relating to Intermarket Trading System Rules on Pre-Opening Responses and Trade-Throughs

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 March 16, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend PSE Rule I, sections 19 and 20 to adjust its Intermarket Trading System ("ITS") rules to conform to recent changes in the ITS system adopted by the participating ITS members. These changes relate to pre-opening responses and clarifications on resolving third participating market center trade-throughs.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change 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 ITS was created pursuant to the provisions of section 11A(a)(3)(B) of the Act in order to achieve the regulatory goals established by section 11A, including, among others, the facilitation of transactions and the removal of impediments to a free and open market. Since it was initially created, the structure of the ITS Plan has been re-stated and amended because of continuous developments and changes in the marketplace, as well as the participating exchanges' continuing reevaluation of the structure of the System within the context of its original goals.

With this in mind, the participating market centers that utilize the ITS system have recently approved certain amendments to the system. Accordingly, the PSE proposes amending PSE Rule I,

[1] The appendix to this notice contains the specific rule changes.

sections 19 and 20 for the purpose of adjusting PSE ITS rules to comply with these recent changes. Specifically, the proposed changes clarify: (1) The responsibility of a market maker to seek a report of execution after the opening if a report has not been issued by the exchange that sent the pre-opening notification; and (2) the procedures for resolving third participating market center trade-throughs.[2]

The PSE believes that the proposed rule change is consistent with section 6 of the Act and, in particular, section 6(b)(5) because it will help to "facilitate transactions in securities [and] . . . remove impediments to and perfect the mechanism of a free and open market and a national market system."

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change imposes a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 May 31, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Dated: May 3, 1989.

Jonathan G. Katz,

Secretary.

APPENDIX

Proposed Rule Amendments (Italics indicates language to be added; brackets indicate language to be deleted).

PSE Rule I:

Section 19

(b)(8)(x): *Request for Participation Reports—The ITS Plan anticipates that an Exchange member who has sent one or more obligations to trade in response to a pre-opening notification will request a report through the System as to his participation if he does not receive a report as required promptly following the opening. If, on or following trade date, he does request a report through the System as to his participation before 1:00 p.m. pacific time, and he does not receive a response by 6:30 a.m. pacific time on the next trading day, he need not accept a later report. If he fails to so request a report, he must accept a report until 1:00 p.m. pacific time on the third trading day following the trade date (i.e. on T+3). The Exchange does not intend this paragraph to relieve him of the obligation, when he does not receive a report, to request a report as soon as he reasonably should expect to have received it.* (Prior paragraph (b)(8)(x) entitled "Tape Indications" is redesignated as (b)(8)(xi) without any changes.)

Section 20(b)(3)

(F) The bid or offer traded-through had caused a locked market in the Eligible Listed Security which was the subject of such bid or offer; [or]

(G) A complaint with respect to the trade-through was not received by the Exchange through the System from the aggrieved party promptly following the trade-through and, in any event, [i] within five (5) minutes from the time the report of the transaction that constituted the trade-through was disseminated over the high speed line of the consolidated last sale reporting system; or [ii]

(H) In the case of a third participating market center trade-through *either:*

(i) *The member who initiated the trade-through (a) had sent a commitment to trade promptly following the trade-through that satisfies the bid or offer traded-through and (b) preceded the commitment with an administrative message stating that the commitment was in satisfaction of a third participating market center trade-through, or (ii) a complaint with respect to the trade-through was not received by the Exchange through the System from the aggrieved party promptly following the trade-through, and, in any event,* within ten (10) minutes from the time the aggrieved party sent a complaint through the System to the market center that received the commitment to trade that caused the trade-through, which first complaint must have been received within five (5) minutes from the time the transaction which constituted the trade-through was disseminated over the high speed line of the consolidated last sale reporting system.

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[Rel. No. 34-26770; File No. SR-Phlx-89-9]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Demarcation of Foreign Currency Options Trading Hours

On March 10, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) under the Securities Exchange

[2] A third participating market center trade-through occurs whenever a member of an exchange or the NASD initiates the purchase of an ITS security by sending a commitment to trade through the System and such commitment results in an execution at a price that is higher than the price at which the security is being offered (or initiates the sale of such a security by sending a commitment to trade through the System and such commitment results in an execution at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center. See Exhibit B (Trade-Through Rule) to the Restated ITS Plan at (a)(2).

[3] 17 CFR 200.30-3(a)(12) (1988).

Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish, for any extension of foreign currency option trading hours between 11:00 p.m. and 4:30 a.m. (E.S.T.), a demarcation time between day and evening specialist privileges.

The proposed rule change was noticed in Securities Exchange Act Release No. 26655 (March 21, 1989), 54 FR 12712 (March 28, 1989). No comments were received on the proposed rule change.

In May, 1988, the Commission approved a proposed rule change that established, among other things, a general policy of according existing specialist units an automatic right to trading privileges in securities for which they are the appointed specialist in any extended trading segment touching and contiguous to existing trading sessions.[3] At the present time on the Phlx, there are no trading segments that are touching and contiguous to existing trading segments. Such segments would arise if current trading segments were extended.

Phlx foreign currency options currently are traded during the day (*i.e.*, between 4:30 a.m. and 2:30 p.m.) and during evening hours (*i.e.*, between 6:00 p.m. and 11:00 p.m.). Foreign currency options trading privileges are awarded to particular specialist units in the day trading segment and to a different specialist unit during evening hours. In anticipation of an eventual extension of foreign currency options trading hours between 11:00 p.m. and 4:30 a.m., the Phlx proposed a rule that establishes a demarcation time between day and evening specialist privileges.

The proposed rule establishes, for any extension of trading hours for any foreign currency option between the hours of 11:00 p.m. and 4:30 a.m., a demarcation time whereby any extension of trading hours and associated specialist trading privileges prior to 3:20 a.m. will be extended to the evening segment specialist and any extension of trading hours and associated specialist trading privileges after 3:40 a.m. will be extended to the daytime segment specialist.

In establishing the 3:20 a.m. and 3:40 a.m. demarcation, the Phlx considered oral statements from the affected specialist units. The Phlx also considered the relationship between the extended foreign currency option trading hours and the trading hours of the Far East and Europe. Because trading occurs in the Far East between 11:00 p.m. and 3:20 a.m., the hours generally associated with evening specialist trading privileges, any extension of trading hours and associated specialist trading privileges prior to 3:20 a.m. will be extended to the evening segment specialist. Because trading occurs in Europe between 3:40 a.m. and 4:30 a.m., the hours generally associated with day specialist trading privileges, any extension of trading hours and associated specialist trading privileges after 3:40 a.m. will be extended to the daytime segment specialist.

No foreign currency options trading will take place between 3:20 a.m. and 3:40 a.m. This 20-minute transition period will allow an orderly transfer of books from the evening segment specialist to the daytime segment specialist.[4]

The Exchange believes that the proposed rule change will permit the Phlx to extend foreign currency options trading hours in a flexible manner while assuring that the specialist unit that has the strongest nexus to those extended hours is granted the extended trading privileges.

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 § 6.[5] More specifically, the Commission believes it is consistent with the maintenance of fair and orderly markets for the Exchange to establish a policy that fosters continuity in the market making of foreign currency options in additional trading sessions. Establishment of a demarcation time for according existing specialists an automatic right to trading privileges in products they currently are trading for any extended trading session touching and contiguous to existing trading segments will ensure continuity of the limit order book between trading segments and reduce investor confusion. In this regard, the Commission notes that many of the same investors can be expected to trade foreign currency options in an extended trading session. Where it is clear which specialist is handling the option, investor confusion as to what specialist has an order and whether the order will be filled if the option trades at the designated limit in one trading session but not the other will be minimal.

The Commission also believes that specialist market making may be enhanced by the ability to trade as a dealer in a particular option in an extended trading session. This ability would reduce the specialist's risk of establishing positions because the specialist would have access to the limit order book and could trade as dealer on a continuous basis throughout the entire daytime segment or evening segment of the trading day.

It is Therefore Ordered, pursuant to § 19(b)(2) of the Act,[6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: May 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–11225 Filed 5–9–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26782; File Nos. SR–AMEX–88–35; SR–CBOE–88–26; SR–Phlx–88–43; SR–PSE–88–29]

Self-Regulatory Organizations; American Stock Exchange, Inc., et al.; Order Granting Partial Approval To Proposed Rule Changes Relating To Extension of the Near-Term Options Expiration Pilot Program

On December 19, 21, and 27, 1988, respectively, the American ("Amex"), Philadelphia ("Phlx"), and Pacific ("PSE") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE") (collectively, the "Exchanges"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 [2] thereunder, proposed rule changes requesting extensions of the Exchanges' pilot programs providing for four expiration months for stock options, including two near-term months, until April 30, 1989.[3] The Exchanges also requested permanent approval of the pilot programs prior to their expiration in April. By letter dated April 28, 1989, the Exchanges amended their original filings to request an additional extension of the pilots until June 30, 1989, and permanent approval prior to

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[1] 15 U.S.C. 78(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] *See* Securities Exchange Act Release No. 25647 (May 3, 1988), 53 FR 16829.

[4] Telephone conversation between William Uchimoto, General Counsel, Phlx, and Mary Revell, Attorney, Commission, March 21, 1989.

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78s(b) (1982).

[7] 17 CFR 200.30–3(a)(12) (1988).

[1] 125 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] *See* Securities Exchange Act Release No. 26413 (December 30, 1988), 53 FR 723 granting partial approval of File Nos. SR–Amex–88–35; SR–CBOE–88–26; SR–Phlx–88–43; and SR–PSE–88–29.

expiration of the pilots at that time. For the reasons discussed below, the Commission is extending the pilots for an additional 60 days until June 30, 1989.[4]

In 1985 the options Exchanges implemented stock option pilot programs for certain January cycle stock options. Under the terms of the pilots, the traditional January trading cycle was altered to ensure that (i) one-month and two-month options were made available for trading at all times and (ii) four expiration months were outstanding at all times. Since that time, the pilot programs have been extended and expanded to all equity options on all three expiration cycles.

The purpose of the pilot programs is to determine whether a near-term expiration cycle, featuring four expiration months, would improve investors' interest in such stock options. After monitoring the programs since their inception and receiving highly favorable comments from both on-floor and off-floor market participants, the Exchanges have found the pilots have improved investors' interest in trading such options.

At the request of Commission staff, the Exchanges were to compile certain data in connection with their monitoring of the pilot programs. Specifically, to show investor interest in near-term expiring options, the Commission requested reports providing daily open interest and volume, aggregated by monthly expiration, for each class of equity options for a one week period in January, February, and March. The Exchanges requested that the Options Clearing Corporation ("OCC"), which issues, clears and settles all standardized options, generate these reports and provide them to the Commission and the Exchanges. Because of a programming problem at OCC, delivery of the reports was delayed. The Exchanges and Commission staff, therefore, have not had sufficient time to analyze the data. Therefore, the Commission believes an extension of the pilots is appropriate. The Commission expects that each Exchange will review the data that OCC has provided and supply to the Commission within the next 30 days a letter interpreting that data. In addition, Commission staff will use the additional time provided by the extension to do an independent analysis of the data before acting on the Exchanges' requests for permanent approval.

The Exchanges believe the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchanges because they continue a pilot program tailored to meet investors' preferences for stock options with near-term expiration cycles.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder. The Commission believes that the proposed rule changes will benefit public customers by continuing pilot programs designed to meet investors' preferences for stock options with near-term expiration cycles. In addition, the Commission previously solicited comment on these near-term expiration pilot programs and has not received any negative comments on their operation. Moreover, the current pilot programs have operated effectively and generally have been well received. Finally, the Commission's approval is limited until June 30, 1989, or until the Commission acts on the Exchanges' request for permanent approval of the pilot programs.

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 persons, 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 May 31, 1989.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[5] that the propose rule changes are partially approved until June 30, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

Dated: May 3, 1989.

[FR Doc. 89-11220 Filed 5-9-89; 8:45 am]

BILLING CODE 8010-01-M

[4] In a separate filing, the New York Stock Exchange ("NYSE") requested and received Commission approval of an extension of the NYSE near-term options expiration pilot program until June 30, 1989. Securities Exchange Act Release No. 26369 (December 16, 1988), 53 FR 51941.

[5] 15 U.S.C. 78s(b) (1982).

[6] 17 CFR 200.30-3(a)(12) (1986).

[Release No., 34-26773; File No. SR-NYSE-89-03]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

On March 6, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Commission a proposed rule change under section 19(b) of the Securities Exchange Act of 1934 ("Act"). The proposal provides for a new electronic trade resolution system, known as the "Correction System," to resolve NYSE's uncompared trades.[1] Notice of the proposed rule change was published in the **Federal Register** on March 15, 1989, to solicit comments from interested persons.[2] No comments were received. This order approves the proposal.

I. Description of the Proposal

A. Background

A new NYSE rule previously approved by the Commission,[3] mandates the use of an automated system called the Overnight Comparison System ("OCS"), which is being developed jointly by the NYSE and the National Securities Clearing Corporation ("NSCC").[4] OCS mainly

[1] Trade comparison, or the matching of the buy and sell sides of a securities transaction, is the process after a trade has been executed by which broker-dealers confirm with each other the trade's terms (*e.g.*, security, number of units, and price) and the existence of a contract. Comparison is the first of the three major steps in processing a securities transaction (the other two being clearance and settlement). *See* Division of Market Regulation, *The October 1987 Market Break*, Ch. 10 at 2-4 (hereinafter *Division Report*).

[2] *See* Securities Exchange Act Release No. 26618 (March 9, 1989, 54 FR 10766.

[3] *See* Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 (File No. SR-NYSE-88-36), approving NYSE Rule 130.

[4] For an operational description of OCS, *see* NYSE Membership Bulletins (May 27, 1988 and July 15, 1988), and NYSE Membership Notice (August 19, 1988). These documents are reprinted as Exhibit 2 of File No. SR-NYSE-88-36, at pages 1, 6, and 54, respectively.

will consist of two automated sub-systems; (1) NYSE's Correction System, and (2) NSCC's Comparison Redesign System. This order concerns the approval and implementation of the NYSE's Correction System.

The NYSE has indicated that it plans to make OCS fully effective by September 1991.[5] The plans call for OCS to be implemented in stages. Each of the two major sub-systems will be the subject of one or more independent rule filings dealing with their design, operations, fees, and implementation. The Correction System (which itself will be implemented in stages) will be implemented first, with the Comparison Redesign System to follow. As discussed in detail below, the Correction System will computerize the NYSE's processing of uncompared trades, *i.e.*, it will permit the automated pairing of trade sides that have not been properly matched.[6]

The second major sub-system, the NSC's Comparison Redesign System, will permit all transactions to be compared or closed out by the close of business on the business day following the trade date (*i.e.*, "T+1"), as required by new NYSE Rule 130.[7] Under previous NYSE rules, transactions were required to be compared or otherwise closed out by T+5.[8] Thus, the Redesign System, when fully implemented, is expected to shorten a transaction's comparison cycle by four business days. The proposal, however, would not effect the settlement of transactions, the majority of which would continue to settle on T+5.[9]

[5] The NYSE stated in its filing proposing NYSE Rule 130 that it plans to have OCS fully operational within 18 months of the Commission's approval of Rule 130. *See* File No. SR-NYSE-88-36, Form 19b-4 at 3; Notice of Proposed Rule Change, Securities Exchange Act Release No. 26342 (December 6, 1988), 53 FR 49949. The Commission approved Rule 130 on March 14, 1989.

[6] The NSCC has filed with the Commission under Section 19(b)(2) of the Act its own OCS rule proposal for the Redesign System dealing with T+1 comparison of transactions executed on the NYSE. *See* Securities Exchange Act Release No. 26742 (April 18, 1989); 54 FR 18063 [File No. SR-NSCC-89-04].

[7] NYSE Rule 130 and its sub-systems would apply only to contracts for "regular way" (*i.e.*, T+5) settlement in stocks, rights, and warrants, as provided in NYSE Rules 64(2), 131, 132, and 133. They would not apply to contracts that: (1) are designated for cash settlement, next-day settlement, or seller's option settlement; or (2) involve other securities such as bonds or options.

[8] *See* NYSE Rule 134.A(f). Currently, NYSE trades typically are compared on or after the morning of T+2, and an NYSE trade that remains uncompared after 2:00 p.m. on T+2 is known as a "questioned trade," or a "QT." *See* NYSE Rule 134.A(c); *Division Report*, Ch. 10 at 3.

[9] Settlement, the final step in securities processing (following comparison and clearance), is the process of exchanging money for securities (*i.e.*, delivery and payment) that consummates a transaction. *See Division Report*, Ch. 10 at 2, 5.

B. NYSE's Proposed Correction System

The proposed Correction System consists of a new set of automated procedures that would provide for the resolution of NYSE's uncompared trades (known at the Exchange as "questioned trades," or "QTs") [10] Currently, QTs are resolved by manual operations pursuant to the procedures of NYSE Rule 134.A. The new procedures contemplate an electronic trade resolution system with user operated cathode-ray tube terminals and an on-line data base that would replace the current paper handling.[11]

The Correction System's terminal screens would display relevant trade data on the uncompared trades and would permit direct entry (by typewriter keyboard) into computer terminals that could send and receive on-line inquiries. The System also would have the flexibility to operate within existing comparison time frames or within a more compressed comparison cycle.

Operationally, the Correction System would work as follows: Terminals would be installed in the operations areas of clearing firms, specialist firms, and in NYSE's QT area.[12] During the evening of T+1, the NSCC would send all uncompared trade data to the NYSE, and the NYSE would make the data available to participants on the morning of T+2, concurrent with NSCC regular-way contracts.[13] All firms would be required to stamp "advisories" and add, through the System, additional sides for advisories that are participant securities.[14] At the close of business on T+2, NYSE would send all compared items to NSCC; and on the morning of T+3, these compared items would appear on the NSCC Supplemental Contract Sheet.[15]

Clearing firms would ensure that all uncompared trades remaining on their file by the end of T+2 are valid QTs, which would be submitted to their QT clerks on the morning of T+3. These QTs would remain in the "OCS file." Additionally, on the morning of T+3, uncompared items would be displayed on the QT terminals for resolution. On normal volume days, QT terminals and advisory screens would be available from about 8:00 a.m. to 6:00 p.m. All submitting clearing firms would have access to the data, but contra firms would only have the ability to accept or

[10] *See* "Correction System Procedures," at Exhibit A, page 2, of the instant filing.

[11] The NYSE states that the new procedures are being adopted as a rule and that eventually the procedures will be printed in the NYSE rulebook as text superseding the existing text of NYSE Rule 134.A. The new procedures are not being added as text to the NYSE rulebook at this time because, initially, as the new procedures are phased in, they will apply only to transactions in securities beginning with the letter "A" (and gradually to other letters), with all other transactions being governed by the procedures of existing Rule 134.A. Thus, until the phase-in process is completed, a dichotomy of rules will exist on the procedures governing uncompared trades. Telephone conversation between Stanley Jacoby, Trade Comparison Specialist, NYSE, and Thomas C. Etter, Attorney, SEC (April 13, 1989).

[12] The NYSE's QT Center is located at 11 Wall Street.

The NYSE recommends in its filing that those firms ordinarily having a substantial number of trade adjustments should install terminals in their operational areas. NYSE further notes, however, that smaller firms or other firms without a substantial number of adjustments would be able to process their adjustments by using common terminals and printers in the NYSE's Post Trade Processing Center, also located at 11 Wall Street.

[13] On T+2, the NSCC currently issues clearing member reports (known as "contract sheets") that list: (1) Compared trades, (2) uncompared trades, and (3) advisory trades. Uncompared trades are trades submitted by a member that have not been matched; and advisory trades are trades submitted by the contraside, against the member, that have not been matched. *See Division Report*, Ch. 10 at 3.

[14] The NSCC has informed the Commission that, as part of its joint OCS project with the NYSE, it would no longer accept non-System adjustments on securities after the securities have been integrated into NYSE's Correction System as participant securities.

[15] As stated above, the NSCC is developing a Comparison Redesign System, *i.e.*, a new trade comparison system, to assist the NYSE in its efforts to complete trade comparison by T+1. Under the new NSCC system, the NYSE would continue to send its systemized locked-in (automatically compared) trades to NSCC on the evening of the trade date. This process would remain unchanged.

The NSCC's match routine would remain unchanged except for one modification, *i.e.*, the addition of a new match element with audit trail data. The remaining four elements of the existing match routine (exact match, summarization, suggested name, and partial suggested name for omnibus accounts) would remain the same. On T+1, the NSCC would require its participants to submit their remaining non-systemized ("crowd side") input to NSCC no later than 2:00 a.m. New York time. After all participant data have been received, the NSCC would begin its initial match routine for these trades.

The trade resolution process would begin after participants receive the results of the NSCC's initial match. The NSCC plans to allow participants to submit the following adjustments until noon on T+1: (1) Deletion of an uncompared trade, (2) deletion of a compared suggested name, (3) acknowledgement of an advisory, and (4) as-ofs. At approximately noon on T+1, the NSCC would process all adjustments through an exact match, with the results to be available in a Preliminary Adjustment Listing at approximately 1:00 p.m. As the Preliminary Adjustment Listing is being distributed to the NYSE member organizations, NSCC will generate an uncompared file of QTs for any transations not yet resolved through the NYSE's Correction System or NSCC's adjustment process.

Participants then would resolve any open items through the NYSE's Correction System. The NYSE would submit its QTs to the NSCC by 5:00 p.m. for subsequent settlement. The NSCC would generate a Final Adjustment Contract displaying the compared QTs at approximately 8:00 p.m. For further description of the NSCC's Comparison Redesign Systems, *see* NSCC's Important Notice A3049 (August 19, 1988), reprinted as Exhibit 2, page 63, of File No. SR-NYSE-88-36.

"DK" (indicating they "don't know") the items.[16] QTs that are resolved through the appropriate key strokes on the terminals would be sent automatically to NSCC for processing.[17]

All NYSE member organizations having uncompared trades in securities that are not yet eligible for OCS processing would continue to resolve these trades under existing QT rules (*i.e.*, NYSE Rule 134.A).[18] Nevertheless, the NYSE states that as experience is gained with the new System, additional securities would be added until all NYSE securities are eligible, and eventually the existing QT rules would be superseded with new rules.

C. Implementation Schedule for the Correction System

During late March 1989, the NYSE loaded clearing members' accounts into the Correction System. Also, the NYSE has loaded all NYSE securities beginning with the letter "A." The plans call for NYSE member organizations to practice with the system for a three week period, with the third week to involve live trades. Gradually, from April through June more letters will be added until all letters (A through Z) have been loaded into the system.

When fully operational, the Correction System would be able to handle 50,000 to 60,000 QTs per day.[19] Two screens would be available: (1) A clearing firm's screen that would display all its trade data, and (2) a specialist's screen that would display all data on the specialist's securities.

After the Correction System is fully operational, the NSCC plans to implement its Comparison Redesign System, perhaps toward the end of June 1989. The NSCC plans to have the Redesign running (in practice form) in May 1989 and to have a shake-out phase in early June 1989. The NSCC hopes to implement the Redesign in June with all letters (A through Z) operational. Nevertheless, the NSCC has emphasized that Redesign's implementation will depend on the Correction System's being operational first. As stated above, this order concerns only the approval and implementation of the Correction System.

II. Rationale for the Proposal

The NYSE states in its filing that the automated Correction System would improve the ability of its member organizations to resolve their uncompared trades and, more generally, would enhance the efficiency of the marketplace. The Exchange notes that the new procedures would be: (1) Time-effective in that the automated system would permit speedier resolution of uncompared trades, and (2) cost-effective in that the automation would eliminate labor-intensive operations involved in the current procedures of manually correcting and distributing hard copy QT forms.

The NYSE further states that, as required in section 6(b)(5) of the Act, the Correction System and OCS, of which the Correction System is a part, would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The NYSE also states that the proposal accords with the requirements of Section 17A(a)(1) of the Act in that it would enhance the prompt and accurate clearance and settlement of securities transactions.

III. Discussion

This order applies only to the NYSE's proposed Correction System. The Correction System, which would use automated procedures to match uncompared trades, is a major part of a larger system, the OCS, which NYSE and NSCC are developing jointly to improve the processing of securities transactions.

The Commission notes that section 17A(a)(1) of the Act expressly contemplates the goal of prompt and efficient clearance and settlement of securities transactions (including the comparison of securities transactions) and the use of automated systems in pursuit of this goal. Congress stated in that provision that inefficient procedures for the clearance and settlement of securities transactions impose unnecessary risks and costs on investors and that prompt and accurate clearance and settlement are necessary for investor protection. Congress further stated in sections 6(b)(5), 15A(b)(8), and 17A(b)(3)(F) of the Act that the rules of securities exchanges, securities associations, and clearing agencies, respectively, should be designed to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission believes that the Correction System is consistent with the Act, particularly sections 6(b) and 17A of the Act. The Correction System, an automated trade resolution system, would replace the Exchange's less efficient manual procedures. As a result, the System would reduce significantly the time and expense needed to correct uncompared trades. Accordingly, the Commission believes the proposed Correction System would contribute to the prompt and efficient clearance and settlement of securities transactions and warrants approval.

This proposal, moreover, is not a matter of first impression for the Commission. The NASDAQ, Inc., with Commission approval, has been using its Trade Acceptance and Resolution System ("TARS") since 1986. TARS, like the NYSE's proposed Correction System, is an automated facility that permits subscribers, using terminal screens, to resolve uncompared trades.[20]

IV. Conclusion

For the reasons discussed in this order, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b) of the Act that the above-mentioned proposed rule change (File No. SR–NYSE–89–03) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: May 1, 1989.

[FR Doc. 89–11219 Filed 5–9–89; 8:45 am]

BILLING CODE 8010–01–M

[16] The NYSE states that this provision eliminates the possibility of the comparison of erroneous trades or of having the trade terms changed by a contra party. *See* NYSE Rule 134.A(e), for the Exchange's current treatment of "DKs."

[17] The NYSE states that as a consequence of this procedure no multi-part QT forms will be delivered to Securities Industry Automation Corporation for keypunching.

[18] *See*, generally, NYSE Rule 134.A for the Exchange's existing rules governing "QTs."

[19] The NYSE's QTs on T + 2 averaged 8,000 per day in the Fall of 1987, and on October 19, 1987, during the Market Break, they peaked at 56,626. *See Division Report*, Table 1, Ch. 10, p. 59.

[20] TARS was designed to assist its subscribers in resolving and reducing their uncompared and advisory over-the-counter ("OTC") trades that were being processed through participating clearing corporations. TARS permits subscribers to view on their terminal screens all the information contained on their daily OTC contract sheets received from their clearing corporations and to take actions to resolve the outstanding items. *See* NASD Market Services, Inc., *Trade Acceptance and Reconciliation Service User Guide* (May 20, 1986).

The *Brady Report* noted that OTC QTs could be resolved by utilizing TARS, whereas listed QTs that could not be reconciled by the buyer and seller required a return to the trading floor for resolution. *See Report of the Presidential Task Force of Market Mechanisms*, Study VI at 16 (December 1988).

[Release No. 35-24878]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 4, 1989

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 May 30, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevent 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.

The Columbia Gas System, Inc. (70-7569)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and Commonwealth Gas Services, Inc. ("COS"), 200 Civic Center Drive, Columbus, Ohio, 43215 and Lynchburg Gas Company, 600 Main Street, Lynchburg, Virginia, 24505, both of which are distribution subsidiaries of Columbia, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rules 43 and 44 thereunder.

By prior Commission order, Lynchburg, a distribution company operating in the Commonwealth of Virginia, was authorized to be acquired by Columbia (HCAR No. 24599, March 15, 1988). COS is a distribution company operating in Virginia with approximately 60,000 customers and is headquartered in Columbus, Ohio. It is proposed that these two companies be merged, with COS as the surviving company, succeeding to all properties and liabilities of both companies. Pursuant to the Agreement and Plan of Merger, shares of COS common stock ($50 par value) will be issued to Columbia in exchange for all shares of Lynchburg common stock ($5 par value) held by Columbia based on the ratio of par values. Therefore, one share of COS common stock will be issued for each ten shares of Lynchburg common stock held by Columbia.

Under the terms of the proposed merger, COS, as the surviving corporation, shall succeed to, possess and enjoy all of the rights, provisions, privileges, powers and franchises of both Lynchburg and COS. COS shall also became subject to all of the restrictions, disabilities, liabilities and duties of both constituent corporations. Therefore, all long-term debt of Lynchburg will become obligations of COS and the capital and earned surplus of Lynchburg will be carried forward as capital and earned surplus of COS. COS will also succeed to Lynchburg's authorization for the issuance of up to $1 million principal amount of installment promissory notes and up to $3.5 million of short-term advances under a prior Commission order authorizing the financing of Columbia's subsidaries (HCAR No. 24706, August 30, 1988). All property and all debts due to either company shall be vested in COS under the proposed merger, and any and all rights of creditors and all liens upon any property of Lynchburg and COS will be preserved unimpaired.

Lynchburg has long-term debt outstanding owed to non-Columbia affiliates totaling $3,159,000 which originated prior to the acquisition of Lynchburg by Columbia and which will be assumed by COS: (1) A term-loan agreement with First Colony Life Insurance Company outstanding in the amount of $2,700,000, (2) two industrial development bonds with a total principal amount of $372,500, and (3) two series of first mortgage bonds in a total principal amount of $86,500.

Central Ohio Coal Company (70-7624)

Central Ohio Coal Company ("Central"), 301 Cleveland Avenue, SW., Canton, Ohio 44702, a subsidiary of Ohio Power Company ("Ohio Power"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to Section 12(c) of the Act and Rule 46 thereunder.

By order dated May 27, 1987 (HCAR No. 24400), Central was authorized to issue short-term unsecured notes ("Notes") to commercial banks in order to finance the construction of a walking dragline ("Dragline") for use at Central's Muskingham Mine located near Cumberland, Ohio. Central anticipates that construction of the Dragline will be completed before May 15, 1989 at an estimated total cost of $24.07 million. A preliminary evaluation of the Dragline indicates that the equipment has a fair market sales value of up to $35 million. Central has entered into negotiations for the sale and leaseback of the Dragline, for which the purchaser will pay Central up to $35 million. As a result of the sale and leaseback of the Dragline at an appreciated value, Central will realize a substantial gain. Therefore, Central proposes to return the excess capital to its parent, Ohio Power, through the declaration and payment of a dividend on its common stock in an aggregate amount of up to $12 million out of capital surplus. After paying such dividend, Central intends to utilize the remaining proceeds to repay its Notes in accordance with their terms, retire a portion of its long-term debt obligations, and retain a sum for general corporate purposes.

Consolidated Natural Gas Company (70-7651)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50 and 50(a)(5) thereunder.

Consolidated proposes to issue and sell, from time-to-time, through June 30, 1991, in one or more series, up to an aggregate of $300 million of debentures, with maturities of up to 30 years ("Debentures"), at competitive bidding in accordance with the alternative procedures authorized by the Statement of Policy dated September 2, 1982 (HCAR No. 22623) or alternatively, pursuant to an exception from the competitive bidding requirements of Rule 50 under subsection 50(a)(5) thereunder.

The proceeds from the sale of the Debentures will be used to finance, in part, capital expenditures of Consolidated and its subsidiary companies. Consolidated proposes to provide funds to its subsidiaries through: (1) Open account advances; (2) long-term loans; and (3) the purchase of subsidiary capital stock. The financing of capital expenditures of Consolidated and its subsidiary companies through June 30, 1990 is the subject of the application in Commission File No. 70-7657. In addition, Consolidated proposes to use the proceeds to repurchase up to four million shares of its common stock through December 31, 1990 as authorized

by prior Commission orders dated October 30, 1986 and December 20, 1988, (HCAR Nos. 24224 and 24781, respectively).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-11226 Filed 5-9-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26780; File No. SR-BSE-89-02]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Intermarket Trading System Rules on Pre-Opening Responses and Trade-Throughs

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 April 12, 1989, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 BSE proposes to amend its Intermarket Trading System ("ITS") rules [1] to be consistent with the ITS Plan changes agreed upon by all other ITS participants. The two proposed amendments clarify requirements to address certain pre-opening and opening communication problems as well as third party trade-through problems.[2] Specifically, the proposed changes clarify: (1) The responsibility of a market maker to seek a report of execution after the opening if a report has not been issued by the exchange that sent the pre-opening notification; and (2) the procedures for resolving third participating market center trade-throughs.[3]

[1] BSE Rules, Chapter XXXI, ¶ 2501.

[2] The appendix to this notice contains the specific rule changes.

[3] A third participating market center trade-through occurs whenever a member of an exchange or the NASD initiates the purchase of an ITS security by sending a commitment to trade through the System and such commitment results in an execution at a price which is higher than the price at which the security is being offered (or initiates the sale of such a security by sending a commitment to trade through the System and such commitment results in an execution at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center. *See* Exhibit B (Trade-Through Rule) to the Restated ITS Plan at (a)(2).

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 purpose of the rule change is to promote cooperation among ITS participants and facilitate transactions through the ITS. The ITS was adopted for the purpose of enabling the participating market centers to act jointly in planning, developing, operating, and regulating the System and its application so as to further the objectives of Congress as set forth in section 11A(a) of the Act.

Representatives from each participating market center meet periodically during each year for the purpose of reviewing current ITS rules and, of course, areas where further interpretation and/or rules may be necessary. The current proposed rule change reflects the results of such a meeting where market center representatives unanimously voted to adopt these amendments to the ITS Plan and incorporate the same within each market center's regulatory framework. It is expected that each participating market center will file a separate proposed rule change covering the responsibilities to seek a report of execution and the procedures regarding third party trade-throughs.

The first proposed rule change concerns the responsibility of market makers to seek a report of execution when the market center that sent a pre-opening notification has not issued such a report. In the past, because of some ambiguities in the ITS Plan it was not clear that a market maker (specialist) who had issued a response to a pre-opening notification also had a responsibility to inquire through the System as to whether or not he had participated in the opening. The amendment now more clearly places responsibility on a market maker (specialist) to seek a report of execution if a report has not been issued by that opening market place.

The second proposed rule change concerns third party trade-throughs. The ITS Plan and Exchange rules define trade-throughs as well as certain exceptions which may justify a particular trade as not requiring satisfaction as a trade-through. This particular amendment relates to the circumstances when an exception from satisfaction of a trade-through from a third participating market center exists. In particular, satisfaction is not required if the market center that initiated the trade-through sends a commitment to trade promptly following the trade-through that satisfies the bid or offer traded-through and preceded the commitment with an administrative message stating that the commitment was in satisfaction of a third participating market center trade-through.

The BSE believes the proposed rule change is consistent with section 6(b)(5) of the Act because it is designed to facilitate transactions in securities and perfect the mechanism of a national market system. Further, as noted herein, the BSE believes the proposed changes to its ITS rules are consistent with the objectives of Congress as set forth in section 11A(a) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE does not believe that the proposed rule change imposes a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 May 31, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

Dated: May 3, 1989.

APPENDIX

Proposed Rule Amendments (*Italics indicates language to be added*)
BSE Chapter XXXI, ¶2501

Section 19

(a) Request for Participation Reports—The ITS Plan anticipates that an Exchange member who has sent one or more obligations to trade in response to a pre-opening notification will request a report through the System as to his participation if he does not receive a report as required promptly following the opening. If, on or following trade date, he does request a report through the System as to his participation before 4:00 p.m. eastern time, and he does not receive a response by 9:30 a.m. eastern time on the next trading day, he need not accept a later report. If he fails to so request a report, he must accept a report until 4:00 p.m. eastern time on the third trading day following the trade date (i.e. on T+3). The Exchange does not intend this paragraph to relieve him of the obligation, when he does not receive a report, to request a report as soon as he reasonably should expect to have receive it.

Section 11

(a)(3) A "third participating market center trade-through", as that term is used in this Rule, occurs whenever a member on the Exchange initiates the purchase of an ITS Security by sending a commitment to trade through the System and such commitment results in an execution at a price which is higher than the price at which the security is being offered (or initiates the sale of such a security by sending a commitment to trade through the System and such commitment results in an execution at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center as reflected by the offer (bid) then being displayed on the Exchange from such other market center. The member described in the foregoing sentence is referred to in this Rule as the "member who initiated a third participating market center trade-through."

(b)(3)(H) in the case of a third participating market center trade-through, either:

(i) the member who initiated the trade-through (a) had sent a commitment to trade promptly following the trade-through that satisfies the bid or offer traded-through and (b) preceded the commitment with an administrative message stating that the commitment was in satisfaction of a third participating market center trade-through, or

(ii) a complaint with respect to the trade-through was not received by the Exchange through the System from the aggrived party promptly following the trade-through, and, in any event, within ten (10) minutes from the time the aggrieved party sent a complaint through the System to the ITS participating market center that received the commitment to trade that caused the trade-through, which first complaint must have been received within five (5) minutes from the time the report of the transaction that constituted the trade-through was disseminated over the high speed line of the consolidated last sale reporting system.

[FR Doc. 89-11221 Filed 5-9-89; 8:45 am]

BILLING CODE 8010-01-M

[4] 17 CFR 200.30-3(a)(12) (1988).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5249]

Business Assistance Center-Minority Enterprise Small Business Investment Co., Inc.; Issuance of a Small Business Investment Company License

On December 1, 1988, a notice was published in the **Federal Register** (Vol. 53, No. 231, Page 48610) stating that an application has been filed by Business Assistance Center-Minority Enterprise Small Business Company, Inc., Miami, Florida, with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR 107.102) (1989) for a license as a small business investment company.

Interested parties were given until close of business December 31, 1988, to submit comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No 04/04-5249 on May 1, 1989, to Business Assistance Center-Minority Enterprise Small Business Investment Company, Inc. to operate as a small business investment company.

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

Dated: May 4, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-11179 Filed 5-9-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 4, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and

Pennsylvania Avenue, NW., Washington, DC 20220.

On April 10, 1989, the Department requested an emergency approval by the Office of Management and Budget by April 11, 1989.

Alcohol, Tobacco and Firearms

OMB Number: 1512–0043.

Form Number: ATF F 8 (5310.11) Part II.

Type of Review: Extension.

Title: Application for Renewal of Firearms License.

Description: This form is filed by the licensee desiring to renew a Federal firearms license beyond the expiration date. It is used to identify the applicant, locate the business premises, type of business conducted, and to determine the eligibility of the applicant.

Estimated Number of Respondents: 83,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: Every three years.

Estimated Total Reporting Burden: 13,280 hours.

OMB Number: 1512–0177.

Form Number: ATF F 5100.29.

Type of Review: Extension.

Title: Catering Locations.

Description: ATF F 5100.29 is used by caterers to register all changes of locations within a previous 30 day period. This is to identify where liquor was sold at locations other than what was listed on the special tax stamp issued to the caterer. The form is filed in duplicate by the caterer, along with an amended ATF F 5630.5.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 250 hours.

Clearance Officer: Robert Masarsky, (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89–11153 Filed 5–9–89; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 89
Wednesday, May 10, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Meeting of the Board of Directors

TIME: 10:00 a.m.–12:00 noon.

PLACE: African Development Foundation.

DATE: Friday, June 2, 1989.

STATUS: Open.

Agenda

1. Chairman's Report.
2. President's Report.
3. Other.

CONTACT PERSON FOR MORE INFORMATION: Ms. Janis McCollim, 673–3916.

Leonard H. Robison, Jr.,
President.

[FR Doc. 89–11328 Filed 5–8–89; 2:51 pm]
BILLING CODE 6116-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, May 15, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date May 5, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89–11280 Filed 5–5–89; 4:39 pm]
BILLING CODE 6210-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–89–18]

TIME AND DATE: Wednesday, May 17, 1989 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints.
5. Inv. No. 731–TA–432 (P) (Drafting Machines from Japan)—briefing and vote.
6. Inv. No. 701–TA–296 (F) (Certain Steel Wheels from Brazil)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 252–1000.

Kenneth R. Mason,
Secretary.

May 4, 1989.

[FR Doc. 89–11297 Filed 5–8–89; 11:11 am]
BILLING CODE 7020-02-M

NATIONAL COUNCIL ON THE HANDICAPPED

Quarterly Meeting

AGENCY: National Council on Disability.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on Disability. This notice also describes the functions of the Council. Notice of this meeting is required under section 522 (b)(10) of the "Government in Sunshine Act" (Pub. L. 94–409).

DATE: May 15, 1989, 9:00 am. to 4:30 p.m.; May 16, 1989, 9:00 am. to 5:00 p.m.; May 17, 1989, 9:00 am. to 4:00 p.m.

LOCATION: Holiday Inn—Old Town, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: National Council on Disability, 800 Independence Avenue, SW, Suite 814, Washington, DC 20591, (202) 267–3846, TDD: (202) 267–3232.

The National Council on Disability is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. No. 95–602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. No. 98–221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR).

The meeting of the Council shall be open to the Public. The proposed agenda includes:

Report from the Chairperson and Executive Committee
Discussion of the Americans With Disabilities Act
Education Study Hearings
Update on the Family Conference
Committee Meetings
  Personal Assistance
  Education Committee
  Employment Committee
  Prevention Committee
  Technology Committee
  NIDRR Committee
  Communications Committee
  Family Conference Committee
Update on Prevention Intiative
Executive Committee Report
Committee Reports
Discussion of Unfinished and New Business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, DC on May 4, 1989.

Ethel D. Briggs,
Deputy Director.

[FR Doc. 89–11329 Filed 5–8–89; 2:52 am]
BILLING CODE 6820-BS-M

Corrections

Federal Register
Vol. 54, No. 89
Wednesday, May 10, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 431]

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

Correction

In notice document 89-10563 beginning on page 18918 in the issue of Wednesday, May 3, 1989, make the following correction:

On page 18918, in the table, entries 15 through 19 should be under the heading "Cuntervailing Duty Proceeding".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 514 and 556

Animal Drugs, Feeds, and Related Products; Editorial Amendments

Correction

In rule document 89-10207 beginning on page 18278 in the issue of Friday, April 28, 1989, make the following corrections:

§ 514.1 [Corrected]

1. On page 18280, in the second column, in amendatory instruction 24, in the eighth line, no space should appear between the "o" and the "u" in the word "Resources".

2. On the same page, in the same column, in the same paragraph, in the 13th line, no space should appear between "(2)" and "(i)".

§ 514.11 [Corrected]

3. On the same page, in the third column, in the first full paragraph, in the second line, "is" should read "in".

4. On page 18281, in the second column, in the authority citation, in the first line, "Sta." should read "Stat.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 166 and 167

[CGD 83-032]

RIN 2115-AB29

Traffic Separation Schemes and Shipping Safety Fairways Off the Coast of California

Correction

In proposed rule document 89-10109 beginning on page 18258 in the issue of Thursday, April 27, 1989, make the following corrections:

1. On page 18258, in the third column, in the ninth line, "of voluntary" should read "is voluntary".

2. On the same page, in the same column, in the 13th line, "and inhibit" should read "may inhibit".

3. On page 18261, in the first column, in the 12th line from the bottom, "copies" should read "copied".

4. On page 18262, in the second column, in the first complete paragraph, in the 21st line, "form" should read "from".

5. On the same page, in the same column, in the same paragraph, in the 23rd line, "including" was misspelled.

§ 166.300 [Amended]

6. On page 18263, in the first column, in § 166.300(b)(1), the third geographical position under "*Latitude*" should read "33°43'24" N."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Inconsistency Ruling No. IR-25; Docket IRA-43]

Transporting Hazardous Wastes; City of Maryland Heights (Missouri) Ordinance Requiring Bond for Vehicles

Correction

In notice document 89-9554 beginning on page 16308 in the issue of Friday, April 21, 1989, make the following corrections:

On page 16308, in the first column, under **I. Background**, in the first paragraph, in the sixth line, "inconsistency" should read "consistency".

On the same page, in the third column, in the first paragraph, in the sixth line, "unnecessary" was misspelled.

On page 16310, in the second column, in the first complete paragraph, in the fourth line, "It" should read "Its".

BILLING CODE 1505-01-D

federal register

Wednesday
May 10, 1989

Part II

General Services Administration

41 CFR Chapter 101 et al.
Federal Travel Regulations; Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Chapters 301, 302, 303, and 304

[FTR 1989 Edition]

Federal Travel Regulation

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This rule codifies the Federal Travel Regulation (FTR) in Title 41, Chapters 301 through 304, of the Code of Federal Regulations (CFR). The codified FTR is published in full text in this **Federal Register**. This action expands public access to the FTR by broadening distribution of the FTR to users of the CFR system.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Doris Jones or other members of the Travel and Transportation Regulations Staff (FBR), Washington, DC 20406, telephone FTS 557–1253 or commercial (703) 557–1253.

SUPPLEMENTARY INFORMATION: This rule establishes Subtitle F, Federal Travel Regulation system, in Title 41 of the CFR. Subtitle F consists of Chapters 301, 302, 303, and 304 and an appendix. The Federal Travel Regulation (FTR) is published in full text in Chapters 301, 302, 303, and 304.

This regulation supersedes the Federal Travel Regulations, FPMR 101–7, transmitted by GSA Bulletin FPMR A–40, Supplements 1 through 30, which were incorporated by reference in the Federal Property Management Regulations (FPMR) system (41 CFR Part 101–7). To consolidate all FTR information in one place in the CFR, FPMR Temporary Regulations A–24, Revision 1 and Supplement 1 thereto; A–30 and Supplement 4 thereto; and A–31, which relate to the FTR, have been removed from the Appendix to Subchapter A of Subtitle C, Chapter 101 and reissued as FTR temporary regulations in the Appendix to Subtitle F.

This rule expands public access to the FTR to users of the CFR system. To expedite this process, final promulgation of the FTR is both proper and in the public interest. This rule is effective upon publication since it simply expands access to the FTR, available now through other sources. There are no changes to allowances or entitlements in this publication of the FTR that have not been previously published.

The FTR has been reformatted and renumbered with some editorial changes. Legal references have been updated and the 1989 income tax tables for payment of the relocation income tax allowance (published as FPMR Temporary Regulation A–33) have been incorporated.

Conversion to the CFR numbering system has been kept as simple as possible. As a general rule, addition of the number "30" in front of the former FTR chapters and parts identification will translate the former numbering to the corresponding chapters and parts in the CFR system. For example, FTR Chapter 1, Part 1 (cited as FTR Part 1–1) is codified as Part 301–1 (now cited as 41 CFR Part 301–1).

Former main or first level paragraphs are now sections (e.g., former FTR paragraph 1–1.1 is now 41 CFR 301–1.1) divided into lower level paragraphs; e.g., former FTR 1–1.1a is now 41 CFR 301–1.1(a). A general conversion table is shown below:

Paragraph levels

Former FTR	Codified FTR
a, b, c	(a), (b), (c)
(1), (2), (3)	(1), (2), (3)
(a), (b), (c)	(i), (ii), (iii)
(i), (ii), (iii)	(A), (B), (C)

Exceptions to these general transition rules occur where a former paragraph identification caused the numbering sequence to change; e.g., former FTR 1–1.3c(2–1) is codified as 41 CFR 301–1.3(c)(6). Also, extremely long and/or complex paragraphs have been divided into several lower subparagraphs for improved readability (e.g., former FTR 2–1.5h(4)(a) and (b) related to service agreements) or separated by subject and raised to the section level for easier identification; e.g., former FTR 2–1.5 related to relocation eligibility and conditions is separated by subject and codified as 41 CFR 302–1.5 through 302–1.13.

Transition Table

The following table lists the former FTR unit numbers with the corresponding new CFR unit numbers. Unit numbers are listed for each section and first level paragraph of the FTR; subdivisions below the first paragraph level are listed wherever exceptions to the general transition rules occur.

Former FTR	Codified FTR
Chapter 1	**Chapter 301**
Part 1–1	*Part 301–1*
1–1.1	301–1.1
1–1.2	301–1.2
1–1.2a	301–1.2(a)
1–1.2b	301–1.2(b)
1–1.3	301–1.3
1–1.3a	301–1.3(a)
1–1.3b	301–1.3(b)
1–1.3c	301–1.3(c)
1–1.3c(1)	301–1.3(c)(3)
1–1.3c(2)	301–1.3(c)(5)
1–1.3c(2–1)	301–1.3(c)(6)
1–1.3c(3)	301–1.3(c)(7)
1–1.3c(4)	301–1.3(c)(8)
1–1.3c(5)	301–1.3(c)(9)
1–1.3c(6)	301–1.3(c)(2)
1–1.3c(7)	301–1.3(c)(4)
1–1.3c(8)	301–1.3(c)(1)
1–1.4	301–1.4
1–1.4a	301–1.4(a)
1–1.4b	301–1.4(b)
1–1.5	301–1.5
1–1.5a	301–1.5(a)
1–1.5b	301–1.5(b)
1–1.5c	301–1.5(c)
1–1.5d	301–1.5(d)
1–1.6	301–1.6
1–1.6a	301–1.6(a)
1–1.6b	301–1.6(b)
1–1.6c	301–1.6(c)
1–1.6d	301–1.6(d)
1–1.6e	301–1.6(e)
Part 1–2	*Part 301–2*
1–2.1	301–2.1
1–2.2	301–2.2
1–2.2a	301–2.2(a)
1–2.2b	301–2.2(b)
1–2.2b–1	301–2.2(c)
1–2.2c	301–2.2(d)
1–2.2d	301–2.2(e)
1–2.2e	301–2.2(f)
1–2.2f	301–2.2(g)
1–2.3	301–2.3
1–2.3a	301–2.3(a)
1–2.3b	301–2.3(b)
1–2.3c	301–2.3(c)
1–2.3d	301–2.3(d)
1–2.3e	301–2.3(e)
1–2.4	301–2.4
1–2.5	301–2.5
1–2.5a	301–2.5(a)
1–2.5b	301–2.5(b)
1–2.6	301–2.6
1–2.6a	301–2.6(a)
1–2.6b	301–2.6(b)
1–2.6c	301–2.6(c)
Part 1–3	*Part 301–3*
1–3.1	301–3.1
1–3.1a	301–3.1(a)
1–3.1b	301–3.1(b)
1–3.2	301–3.2
1–3.2a	301–3.2(a)
1–3.2b	301–3.2(b)
1–3.2c	301–3.2(c)
1–3.2d	301–3.2(d)
1–3.2e	301–3.2(e)
1–3.3	301–3.3
1–3.3a	301–3.3(a)
1–3.3b	301–3.3(b)
1–3.3c	301–3.3(c)
1–3.3d	301–3.3(d)
1–3.4	301–3.4
1–3.4a	301–3.4(a)

Former FTR	Codified FTR
1–3.4b	301–3.4(b)
1–3.4c	301–3.4(c)
1–3.5	301–3.5
1–3.5a	301–3.5(a)
1–3.5b	301–3.5(b)
1–3.5b–1	301–3.5(c)
1–3.5c	301–3.5(d)
1–3.6	301–3.6
1–3.6a	301–3.6(a)
1–3.6b	301–3.6(b)
1–3.6c	301–3.6(c)
Part 1–4	*Part 301–4*
1–4.1	301–4.1
1–4.1a	301–4.1(a)
1–4.1b	301–4.1(b)
1–4.1c	301–4.1(c)
1–4.2	301–4.2
1–4.2a	301–4.2(a)
1–4.2a–1	301–4.2(b)
1–4.2b	301–4.2(c)
1–4.2c	301–4.2(d)
1–4.2c(1)	301–4.2(d)(1)
1–4.2c(2)	301–4.2(d)(2)
1–4.2c(2–1)	301–4.2(d)(3)
1–4.2c(3)	301–4.2(d)(4)
1–4.3	301–4.3
1–4.3a	301–4.3(a)
1–4.3b	301–4.3(b)
1–4.3c	301–4.3(c)
1–4.3d	301–4.3(d)
1–4.4	301–4.4
1–4.4a	301–4.4(a)
1–4.4b	301–4.4(b)
1–4.4c	301–4.4(c)
1–4.4d	301–4.4(d)
1–4.5	301–4.5
1–4.6	301–4.6
1–4.6a	301–4.6(a)
1–4.6b	301–4.6(b)
1–4.6c	301–4.6(c)
Part 1–5	*Part 301–5*
1–5.1	301–5.1
1–5.1a	301–5.1(a)
1–5.1b	301–5.1(b)
1–5.2	301–5.2
1–5.3	301–5.3
1–5.3a	301–5.3(a)
1–5.3b	301–5.3(b)
1–5.3c	301–5.3(c)
1–5.3d	301–5.3(d)
1–5.4	301–5.4
1–5.5	301–5.5
1–5.5a	301–5.5(a)
1–5.5b	301–5.5(b)
1–5.5c	301–5.5(c)
Part 1–6	*Part 301–6*
1–6.1	301–6.1
1–6.2	301–6.2
1–6.2a	301–6.2(a)
1–6.2b	301–6.2(b)
1–6.3	301–6.3
1–6.4	301–6.4
1–6.4a	301–6.4(a)
1–6.4b	301–6.4(b)
1–6.4c	301–6.4(c)
1–6.5	301–6.5
1–6.6	301–6.6
1–6.6a	301–6.6(a)
1–6.6b	301–6.6(b)
1–6.6c	301–6.6(c)
1–6.7	301–6.7
Part 1–7	*Part 301–7*
1–7.1	301–7.1
1–7.1a	301–7.1(a)
1–7.1b	301–7.1(b)
1–7.1c	301–7.1(c)
1–7.1d	301–7.1(d)
1–7.1e	301–7.1(e)
1–7.2	301–7.2
1–7.2a	301–7.2(a)
1–7.2b	301–7.2(b)
1–7.2c	301–7.2(c)
1–7.3	301–7.3
1–7.3a	301–7.3(a)
1–7.3b	301–7.3(b)
1–7.4	301–7.4
1–7.4a	301–7.4(a)
1–7.4b	301–7.4(b)
1–7.4c	301–7.4(c)
1–7.4d	301–7.4(d)
1–7.5	301–7.5
1–7.5a	301–7.5(a)
1–7.5b	301–7.5(b)
1–7.5c	301–7.5(c)
1–7.5d	301–7.5(d)
1–7.6	301–7.6
1–7.6a	301–7.6(a)
1–7.6b	301–7.6(b)
1–7.6c	301–7.6(c)
1–7.6d	301–7.6(d)
1–7.6e	301–7.6(e)
1–7.6f	301–7.6(f)
1–7.7	301–7.7
1–7.7a	301–7.7(a)
1–7.7b	301–7.7(b)
1–7.7c	301–7.7(c)
1–7.7d	301–7.7(d)
1–7.7e	301–7.7(e)
1–7.8	301–7.8
1–7.8a	301–7.8(a)
1–7.8b	301–7.8(b)
1–7.9	301–7.9
1–7.9a	301–7.9(a)
1–7.9b	301–7.9(b)
1–7.9c	301–7.9(c)
1–7.9d	301–7.9(d)
1–7.10	301–7.10
1–7.10a	301–7.10(a)
1–7.10b	301–7.10(b)
1–7.11	301–7.11
1–7.11a	301–7.11(a)
1–7.11b	301–7.11(b)
1–7.11c	301–7.11(c)
1–7.11d	301–7.11(d)
Part 1–8	*Part 301–8*
1–8.1	301–8.1
1–8.1a	301–8.1(a)
1–8.1b	301–8.1(b)
1–8.1c	301–8.1(c)
1–8.1d	301–8.1(d)
1–8.1e	301–8.1(e)
1–8.1f	301–8.1(f)
1–8.2	301–8.2
1–8.2a	301–8.2(a)
1–8.2b	301–8.2(b)
1–8.3	301–8.3
1–8.3a	301–8.3(a)
1–8.3b	301–8.3(b)
1–8.3c	301–8.3(c)
1–8.4	301–8.4
1–8.4a	301–8.4(a)
1–8.4b	301–8.4(b)
1–8.4c	301–8.4(c)
1–8.5	301–8.5
1–8.5a	301–8.5(a)
1–8.5b	301–8.5(b)
1–8.6	301–8.6
1–8.6a	301–8.6(a)
1–8.6b	301–8.6(b)
1–8.7	301–8.7
Part 1–9	*Part 301–9*
1–9.1	301–9.1
1–9.1a	301–9.1(a)
1–9.1b	301–9.1(b)
1–9.1b–1	301–9.1(c)
1–9.1c	301–9.1(d)
1–9.1d	301–9.1(e)
1–9.2	301–9.2
1–9.3	301–9.3
Part 1–10	*Part 301–10*
1–10.1	301–10.1
1–10.2	301–10.2
1–10.2a	301–10.2(a)
1–10.2b	301–10.2(b)
1–10.3	301–10.3
1–10.3a	301–10.3(a)
1–10.3b	301–10.3(b)
1–10.3c	301–10.3(c)
1–10.3d	301–10.3(d)
1–10.4	301–10.4
Part 1–11	*Part 301–11*
1–11.1	301–11.1
1–11.2	301–11.2
1–11.3	301–11.3
1–11.3a	301–11.3(a)
1–11.3b	301–11.3(b)
1–11.3c	301–11.3(c)
1–11.3d	301–11.3(d)
1–11.4	301–11.4
1–11.4a	301–11.4(a)
1–11.4b	301–11.4(b)
1–11.4c	301–11.4(c)
1–11.5	301–11.5
1–11.5a	301–11.5(a)
1–11.5b	301–11.5(b)
1–11.5c	301–11.5(c)
1–11.5d	301–11.5(d)
1–11.5e	301–11.5(e)
1–11.5f	301–11.5(f)
1–11.5g	301–11.5(g)
1–11.6	301–11.6
1–11.6a	301–11.6(a)
1–11.6b	301–11.6(b)
1–11.7	301–11.7
Part 1–12	*Part 301–12*
1–12.1	301–12.1
1–12.2	301–12.2
1–12.3	301–12.3
1–12.4	301–12.4

Former FTR	Codified FTR
1–12.4a	301–12.4(a)
1–12.4b	301–12.4(b)
1–12.4c	301–12.4(c)
1–12.4d	301–12.4(d)
1–12.4e	301–12.4(e)
1–12.4f	301–12.4(f)
1–12.4g	301–12.4(g)
1–12.5	301–12.5
1–12.5a	301–12.5(a)
1–12.5b	301–12.5(b)
1–12.5c	301–12.5(c)
1–12.6	301–12.6
1–12.6a	301–12.6(a)
1–12.6b	301–12.6(b)
1–12.7	301–12.7
1–12.7a	301–12.7(a)
1–12.7b	301–12.7(b)
1–12.7c	301–12.7(c)
Part 1–13	*Part 301–13*
[Reserved]	[Reserved]
Part 1–14	*Part 301–14*
1–14.1	301–14.1
1–14.2	301–14.2
1–14.3	301–14.3
1–14.4	301–14.4
1–14.5	301–14.5
1–14.6	301–14.6
1–14.6a	301–14.6(a)
1–14.6b	301–14.6(b)
1–14.7	301–14.7
1–14.7a	301–14.7(a)
1–14.7b	301–14.7(b)
1–14.7c	301–14.7(c)
1–14.7d	301–14.7(d)
1–14.7e	301–14.7(e)
1–14.8	301–14.8
1–14.9	301–14.9
1–14.10	301–14.10
Appendix 1–A	Appendix A to Chapter 301
Appendix 1–B	301–1.5(c)(1) through (10)
Chapter 2	**Chapter 302**
Part 2–1	*Part 302–1*
2–1.1	302–1.1
2–1.2	302–1.2
2–1.2a	302–1.2(a)
2–1.2a(1)	302–1.2(a)(1)
2–1.2a(1–a)	302–1.2(a)(2)
2–1.2a(2)	302–1.2(a)(3)
2–1.2a(3)	302–1.2(a)(4)
2–1.2a(4)	302–1.2(a)(5)
2–1.2a(5)	302–1.2(a)(6)
2–1.2a(6)	302–1.2(a)(7)
2–1.2b	302–1.2(b)
2–1.3	302–1.3
2–1.3a	302–1.3(a)
2–1.3b	302–1.3(b)
2–1.3c	302–1.3(c)
2–1.3d	302–1.3(d)
2–1.4	302–1.4
2–1.4a	302–1.4(a)
2–1.4a–1	302–1.4(b)
2–1.4b	302–1.4(c)
2–1.4c	302–1.4(d)
2–1.4d	302–1.4(e)
2–1.4e	302–1.4(f)
2–1.4f	302–1.4(g)
2–1.4g	302–1.4(h)
2–1.4h	302–1.4(i)
2–1.4i	302–1.4(j)
2–1.4j	302–1.4(k)
2–1.5	302–1.5 through 302–1.13
2–1.5a	302–1.5 through 302–1.6
2–1.5a(1)	302–1.5
2–1.5a(1)(a)	302–1.5(a)
2–1.5a(1)(b)	302–1.5(b) 302–1.5(b)(1) 302–1.5(b)(2) 302–1.5(b)(3)
2–1.5a(1)(c)	302–1.5(c)
2–1.5a(2)	302–1.6
2–1.5a(2)(a)	302–1.6(a)
2–1.5a(2)(b)	302–1.6(b)
2–1.5a(2)(c)	302–1.6(c)
2–1.5b	302–1.7
2–1.5b(1)	302–1.7(a)
2–1.5b(2)	302–1.7(b)
2–1.5c	302–1.8
2–1.5d	302–1.9
2–1.5d(1)	302–1.9(a)
2–1.5d(2)	302–1.9(b)
2–1.5e	302–1.10
2–1.5e(1)	302–1.10(a)
2–1.5e(1)(a)	302–1.10(a)(1)
2–1.5e(1)(b)	302–1.10(a)(2)
2–1.5e(2)	302–1.10(b)
2–1.5f	302–1.11
2–1.5f(1)	302–1.11(a)
2–1.5f(1)(a)	302–1.11(a)(1)
2–1.5f(1)(b)	302–1.11(a)(2)
2–1.5f(1)(c)	302–1.11(a)(3)
2–1.5f(1)(d)	302–1.11(a)(4)
2–1.5f(1)(e)	302–1.11(a)(5)
2–1.5f(2)	302–1.11(b)
2–1.5f(2)(a)	302–1.11(b)(1)
2–1.5f(2)(b)	302–1.11(b)(2)
2–1.5f(2)(c)	302–1.11(b)(3)
2–1.5f(3)	302–1.11(c)
2–1.5f(3)(a)	302–1.11(c)(1)
2–1.5f(3)(b)	302–1.11(c)(2)
2–1.5f(3)(c)	302–1.11(c)(3)
2–1.5f(3)(d)	302–1.11(c)(4)
2–1.5f(3)(e)	302–1.11(c)(5)
2–1.5f(3)(f)	302–1.11(c)(6)
2–1.5f(4)	302–1.11(d)
2–1.5f(5)	302–1.11(e)
2–1.5f(6)	302–1.11(f)
2–1.5g	302–1.12
2–1.5g(1)	302–1.12(a)
2–1.5g(2)	302–1.12(b)
2–1.5g(2)(a)	302–1.12(b)(1)
2–1.5g(2)(b)	302–1.12(b)(2)
2–1.5g(2)(b)(i)	302–1.12(b)(2)(i)
2–1.5g(2)(b)(ii)	302–1.12(b)(2)(ii)
2–1.5g(2)(b)(iii)	302–1.12(b)(2)(iii)
2–1.5g(2)(b)(iv)	302–1.12(b)(2)(iv)
2–1.5g(2)(b)(v)	302–1.12(b)(2)(v)
2–1.5g(2)(b)(vi)	302–1.12(b)(2)(vi)
2–1.5g(2)(b)(vii)	302–1.12(b)(2)(vii)
2–1.5g(2)(c)	302–1.12(b)(3)
2–1.5g(2)(d)	302–1.12(b)(4)
2–1.5g(2)(e)	302–1.12(b)(5)
2–1.5g(3)	302–1.12(c)
2–1.5g(3)(a)	302–1.12(c)(1)
2–1.5g(3)(b)	302–1.12(c)(2)
2–1.5g(3)(c)	302–1.12(c)(3)
2–1.5g(3)(c)(i)	302–1.12(c)(3)(i)
2–1.5g(3)(c)(ii)	302–1.12(c)(3)(ii)
2–1.5g(3)(c)(iii)	302–1.12(c)(3)(iii)
2–1.5g(3)(c)(iv)	302–1.12(c)(3)(iv)
2–1.5g(3)(c)(v)	302–1.12(c)(3)(v)
2–1.5g(3)(c)(vi)	302–1.12(c)(3)(vi)
2–1.5g(4)	302–1.12(d)
2–1.5g(5)	302–1.12(e)
2–1.5g(5)(a)	302–1.12(e)(1)
2–1.5g(5)(b)	302–1.12(e)(2)
2–1.5g(5)(c)	302–1.12(e)(3)
2–1.5g(5)(d)	302–1.12(e)(4)
2–1.5g(5)(e)	302–1.12(e)(5)
2–1.5g(5)(f)	302–1.12(e)(6)
2–1.5g(5–a)	302–1.12(f)
2–1.5g(6)	302–1.12(g)
2–1.5h	302–1.13
2–1.5h(1)	302–1.13(a)
2–1.5h(1)(a)	302–1.13(a)(1)
2–1.5h(1)(a)(i)	302–1.13(a)(1)(i)
2–1.5h(1)(a)(ii)	302–1.13(a)(1)(ii)
2–1.5h(1)(a)(iii)	302–1.13(a)(1)(iii)
2–1.5h(1)(b)	302–1.13(a)(2)
2–1.5h(1)(b)(i)	302–1.13(a)(2)(i)
2–1.5h(1)(b)(ii)	302–1.13(a)(2)(ii)
2–1.5h(1)(b)(iii)	302–1.13(a)(2)(iii)
2–1.5h(1)(c)	302–1.13(a)(3)
2–1.5h(1)(c)(i)	302–1.13(a)(3)(i)
2–1.5h(1)(c)(ii)	302–1.13(a)(3)(ii)
2–1.5h(1)(d)	302–1.13(a)(4)
2–1.5h(2)	302–1.13(b)
2–1.5h(2)(a)	302–1.13(b)(1)
2–1.5h(2)(b)	302–1.13(b)(2)
2–1.5h(2)(c)	302–1.13(b)(3)
2–1.5h(3)	302–1.13(c)
2–1.5h(3)(a)	302–1.13(c)(1)
2–1.5h(3)(b)	302–1.13(c)(2)
2–1.5h(3)(b)(i)	302–1.13(c)(2)(i)
2–1.5h(3)(b)(ii)	302–1.13(c)(2)(ii)
2–1.5h(3)(b)(iii)	302–1.13(c)(2)(iii)
2–1.5h(4)	302–1.13(d)
2–1.5h(4)(a)	302–1.13(d)(1) 302–1.13(d)(1)(i) 302–1.13(d)(1)(i)(A) 302–1.13(d)(1)(i)(B) 302–1.13(d)(1)(i)(C) 302–1.13(d)(1)(i)(D) 302–1.13(d)(1)(ii) 302–1.13(d)(1)(iii) 302–1.13(d)(1)(iv) 302–1.13(d)(1)(iv)(A) 302–1.13(d)(1)(iv)(B)
2–1.5h(4)(b)	302–1.13(d)(2) 302–1.13(d)(2)(i) 302–1.13(d)(2)(ii) 302–1.13(d)(2)(iii) 302–1.13(d)(2)(iv)
2–1.6	302–1.14
2–1.6(a)	302–1.14(a) 302–1.14(a)(1) 302–1.14(a)(2) 302–1.14(a)(3) 302–1.14(a)(3)(i) 302–1.14(a)(3)(ii) 302–1.14(a)(3)(iii) 302–1.14(a)(3)(iv) 302–1.14(a)(3)(v) 302–1.14(a)(3)(vi)

Former FTR	Codified FTR
2–1.6(b)	302–1.14(b)
	302–1.14(b)(1)
	302–1.14(b)(2)
Part 2–2	*Part 302–2*
2–2.1	302–2.1
2–2.2	302–2.2
2–2.2a	302–2.2(a)
2–2.2b	302–2.2(b)
2–2.2c	302–2.2(c)
2–2.3	302–2.3
2–2.3a	302–2.3(a)
2–2.3b	302–2.3(b)
2–2.3c	302–2.3(c)
2–2.3d	302–2.3(d)
2–2.3e	302–2.3(e)
2–2.4	302–2.4
Part 2–3	*Part 302–3*
2–3.1	302–3.1
2–3.1a	302–3.1(a)
2–3.1b	302–3.1(b)
2–3.1c	302–3.1(c)
2–3.2	302–3.2
2–3.2a	302–3.2(a)
2–3.2b	302–3.2(b)
2–3.3	302–3.3
2–3.3a	302–3.3(a)
2–3.3b	302–3.3(b)
2–3.4	302–3.4
Part 2–4	*Part 302–4*
2–4.1	302–4.1
2–4.1a	302–4.1(a)
2–4.1b	302–4.1(b)
2–4.1c	302–4.1(c)
2–4.2	302–4.2
2–4.3	302–4.3
2–4.3a	302–4.3(a)
2–4.3b	302–4.3(b)
2–4.3c	302–4.3(c)
2–4.4	302–4.4
Part 2–5	*Part 302–5*
2–5.1	302–5.1
2–5.2	302–5.2
2–5.2a	302–5.2(a)
2–5.2b	302–5.2(b)
2–5.2c	302–5.2(c)
2–5.2d	302–5.2(d)
2–5.2e	302–5.2(e)
2–5.2f	302–5.2(f)
2–5.2g	302–5.2(g)
2–5.2h	302–5.2(h)
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The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential cost and has maximized the net benefits; and has chosen the alternative approach involving the least cost to society.

List of Subjects in 41 CFR Chapters 301, 302, 303, and 304

Government employees, Travel, Travel allowances, Travel and transportation expenses, Transfers, Relocation allowances and entitlements.

Accordingly, Title 41 of the Code of Federal Regulations is amended as indicated in the document that follows.

Dated: February 23, 1989.

Richard G. Austin,

Acting Administrator of General Services.

For the reasons set out in the preamble, Title 41 of the Code of Federal Regulations is amended as set forth below.

SUBTITLE F—FEDERAL TRAVEL REGULATION SYSTEM

1. Subtitle F, consisting of Chapters 301 (Parts 301–1 to 301–14 and Appendix A), 302 (Parts 302–1 to 302–12), 303 (Parts 303–1 and 303–2), 304 (Parts 304–1 and 304–2) and an appendix heading for Subtitle F, is added to read as follows:

Introduction to Subtitle F—Federal Travel Regulation System

This introduction sets forth material describing the Federal Travel Regulation System, its applicability, content, and numbering format, as well as publication, distribution, and availability information.

Applicability

The regulations prescribed under this system are Governmentwide regulations, and thus, are generally applicable to all Federal agencies. However, reference must be made to individual chapters to determine specific applicability.

Federal Travel Regulation System

The Federal Travel Regulation System is established by the Administrator of General Services under Chapters 301, 302, 303, and 304 and an appendix to this Subtitle F.

Federal Travel Regulation. The Federal Travel Regulation (FTR) is issued by the Administrator of General Services. Each chapter deals with a separate aspect of employee allowances. The regulation governs travel and transportation allowances for Federal civilian employees (Chapter 301); relocation allowances for Federal civilian employees incident to transfers and for certain new appointees (Chapter 302); payment of expenses connected with the death of Government civilians under certain circumstances (Chapter 303); and reduction in travel allowances when contributions, awards, or payments are made to Government

civilians incident to training or attendance at meetings (Chapter 304).

Each agency governed by the FTR is responsible for administratively implementing the regulation for its employees. Where a provision in the FTR is mandatory, agencies must adhere to that particular policy. Where there is latitude for agency determination of policy, agencies may issue implementing regulations within the framework contained in the FTR.

Temporary Regulations. FTR temporary regulations are authorized for publication when time or exceptional circumstances will not permit promulgation of an amendment to the Code of Federal Regulations or if the regulation will be effective for a period of 12 months or less. However, FTR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

Temporary regulations will be codified before the designated expiration date, or their effective period will be extended if it is determined that conversion to permanent form cannot be accomplished within the specified time frame.

Numbering Format

The FTR is divided into chapters, parts, sections, and paragraphs. The numbers 301, 302, 303, or 304 connote specific chapters of Title 41 of the CFR. The number before the decimal point indicates the part within each chapter; the number after the decimal point indicates the section.

Chapter.....301–
Part.....1.
Section.....1

Subdivisions consist of parenthetical alpha-numerics reading from highest to lowest indentures as follows: lower case alphabet, Arabic numbers, lower case Roman numerals, upper case alphabet, italicized Arabic numbers, and italicized lower case Roman numerals. The following example is illustrative: (a)(1)(i)(A)(*1*)(*i*).

References and Citations

This regulation may be referred to as the Federal Travel Regulation or the FTR. It should be cited as "41 CFR" followed by the appropriate chapter, part, section, and subdivision numbers; e.g., 41 CFR Chapter 301, 41 CFR Part 301–1, 41 CFR 301–1.1(a).

Publication Format

The FTR is published in the **Federal Register**, in the Code of Federal Regulations (CFR), and in a looseleaf edition. Temporary regulations will be published in the **Federal Register** and in looseleaf form.

Availability

The FTR, as published in the **Federal Register** and in a bound volume of the CFR, may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

Federal agencies may purchase copies of the looseleaf edition of the FTR (basic edition and changes as issued) by submitting a Standard Form 1 (SF 1), Printing and Binding Requisition, through their publications liaison official. The SF 1 should reference the General Services Administration's FTR requisition and should be sent to: Superintendent of Documents, Departmental Account Representative Division, Government Printing Office (GPO), Washington, DC 20401.

The public may purchase the looseleaf edition by direct subscription from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

SUBTITLE F—FEDERAL TRAVEL REGULATION SYSTEM

Chapter 301—Travel allowances
Chapter 302—Relocation allowances
Chapter 303—Payment of expenses connected with the death of certain employees
Chapter 304—Reductions in meeting and training allowance payments

Appendix to Subtitle F—Temporary Regulations

CHAPTER 301—TRAVEL ALLOWANCES

Part 301–1 Applicability and general rules.
Part 301–2 Transportation allowable.
Part 301–3 Use of commercial transportation.
Part 301–4 Reimbursement for use of privately owned conveyances.
Part 301–5 Baggage.
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Part 301–7 Per diem allowances.
Part 301–8 Reimbursement of actual subsistence expenses.
Part 301–9 Miscellaneous expenses.
Part 301–10 Sources of funds.
Part 301–11 Claims for reimbursement.
Part 301–12 Emergency travel of employee due to illness or injury or a personal emergency situation within or outside CONUS.
Part 301–13 [Reserved]
Part 301–14 Payment of subsistence and transportation expenses for threatened law enforcement investigative employees.

Appendix A to Chapter 301—Prescribed Maximum Per Diem Rates for CONUS.

CHAPTER 301—TRAVEL ALLOWANCES

PART 301–1—APPLICABILITY AND GENERAL RULES

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301–1.1 Authority.
301–1.2 Applicability.
301–1.3 General rules.
301–1.4 Authorization of travel.
301–1.5 Guidelines for issuing travel authorizations.
301–1.6 Instructions/guidelines for travelers.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–1.1 Authority.

This chapter is issued under the authority of 5 U.S.C. 5701–5709.

§ 301–1.2 Applicability.

(a) This Chapter 301 applies to official travel of civilian employees of Government agencies, including civilian employees of the Department of Defense, as authorized under 5 U.S.C. 5701–5709, but excluding employees of the judicial branch of the Government.

(b) This Chapter 301 also applies to official travel of individuals employed intermittently in the Government service as consultants or experts and paid on a daily when-actually-employed (WAE) basis and of individuals serving without pay or at $1 a year. These individuals are not considered to have a "permanent duty station" within the general meaning of that term; however, they may be allowed travel or transportation expenses under this chapter while traveling on official business for the Government away from their homes or regular places of business and while at places of Government employment or service. Maximum rates prescribed herein are applicable unless a higher rate is specifically authorized in an appropriation or other statute.

§ 301–1.3 General rules.

(a) *Employee's obligation.* An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. Employees will be responsible for excess costs and any additional expenses incurred for personal preference or convenience.

(b) *Reimbursable expenses.* Traveling expenses which will be reimbursed are confined to those expenses essential to the transaction of official business.

(c) *Definitions*—(1) *Agency.* For purposes of this Chapter 301, "agency" means an executive agency as defined in 5 U.S.C. 105; a military department; an office, agency, or other establishment in the legislative branch; and the government of the District of Columbia; but does not include a Government-controlled corporation, a Member of Congress, or an office or committee of either House of Congress or of the two Houses.

(2) *Employee.* As used in this Chapter 301, "employee" means the head of an agency, an agency official, or any other individual employed by an agency. This definition also includes an individual employed intermittently in Government service as an expert or consultant and paid on a daily when-actually-employed (WAE) basis and an individual serving without pay or at $1 a year (5 U.S.C. 5701(2)).

(3) *Official station and post of duty.* Designated post of duty and official station have the same meaning. The limits of the official station will be the corporate limits of the city or town in which the officer or employee is stationed. If the employee is not stationed in an incorporated city or town, the official station is the reservation, station, or established area, or, in the case of large reservations, the established subdivision thereof, having definite boundaries within which the designated post of duty is located.

(4) *Government.* "Government" means the Government of the United States and the government of the District of Columbia.

(5) *Continental United States.* Continental United States means the 48 contiguous States and the District of Columbia. The term may be abbreviated as CONUS.

(6) *United States.* When used in a geographical sense, "United States" means the 50 States and the District of Columbia except as provided in § 301–3.6(b)(1)(iii). The terms "United States" and "the 50 States and the District of Columbia" may be used interchangeably.

(7) *Government-furnished automobile.* The term "Government-furnished automobile" includes an automobile which is (i) owned by an agency, (ii) assigned or dispatched to an agency on a rental basis from a GSA Interagency Fleet Management Center, or (iii) leased by the Government for a period of 30 days or longer from a commercial firm.

(8) *Government-contract rental automobile.* A "Government-contract rental automobile" is an automobile obtained for short-term use from a commercial firm under the provisions of an appropriate General Services Administration (GSA) Federal Supply Schedule contract.

(9) *Special conveyance.* "Special conveyance" is any method of transportation other than common carrier, Government-furnished, Government-contract rental, or privately owned, which requires specific authorization or approval for the use thereof. Such transportation generally includes conveyances obtained through commercial rental means for less than 30 calendar days.

§ 301–1.4 Authorization of travel.

(a) *Travel policy.* It is the policy of the Government that agencies shall authorize only that travel which is necessary to accomplish the purposes of the Government effectively and economically.

(b) *Agency responsibilities.* (1) Except as otherwise provided by law, all travel shall be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily, a travel authorization shall be issued before the incurrence of the expenses. Agencies shall prescribe procedures for travel situations where it is not practical or possible to issue a written authorization in advance.

(2) Agency heads shall communicate the Government's travel policy to all travel-authorizing officials at all levels within their respective agencies and establish controls to ensure that only travel that is essential to the purposes of the Government and for accomplishment of the agency's mission is authorized or approved.

(3) Travel-authorizing officials shall authorize or approve only that travel necessary to accomplish the agency mission in the most effective and economical manner. Authorizing officials should be aware of travel plans, including plans to take annual leave in conjunction with travel, and shall ensure appropriate consideration of the need for the travel, the use of travel substitutes (i.e., mail, teleconferencing, etc.), and the most cost effective routing and means of accomplishing travel. Each employee's travel shall be authorized separately under specific guidelines provided in § 301–1.5.

§ 301–1.5 Guidelines for issuing travel authorizations.

The travel policies and practices of each agency shall reflect, but not be limited to, the following guidelines:

(a) *Types and use of travel authorizations.* General or blanket travel authorizations for entire agencies or groups of employees shall not be used. To ensure adequate managerial and supervisory attention to the need for all travel, each employee's travel shall be authorized separately under one of the following types of travel authorization:

(1) *Unlimited open authorization.* This type of authorization allows an employee to travel for any purpose without further authorization. Unlimited open authorizations shall be issued only for department or agency heads, their deputies, or other principal agency officials as the agency head or deputy may designate, and managers of major subunits where no supervisor is present.

(2) *Limited open authorization.* This type of authorization allows an employee to travel without further authorization under certain specified conditions; i.e., travel to specific geographical area(s), for specific purpose(s), subject to trip cost ceilings, or for specific periods of time. Limited open authorizations may be provided for employees whose duties require frequent repetitive travel. Such authorizations, however, should be reviewed and revalidated at least quarterly and should include realistic limitations on purpose(s), geographic area(s), number of trip(s), trip duration, and costs.

(3) *Trip-by-trip authorization.* This type of authorization allows an individual or group of individuals to take one or more specific trips and shall include the specific purpose, itinerary, and estimated costs. Travel not covered in an unlimited or limited open authorization shall be separately authorized on a trip-by-trip basis.

(b) *Levels of approval and requirements for special purpose travel.* Due to the relatively high costs associated with certain kinds of travel, such travel shall be authorized only on a trip-by-trip basis and reviewed at a level of authority sufficient to provide policy approval. The types of travel covered by this requirement are listed in this paragraph (b). Authorization of travel for purposes other than those listed should be delegated to the lowest management level which has responsibility for both program accomplishment and obligation or commitment of funds.

(1) *Conferences, meetings, and training sessions.* Travel for conference and meeting attendance and training sessions shall be authorized on a trip-by-trip basis. When authorizing travel for conference and meeting attendance,

the approving official shall ensure that the number of attendees from the agency is necessary and justified. In addition, the need for conferences and meetings for which total travel and per diem estimates exceed $5,000 shall be certified by a level of authority sufficient to provide policy approval as designated by the head of the agency scheduling the conference or meeting.

(2) *Foreign travel.* Overseas and foreign travel for all employees shall be authorized on a trip-by-trip basis at as high an administrative level of authority as practical to provide policy approval. However, those employees whose duties require repetitive overseas and foreign travel or emergency overseas and foreign travel without advance notification may be issued limited or unlimited open authorizations, as appropriate, within the criteria of paragraphs (a) (1) and (2) of this section. In addition, U.S. Government representatives and attendees at international intergovernmental conferences must be accredited by the State Department.

(3) *Change of official station/relocation.* Travel and related entitlements for a change of official station or relocation determined to be in the interest of the Government, as provided in Chapter 302 of this title, shall be authorized on a move-by-move basis (trip-by-trip authorization). This also includes new appointees covered under §§ 302–1.2 and 302–1.11(a) of this title when issued authorizations for travel to their first duty station.

(c) *Purpose(s) of travel.* Each travel authorization and the associated travel voucher(s) (see § 301–11.5(g)) shall specify clearly the purpose(s) of the travel. To establish uniformity in the way that travel purposes are identified on the travel authorization and travel voucher, agencies shall adopt travel purpose categories that conform to the extent possible with the following travel purpose categories:

(1) *Site visit.* Travel to a particular site in order to personally perform operational or managerial activities (e.g., to oversee program activities, grant operations, or management activities for internal control purposes; carry out an audit, inspection, or repair activity; conduct negotiations; provide instructions; or provide technical assistance).

(2) *Information meeting.* Travel to attend a meeting to discuss general agency operations, review status reports, or discuss topics of general interest. If a site visit was conducted as part of the same trip, consider the entire trip to be for the purpose of a site visit.

(3) *Training attendance.* Travel to receive training.

(4) *Speech or presentation.* Travel to make a speech or a presentation, deliver a paper, or otherwise take part in a formal program other than a training course.

(5) *Conference attendance.* Travel to attend a conference, convention, seminar, or symposium for purposes of observation or education only, with no formal role in the proceedings.

(6) *Relocation.* Travel performed in connection with a transfer from one official duty station to another (same as a permanent change of station or PCS move). This includes new appointees when they are first authorized relocation allowances for reporting to their first duty station.

(7) *Entitlement travel.* Travel entitlements for which an employee (or dependent) may be eligible while serving at a duty station outside the continental United States; e.g., tour renewal agreement travel (for the purpose of taking leave between tours of duty) and educational travel. (This type of travel is normally performed in connection with a travel entitlement resulting from a change of station assignment or renewal of a tour of duty at duty stations located outside the continental United States.)

(8) *Special mission travel.* Travel to carry out a special agency mission; e.g., move noncombat military units, provide security to a person or a shipment (such as a diplomatic pouch), move witnesses from residence to other locations, and travel by Federal beneficiaries and other nonemployees.

(9) *Emergency travel.* Travel to return an employee from a temporary assignment location at Government expense to his/her designated post of duty or home, or other alternate location, where he/she would normally be present to take care of the emergency situation if the Government had not directed or assigned the employee to another location to perform official business.

(10) *Other travel purposes.* All travel performed for purposes which are not included in one of the other listed categories. Even though stated as "other travel purposes," the travel authorization and voucher should also detail a specific purpose.

(d) *Cost estimates.* Travel authorizations shall include estimates of the cost of the travel. Both unlimited and limited open authorizations shall also include an estimate of the travel costs to be incurred over the period covered by the authorization. Agencies shall use these estimates to obligate the funds necessary to carry out that particular travel to improve travel budgetary controls. (See Part 301–10 for provisions covering employee source of funds and travel advances.)

§ 301–1.6 Instructions/guidelines for travelers.

(a) *Traveler's potential liability notice.* Travelers are accountable for all transportation tickets, Government transportation requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. Agencies shall provide written instructions to the traveler at the time an authorization is issued advising of agency administrative procedures for the control of and accountability for passenger transportation documents. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. (See also § 301–11.5(c)(1).) A statement to this effect shall be incorporated on the travel authorization, or issued as a "Notice to Traveler" and attached to the ticket or GTR when issued to the traveler. (See § 301–3.5 for further provisions regarding unused passenger transportation documents.)

(b) *Promotional materials received in connection with official travel from common carriers, rental car companies, or other commercial source.* Employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official business (Comp. Gen. Decision B–199656, July 15, 1981). All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, and credits toward future free or reduced costs of services or goods) received by employees in connection with official travel or incident to the purchase of a ticket for official travel, or other services such as car rentals, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official. The governing regulations regarding agency disposition of promotional material received by Federal employees are prescribed by the Administrator of General Services in 41 CFR 101–25.103–2.

(c) *Denied boarding compensation.* Travelers shall be instructed to turn into the agency any cash or other payments received from carriers for failure to provide confirmed reserved space as provided in § 301–3.5.

(d) *Billing information for ticket exchanges.* When a traveler exchanges a ticket for one of lesser value, the carrier should issue a receipt or a ticket refund application and is required to make refund directly to the appropriate agency billing office. To facilitate this refund procedure, agencies shall provide travelers with a "bill charges to" address by attaching a copy of the GTR or some other document containing this information to either the ticket or travel authorization as provided in 41 CFR 101–41.210–1. (See also § 301–3.5(c).)

(e) *Use of travel agencies.* The services of a travel agent may be used to obtain passenger transportation services within, from, or between the United States and its possessions only under the conditions specified in § 301–3.4(b)(2), or when the travel agent is providing services to the Government under a contractual arrangement with the General Services Administration or other agency approved by the General Accounting Office.

PART 301–2—TRANSPORTATION ALLOWABLE

Sec.

301–2.1 Expenses payable as transportation.
301–2.2 Methods of transportation.
301–2.3 Local transportation.
301–2.4 Emergency travel due to illness or injury or a personal emergency situation.
301–2.5 Routing of travel.
301–2.6 Use of Government-furnished vehicles.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–2.1 Expenses payable as transportation.

Transportation expenses which the Government may pay either directly or through reimbursement include fares, rental fees, mileage payments, and any expenses incident to transportation such as baggage transfer; official telegraph, telephone, radio, and cable messages in connection with items classed as transportation; steamer chairs, steamer cushions, and steamer rugs at customary rates actually charged; staterooms on steamers; and other expenses set forth in Parts 301–2 through 301–6.

§ 301–2.2 Methods of transportation.

(a) *Authorized methods.* Methods of transportation authorized for official travel include railroads, airlines, helicopter service, ships, buses, streetcars, subways, and taxicabs; Government-furnished and contract rental automobiles and airplanes; and any other necessary means of conveyance.

(b) *Selecting method of transportation to be used.* Travel on official business shall be by the method of transportation which will result in the greatest advantage to the Government, cost and other factors considered. In selecting a particular method of transportation to be used, consideration shall be given to energy conservation and to the total cost to the Government, including costs of per diem, overtime, lost worktime, and actual transportation costs. Additional factors to be considered are the total distance of travel, the number of points visited, and the number of travelers. As stated in 5 U.S.C. 5733, "travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the employee requiring such travel."

(c) *Traveler's cost liability when selected method is not used.* The traveler shall use the method of transportation administratively authorized or approved by the agency as most advantageous to the Government. (See § 301–2.2(b).) Any additional cost resulting from use of a method of transportation other than that specifically authorized, approved, or required by regulation, e.g., contract air service (see paragraph (d)(1)(ii)(A) of this section), shall be the traveler's responsibility.

(d) *Presumptions as to most advantageous method of transportation*—(1) *Common carrier*—(i) *General.* Travel by common carrier (air, rail, or bus) generally results in the most efficient use of energy resources and in the least costly and most expeditious performance of travel. Therefore, this method shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation. The determination that another method of transportation would be more advantageous to the Government than common carrier transportation shall not be made on the basis of personal preference or minor inconvenience to the traveler resulting from common carrier scheduling.

(ii) *Selecting the most advantageous method of common carrier transportation*—(A) *Contract air service.* The use of discount fares offered by contract air carriers between certain cities (city-pairs) is considered advantageous to the Government and is mandatory for authorized air travel between those city-pairs. See § 301–3.4(b)(1)(ii) and FTR Temporary Regulation 2, "Use of contract airline/rail passenger service between selected cities/airports," for policy and specific guidelines and exceptions.

(B) *Noncontract air service.* The use of noncontract air service may be authorized or approved only when justified under the conditions provided in FTR Temporary Regulation 2. Advance authorization and the justification for the use of noncontract air service shall be shown on the travel order or other form of travel authorization before the actual travel begins, unless extenuating circumstances or emergency situations make advance authorization impossible. In those events, the employee shall obtain written approval from the appropriate agency official at the earliest possible time after completing the travel. The approval and justification therefor shall be stated on or attached to the travel voucher.

(C) *Rail or bus service.* Rail or bus service may be used when determined by the agency to be advantageous to the Government, cost, energy, and other factors considered, and when compatible with the requirements of the official travel. The use of contract or other discount fares offered to the Government by rail or bus carriers between selected cities (city-pairs) is considered advantageous. Whenever these discount fares are offered and the accompanying service will fulfill mission requirements, they should be used to the maximum extent possible. See FTR Temporary Regulation 2, "Use of contract airline/rail passenger service between selected cities/airports," for policy and specific guidelines for use of contract rail service. See also §§ 301–3.3(b) and 301–3.4(b) for authorized service and accommodations and reduced fares.

(2) *Government-contract rental or Government-furnished automobiles.* When it is determined that an automobile is required for official travel, a Government-contract or a Government-furnished automobile shall be used as follows:

(i) A Government-contract rental automobile is the first resource for short-term rental of an automobile by an employee on temporary duty (TDY) travel. This applies to employees who travel to their destination by common carrier, such as airplane, train, or bus,

and would customarily rent a Government-furnished vehicle for local transportation in the destination area. An employee may also use a Government-furnished automobile if a Government-contract rental automobile is unavailable or if use of a Government-furnished automobile is practicable. Government-furnished automobiles will continue to be available for use in isolated areas where commercial rental contractors are not available.

(ii) A Government-furnished automobile is the first resource when an automobile is required for official travel performed locally or within commuting distance of an employee's designated post of duty. If a Government-furnished automobile is unavailable, a Government-contract rental automobile may be used.

(iii) If cost considerations are used in determining whether a Government-contract rental or a Government-furnished automobile should be authorized under this policy, the overall cost shall include any administrative costs as well as any costs associated with picking up and returning the automobile.

(3) *Privately owned conveyance.* The use of a privately owned conveyance shall be authorized only when its use is advantageous to the Government, except as provided in paragraph (e) of this section. A determination that the use of a privately owned conveyance would be advantageous to the Government shall be preceded by a determination that transportation by common carrier, a Government-contract rental automobile, or Government-furnished transportation is not available or would not be advantageous to the Government. To the maximum extent possible, these determinations and the authorization to use a privately owned conveyance shall be made before the performance of travel.

(4) *Special conveyance.* Commercially rented vehicles, other than those under contract, and other special conveyances shall be used only when it is determined that use of other methods of transportation discussed in this paragraph (d) would not be more advantageous to the Government. In the selection of commercially rented vehicles, first consideration shall be given to Government-contract rental vehicles available under an appropriate GSA Federal Supply Schedule contract.

(e) *Permissive use of a privately owned conveyance.* When an employee uses a privately owned conveyance as a matter of personal preference and such use is compatible with the performance of official business, although not determined to be advantageous to the Government under paragraph (d)(3) of this section, such use may be authorized or approved provided that reimbursement is limited in accordance with the provisions of Part 301–4.

(f) *Travel by ocean vessel.* Except for travel between points served by ferries, travel by ocean vessel shall not be regarded as advantageous to the Government in the absence of sufficient justification that the advantages accruing from the use of ocean transportation offset the higher costs associated with this method of transportation; i.e., per diem, transportation, and lost worktime. Authority to authorize or approve travel by ocean vessel shall be obtained at the highest administrative level consistent with agency travel management policy. The requirements of § 301–3.6(a) for use of United States flag ships shall be observed. (See § 301–3.3(c) for authorized vessel accommodations.)

§ 301–2.3 Local transportation.

(a) *To, from, and between places of work.* Transportation by bus or streetcar between places of business at an official station or a temporary duty station and between places of lodging and place of business at a temporary duty station is allowed as a transportation expense. (Concerning transportation by taxicab between such places, see § 301–3.1.)

(b) *To places where meals are obtained.* Where the nature and location of the work at a temporary duty station are such that suitable meals cannot be obtained there, the expense of daily travel required to obtain meals at the nearest available place may be approved as necessary transportation not incidental to subsistence. A statement of the necessity for such daily travel shall accompany the travel voucher.

(c) *To and from carrier terminals.* (1) Reimbursement shall be allowed for the usual taxicab and airport limousine fares, plus tip, between a common carrier or other terminal and either the employee's home or place of business at the official duty station or place of business or lodging at a temporary duty point, or between the airport and airport limousine terminal. However, available courtesy transportation service furnished by hotels/motels should be used by employees to the maximum extent possible as a first source of transportation between place of lodging at the temporary duty point and common carrier terminal. Reimbursement shall be allowed for tips when courtesy transportation service is used.

(2) An agency shall, when appropriate, restrict the use of taxicabs under paragraph (c)(1) of this section or place a monetary limit on the amount of taxicab reimbursement when:

(i) Suitable Government or common carrier transportation service, including airport limousine service, is available for all or part of the distance involved; or

(ii) Courtesy transportation service is provided by hotels/motels between the place of lodging at the temporary duty site and the common carrier terminal.

(d) *Between residence and office on day travel is performed.* Reimbursement may be authorized or approved for the usual taxicab fares, plus tip, from the employee's home to his/her office on the day he/she departs from the office on an official trip requiring at least one night's lodging and from the office to his/her home on the day he/she returns to the office from the trip, in addition to taxi fares for travel between office and carrier terminal.

(e) *Between residence and office in cases of necessity.* Reimbursement for the usual taxicab fares paid by an employee for travel between office and home may be authorized or approved incident to the conduct of official business at an employee's designated post of duty when the employee is dependent on public transportation for such travel incident to officially ordered work outside of regular working hours and when the travel is during hours of infrequently scheduled public transportation or darkness. Agencies are expected to establish stringent administrative controls at sufficiently high levels which ensure that reimbursements are authorized only when justifiable and when all circumstances set forth herein are met.

§ 301–2.4 Emergency travel due to illness or injury or a personal emergency situation.

Provisions governing reimbursement for allowable transportation in connection with emergency travel due to illness or injury or a personal emergency situation are set forth in Part 301–12.

§ 301–2.5 Routing of travel.

(a) *Official necessity.* All travel shall be by a usually traveled route. Travel by other routes may be allowed when the official necessity therefor is satisfactorily established.

(b) *Indirect-route or interrupted travel.* When a person for his/her own convenience travels by an indirect route or interrupts travel by direct route, the extra expense shall be borne by him/her. Reimbursement for expenses shall be based only on such charges as would

have been incurred by a usually traveled route. When transportation requests are used, they shall be issued only for that portion of the expense properly chargeable to the Government, and the employee shall pay the additional personal expense, including the Federal transportation tax. (See § 301–11.5(a)(3).)

§ 301–2.6 Use of Government-furnished vehicles.

(a) *Use limited to official purposes.* When a Government-furnished vehicle is used by an employee for official travel, its use shall be limited to official purposes (31 U.S.C. 1344 as implemented in 41 CFR 101–38.3) which include transportation between places where the employee's presence is required incident to official business; between such places and places of temporary lodging when public transportation is unavailable or its use is impractical; and between either of the above places and suitable eating places, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary for the sustenance, comfort, or health of the employee to foster the continued efficient performance of Government business.

(b) *Government driver's identification card.* Under instructions prescribed by the Office of Personnel Management, a Federal employee who must occasionally use a Government-furnished vehicle for official business while on temporary duty away from his/her official station need not possess a Standard Form 46, U.S. Government Motor Vehicle Operator's Identification Card, if he/she holds a valid State, District of Columbia, or territorial motor vehicle operator's license and presents travel orders specifically authorizing the temporary use of a Government-furnished vehicle.

(c) *Vehicle not available.* If a Government-furnished vehicle is not available when required as a first resource, a Government-contract rental or other commercially rented vehicle may be used provided such use is consistent with § 301–2.2(c) and the regulations and authorizations of the employee's agency.

PART 301–3—USE OF COMMERCIAL TRANSPORTATION

Sec.

301–3.1 Taxicabs.
301–3.2 Rental automobiles and special conveyances.
301–3.3 Travel policy and class of service authorized.
301–3.4 Special fares.
301–3.5 Unused, downgraded, canceled, or oversold transportation services.
301–3.6 Use of United States flag carriers.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–3.1 Taxicabs.

(a) *Approval requirement.* For local travel authorized under § 301–2.3 (a) and (b), the use of taxicabs may be allowed if authorized or approved as advantageous to the Government. General authorization for use of taxicabs for local travel in certain situations is contained in § 301–2.3 (c), (d), and (e).

(b) *Tips.* In addition to reimbursement of taxi fare, the employee will be allowed reimbursement of tips in the amount of 15 cents when the fare is $1 or less or 15 percent of the reimbursable fare when it exceeds $1. If the 15 percent is not a multiple of 5, the reimbursable tip may be increased to the next multiple of 5.

§ 301–3.2 Rental automobiles and special conveyances.

(a) *Approval requirement.* The hire of boat, automobile, taxicab (other than for use under § 301–2.3 (c), (d), or (e)), aircraft, livery, or other conveyance will be allowed if authorized or approved as advantageous to the Government whenever the employee is engaged in official business within or outside his/her designated post of duty.

(b) *Incidental charges.* If the hire of a special conveyance does not include costs of the incidental expenses of gasoline or oil, feeding and stabling horses, rent of garage, hangar, or boathouse, subsistence of operator, ferriage, tolls, etc., the same should be first paid, if practicable, by the person furnishing the accommodation or by the operator, and should be itemized in the bill. (See §§ 301–11.3(c)(5) and 301–11.5(c)(2).)

(c) *Damage waiver or insurance costs.* Commercial vehicle rental contracts customarily include full insurance coverage for property damage or injury or death to third parties resulting from the renter's use of the vehicle. Damage to the rented vehicle (collision damage), however, is often covered only above a deductible amount specified in the rental contract, the renter being responsible for the cost of damage below that amount. In such instances, additional insurance (collision damage waiver or collision damage insurance) to relieve the renter from liability for damage to the vehicle up to a deductible amount is available in the rental contract for an extra fee.

(1) Agencies may not pay or reimburse the employee for the cost of collision damage waiver or collision damage insurance when official travel in the rental vehicle is performed wholly within the continental United States, Alaska, Hawaii, the Commonwealth of Puerto Rico, or the United States territories and possessions. However, agencies are authorized to pay for damage to the rented vehicle up to the deductible amount contained in the rental contract if the damage occurs while the vehicle is being used for official business.

(2) Agencies may pay or reimburse the employee for the cost of collision damage waiver or collision damage insurance when the vehicle is rented or leased for official travel in foreign areas (areas other than those listed in paragraph (c)(1) of this section) and rental or leasing agency requirements, foreign statute, or legal procedures which could cause extreme difficulty to Government employees involved in an accident make such insurance necessary.

(3) The cost of personal accident insurance is a personal expense and is not reimbursable.

(d) *Hire from another employee or member of an employee's family.* Charges for the hire of a conveyance of another Government employee, a member of the traveler's family, or a member of the family of another Government employee shall not be allowed in the absence of a satisfactory showing that the conveyance was not procured because of such personal or official relationship and that the member of the family so furnishing was not dependent upon the traveler for support. The material facts shall be reported in the account. (See §§ 301–4.5 and 301–11.5(d).)

(e) *Persons traveling together.* When two or more persons travel together by means of a rented vehicle or special conveyance, that fact, together with the name of each traveler and the name of his/her employing agency, must be stated by each traveler on his/her travel voucher.

§ 301–3.3 Travel policy and class of service authorized.

(a) *General policy.* It is the policy of the Government that less-than-first-class accommodations shall be used for all modes of passenger transportation. Common carrier accommodations shall be as specifically provided in paragraphs (b), (c), and (d) of this section and shall apply to both domestic and international travel of civilian

employees while on official business for the Government.

(b) *Train accommodations*—(1) *Sleeping car accommodations.* When overnight travel is involved, the lowest first-class sleeping accommodations available shall be allowed. Higher cost accommodations may be authorized or approved upon the employee's certification on the travel voucher that lowest first-class accommodations were not available or that use of superior accommodations was authorized or approved by the head of the agency or the agency head's designee for security purposes. When practicable, through sleeping accommodations shall be obtained if they are more economical to the Government.

(2) *Parlor car and reserved coach accommodations.* When adequate reserved coach accommodations are available, officials authorizing travel shall require that those accommodations be used to the maximum extent possible. However, use of a parlor car seat may be allowed when the duration of the train travel exceeds 4 hours.

(3) *Extra-fare trains.* Travel by extra-fare trains may be authorized or approved whenever their use is administratively determined to be more advantageous to the Government or is required for reasons of security. The use of National Railroad Passenger Corporation (Amtrak) Metroliner coach service is considered to be advantageous to the Government. Metroliner Club service is considered to be first-class service.

(c) *Steamer accommodations.* The minimum first-class accommodations will be allowed when a stateroom is included in the cost of passage or is a separate charge. Higher cost accommodations may be allowed upon certification by the employee on the travel voucher that lowest first-class accommodations were not available or that use of higher cost accommodations were authorized or approved by the head of the agency concerned, or his/her designee, for security purposes. (See § 301–3.6(a) for use of U.S. flag ships.) The travel order or other administrative determination may, however, specify the use of an accommodation less costly than the minimum first-class accommodations when suitable for a particular voyage. The term "minimum first-class accommodation" as used in this paragraph means one which provides direct access from within the stateroom to a washbasin, shower or bath, and toilet. (See § 301–2.2(f) for authorization of travel by ocean vessel.)

(d) *Airline accommodations*—(1) *Policy.* It is the policy of the Government that employees who use commercial air carriers for domestic and international travel on official business shall use less-than-first-class accommodations. (See § 301–3.6(b) for use of U.S. flag air carriers.) Only limited exceptions to this policy may be permitted as set forth in paragraph (d)(3) of this section.

(2) *Authorization and approval of the use of first-class air accommodations*—(i) *Authorization or approval.* Heads of agencies may authorize or approve the use of first-class air accommodations under criteria provided herein. As used in this paragraph (d), "agency head" means the Secretary, Attorney General, Administrator, Governor, Chairman, or chief official by any other title of an executive agency (as defined in 5 U.S.C. 105), an agency in the legislative branch of the Government, or the government of the District of Columbia. For ease of administration, heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve first-class air travel under this paragraph (d) provided that appropriate guidelines in the form of regulations or other written instructions are furnished to the designee. The delegation or redelegation of authority to authorize or approve first-class air travel shall be held to as high an administrative level as practical to ensure adequate consideration and review of the circumstances requiring the need for first-class air accommodations.

(ii) *Requirements.* Authorization for the use of first-class air accommodations shall be made in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the employee shall obtain written approval from the agency head, or his/her deputy, or other designee at the earliest possible time.

(iii) *Employee responsibility and documentation.* The employee shall certify on the travel voucher the reasons for the use of first-class air accommodations. Specific authorization or approval shall be attached to, or stated on, the travel voucher and retained for the record. In the absence of specific authorization or approval, the employee shall be responsible for all additional costs resulting from the use of first-class air accommodations. The additional costs shall be the difference between the first-class accommodations used and the next lower class below first-class.

(3) *Use of first-class air accommodations.* Circumstances justifying the use of first-class air accommodations are limited to those listed in paragraphs (d)(3) (i) and (ii) of this section.

(i) *Employee certification required.* First-class accommodations may be used when regularly scheduled flights between the authorized origin and destination points (including connection points) provide only first-class accommodations, and the employee certifies this circumstance on the travel voucher.

(ii) *Agency authority or approval required.* The agency head (as defined in paragraph (d)(2)(i) of this section) or his/her designee may authorize or approve the use of first-class accommodations when:

(A) Space is not available in less-than-first-class accommodations on any scheduled flight in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed;

(B) First-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used, and this condition is substantiated by competent medical authority;

(C) First-class accommodations are required for security purposes or because exceptional circumstances, as determined by the agency head (or his/her designee), make their use essential to the successful performance of an agency mission;

(D) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(E) The use of first-class accommodations would result in an overall savings to the Government based on economic considerations, such as the avoidance of additional subsistence costs, overtime, or lost productive time that would be incurred while awaiting availability of less-than-first-class accommodations.

§ 301–3.4 Special fares.

(a) *[Reserved]*

(b) *Reduced rates*—(1) *Use of special lower fares.* (i) Through-fares, special fares, commutation fares, excursion fares, and reduced-rate round-trip fares shall be used for official travel when it can be determined before the start of a trip that this type of service is practical and economical to the Government. Round trip tickets for special lower fares which are restricted or have specific eligibility requirements shall be secured only when, on the basis of the journey as planned, it is known or can be reasonably anticipated that these tickets will be used. The use of special lower fares under these provisions does not

take precedence over the mandatory use of contract air fares between selected city-pairs as prescribed in paragraph (b)(1)(ii) of this section.

(ii) All agencies, except DOD, shall follow the policies, procedures, and requirements established in FTR Temporary Regulation 2 for the use of contract air carriers for official air travel between certain cities/airports. DOD must follow procedures established in the Military Traffic Management Regulation, AR 55–355/NAVSUPINST 4600.70/AFR 75–2/MCO P4600.14B/DLAR 4500.3.

(2) *Reduced group or charter fares offered by travel agents.* (i) Reduced fares for group or charter arrangements available only through travel agents may be used by individuals or a group of employees provided an administrative determination has been made by the agency on a case-by-case basis before the travel that use of the reduced group or charter fares will result in a monetary savings to the Government and will not interfere with the conduct of official business. In such instances, if payment for transportation cannot be made to a carrier with a Government transportation request but must be made to the travel agent, the traveler shall pay for the transportation from his/her own funds or from a travel advance (see Part 301–10) and shall obtain a receipt for the cost of the transportation necessary in the performance of offical business which shall accompany his/her voucher along with a copy of the required administrative determination. Reimbursement shall not exceed the cost of accommodations authorized under § 301–3.3.

(ii) The infrequent traveler, unaware of the general prohibition against the use of travel agents, who inadvertently purchases transportation with personal funds from a travel agent without the required advance administrative approval, may be granted an exception to the preclusive provisions on a one-time basis and may be paid for the travel costs incurred not to exceed the cost which would have been properly chargeable to the Government if the transportation service had been purchased directly from the carrier. In such cases, the traveler will be advised that recurrence of such use of travel agents will result in denial of reimbursement unless it can be demonstrated that the traveler had no alternative.

(c) *Unequal fares available.* Except as provided in FTR Temporary Regulation 2, when common carriers furnish the same method of travel at different fares between the same points for the same type of accommodations, the lowest cost service shall be used unless use of a higher cost service is administratively determined to be more advantageous to the Government. (See § 301–2.2(c).)

§ 301–3.5 Unused, downgraded, canceled or oversold transportation services.

(a) *Unused or downgraded tickets or canceled reservations.* Travelers are required to follow the guidelines in this paragraph (a) on unused passenger transportation services and accommodations:

(1) When a traveler knows that reservations for transportation and/or accommodations will not be used, he/she must cancel the reservations, either personally or through the appropriate office handling agency travel arrangements, within the time limits specified by the carrier. Similarly, where the transportation furnished is different, or of a lesser value than that authorized on the ticket, or where a journey is terminated short of the destination specified on the transportation request, the Government is due a refund. The traveler shall report these facts to the appropriate agency office under procedures prescribed by the agency concerned. All adjustments in connection with unfurnished or unused passenger transportation must be promptly reported to prevent losses to the Government. Failure of travelers to follow these procedures may subject them to liability for any resulting losses.

(2) As provided in 41 CFR 101–41.209–2, travelers are not authorized to receive refunds, credits, or any other negotiable documents from carriers for unfurnished services or unused tickets (or portions thereof) issued in exchange for a Government transportation request. Instead, the traveler should request a receipt or ticket refund application or other written acknowledgement of fare adjustment from the carrier and furnish the carrier a "bill charges to" address. All unused tickets (including portions thereof), coupons, exchange orders, refund receipts or applications, notices of fare adjustments, etc., and the factual information relating to the unused passenger transportation must be attached to or entered on the travel voucher. In any case where itineraries are changed or trips are canceled after tickets have been issued to the traveler, a statement shall be entered on the travel voucher, and initialed by the traveler, that all tickets have been either used for official purposes or all unused tickets, or portions thereof, have been properly accounted for and attached to the voucher. (See also §§ 301–1.6(a) and 301–11.5(c)(1).)

(b) *Oversold reserved accommodations (denied boarding).* Tariff provisions of certain scheduled air carriers require the payment of liquidated damages in certain situations if the carrier fails to provide confirmed reserved space. When payment of liquidated damages results from travel on official business, these penalty payments are due the Government and not the traveler. Any traveler who has been denied confirmed reserved space shall ensure that the carrier shows the "Treasurer of the United States" as payee on the compensation check and shall forward the payment to the appropriate agency official. (See 41 CFR 101–41.209–4.) These payments shall be deposited by the agency in accordance with Department of Treasury requirements and credited to miscellaneous receipt account 1699 "Miscellaneous Dividends and Earnings Not Otherwise Classified." (See also § 301–1.6 and 41 CFR 101–25.103–2.)

(c) *Voluntary vacating of reserved airline accommodations.* Airlines are required to ask for volunteers to give up their reserved seats before the airline denies boarding to any passenger with a reservation. Airlines are free to determine the amount to be paid to the volunteer. Employees who voluntarily give up their seats may retain these payments only under the following conditions. Employees should not voluntarily give up their seats if it will interfere with the performance of official duties. If an employee voluntarily gives up his/her reserved seat and, as a result, incurs additional travel expenses beyond those which he/she would have normally incurred, these additional expenses must be offset against the payment received by the employee. If the employee's travel is delayed during official duty hours, the employee would be charged annual leave for the additional hours.

(d) *Agency responsibilities.* Each agency shall prescribe procedures for use by travelers when submitting documentation and statements relating to unused or downgraded passenger transportation services. Included in these procedures will be instructions for submitting payments received from carriers for denied confirmed reserved space. Agencies shall also provide the traveler with a "bill charges to" address by attaching a copy of the GTR, or some other document containing this information, to either the travel authorization or the ticket to facilitate the carrier refund procedures as required by 41 CFR 101–41.210–1. Necessary administrative arrangements shall be established for an appropriate review of travel vouchers and attached documentation in order to identify any

unused tickets, coupons, etc., or other evidence of refund due the Government. To prevent losses to the Government these documents must be promptly identified and processed under the unused ticket refund procedures prescribed in 41 CFR 101–41.210. (See paragraph (a) of this section for required traveler's statement intended to highlight and facilitate control of unused tickets.)

§ 301–3.6 Use of United States flag carriers.

(a) *Travel by United States flag ships.* Section 901 of the Merchant Marine Act of 1936 (46 U.S.C. 1241(a)) provides:

> Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his/her personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of the mission requires the use of a ship under a foreign flag: *Provided,* That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor.

(b) *Use of United States flag air carriers*—(1) *Definitions.* As used in this paragraph, the following definitions apply:

(i) *The Fly America Act.* The "Fly America Act" refers to provisions enacted by section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (Pub. L. 93–623, January 3, 1975), 49 U.S.C. App. 1517, as amended by section 21 of the International Air Transportation Competition Act of 1979 (Pub. L. 96–192, February 15, 1980), 94 Stat. 43.

(ii) *U.S. flag air carrier.* The term "U.S. flag air carrier" means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371). Foreign air carriers operating under permits are excluded.

(iii) *United States.* For purposes of the Fly America Act, "United States" means the 50 States, the District of Columbia, and the territories and possessions of the United States (49 U.S.C. App. 1301(38)).

(iv) *Gateway airport in the United States.* A "gateway airport in the United States" means the last airport in the United States from which the traveler's flight departs, or the first airport in the United States at which the traveler's flight arrives.

(v) *Gateway airport abroad.* A "gateway airport abroad" means the airport abroad from which the traveler last embarks en route to the United States or at which the traveler first debarks incident to travel from the United States.

(2) *General requirements of the Fly America Act.* The Fly America Act, 49 U.S.C. App. 1517, as implemented by the Comptroller General's guidelines, Decision B–138942, March 31, 1981, requires Federal employees and their dependents, consultants, contractors, grantees, and others performing United States Government financed foreign air travel to travel by U.S. flag air carriers:

(i) Unless travel by foreign air carrier is a matter of necessity as defined in paragraph (b)(3) of this section, or

(ii) When U.S. flag air carrier service is available within the guidelines in paragraphs (b) (4) and (5) of this section.

(3) *Necessity for use of foreign air carrier service.* Use of foreign air carrier service may be deemed necessary if a U.S. flag air carrier otherwise available cannot provide the air transportation needed, or use of U.S. flag air carrier service will not accomplish the agency's mission.

(4) *Availability of U.S. flag air carrier service*—(i) *General.* U.S. flag air carrier service is available even though:

(A) Comparable or a different kind of service can be provided at less cost by a foreign air carrier;

(B) Foreign air carrier service is preferred by or is more convenient for the agency or the traveler; or

(C) Service by a foreign air carrier can be paid for in excess foreign currency, unless U.S. flag air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of those monies. (See also paragraph (b)(5)(iv) of this section.)

(ii) *Scheduling principles.* In determining availability of U.S. flag air carrier service, the following scheduling principles should be followed unless their application results in the last or first leg of travel to and from the United States being performed by foreign air carrier:

(A) U.S. flag air carrier service available at point of origin should be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route;

(B) Where an origin or interchange point is not served by U.S. flag air carrier, foreign air carrier service should be used only to the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service; or

(C) Where a U.S. flag air carrier involuntarily reroutes the traveler via a foreign carrier, the foreign air carrier may be used notwithstanding the availability of alternative U.S. flag air carrier service.

(5) *Guidelines for determining unavailability of U.S. flag air carrier service*—(i) *Travel to and from the United States.* Passenger service by a U.S. flag air carrier will not be considered available when the travel is between a gateway airport in the United States and a gateway airport abroad and the gateway airport abroad is:

(A) The traveler's origin or destination airport, and the use of U.S. flag air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by foreign air carrier;

(B) An interchange point, and the use of U.S. flag air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or delayed departure from or accelerated arrival at the gateway airport in the United States would extend the time in a travel status by at least 6 hours more than travel by foreign air carrier.

(ii) *Travel between two points outside the United States.* For travel between two points outside the United States, U.S. flag air carrier service will not be considered to be reasonably available:

(A) If travel by foreign air carrier would eliminate two or more aircraft changes en route;

(B) Where one of the two points abroad is the gateway airport en route to or from the United States, if the use of a U.S. flag air carrier would extend the time in a travel status by at least 6 hours more than travel by foreign air carrier, including accelerated arrival at the overseas destination or delayed departure from the overseas origin, as well as delay at the gateway airport or other interchange point abroad; or

(C) Where the travel is not part of a trip to or from the United States, if the use of a U.S. flag air carrier would extend the time in a travel status by at least 6 hours more than traveled by foreign air carrier including delay at origin, delay en route and accelerated arrival at destination.

(iii) *Short distance travel.* For all short distance travel, regardless of origin and destination, U.S. flag air carrier service will not be considered available when the elapsed travel time on a scheduled flight from origin to destination airport by foreign air carrier is 3 hours or less and service by U.S. flag air carrier would involve twice the travel time.

(iv) *Travel financed solely with excess foreign currencies.* U.S. flag air carriers render themselves unavailable by declining to accept payment in foreign currencies for transportation services required by certain programs or

activities of the Government which, under legislative authority, are financed solely with excess foreign currencies which may not be converted to U.S. dollars. In these instances, and notwithstanding the provisions of paragraph (b)(4)(i)(C) of this section, foreign flag air carriers that will accept the required foreign currency may be used to the extent necessary to accomplish the mission of the particular program or activity. The statement of justification required under paragraph (c)(3) of this section must indicate that the transportation service needed can be paid for only in excess foreign currencies and that otherwise available U.S. flag air carriers declined to accept payment in the foreign currencies.

(c) *Use of foreign flag air carriers*—(1) *Authorization or approval.* Expenditures for commercial foreign air transportation on foreign air carrier(s) will be disallowed unless there is attached to the appropriate voucher a certificate or memorandum adequately explaining why service by U.S. flag air carrier(s) is not available, or why it was necessary to use a foreign air carrier. The use of foreign flag air carriers may be authorized or approved only when U.S. flag air carrier service is not available as determined under the guidelines in paragraph (b) of this section, or when foreign air carriers are used under the reciprocal terms of an appropriate bilateral or multilateral agreement as described in paragraph (c)(2) of this section, or when use of foreign carriers is necessary under paragraph (b)(3) of this section.

(2) *Air transport agreements.* Nothing in the guidelines contained in paragraph (b) of this section shall preclude and no penalty shall attend the use of a foreign air carrier which provides transportation under an air transport agreement between the United States and a foreign government, the terms of which are consistent with the international aviation policy goals set forth at 49 U.S.C. App. 1502(b) and provide reciprocal rights and benefits.

(3) *Justification statement.* A statement executed by the traveler or agency justifying the use of a foreign flag air carrier for any part of foreign travel must be entered on or attached to the travel voucher, transportation request, or other payment document. Each request for a change in route or schedule which involves the use of a foreign flag air carrier must be accompanied by a statement justifying such use. The following is provided as a guide for preparing the required justification statement:

I certify that it (is) (was) necessary for

_____

(name of traveler or agency)

to use

_____

(name of foreign flag vessel(s) or foreign flag air carrier(s))

_____

$$\frac{\text{Sum of certificated carrier segment mileage, traveled}}{\text{Sum of all segment mileage, traveled}} \times \text{Through fare paid}$$

(flight identification number)

or to transport _____

(personal effects) (freight)

between _____

and _____

en route from _____

to _____

on

_____

(date)

for the following reasons: _____

_____

_____

(date)

_____

(Signature of traveler or authorizing officer)

_____

(Title or position)

_____

(Organization)

(4) *Employee liability for disallowed expenditures.* Where the travel is by indirect route or the traveler otherwise fails to use available U.S. flag air carrier service, the amount to be disallowed against the traveler is based on the loss of revenues suffered by U.S. flag air carriers as determined under the following formula set forth and more fully explained in 56 Comp. Gen. 209 (1977):

$$\frac{\text{Sum of certificated carrier segment mileage, authorized}}{\text{Sum of all segment mileage, authorized}} \times \text{Fare payable by Government}$$

Minus

PART 301–4—REIMBURSEMENT FOR USE OF PRIVATELY OWNED CONVEYANCES

Sec.

301–4.1 Basic rules.
301–4.2 When use of a privately owned conveyance is advantageous to the Government.
301–4.3 Use of a privately owned conveyance instead of common carrier transportation.
301–4.4 Use of a privately owned conveyance instead of a Government-furnished automobile.
301–4.5 More than one person in conveyance.
301–4.6 Actual expense basis.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747)

§ 301–4.1 Basic rules.

(a) *Mileage payments.* When employees and others rendering service to the Government use privately owned motor vehicles or airplanes in the conduct of official business within or outside their designated posts of duty or places of service and such use is authorized or approved as advantageous to the Government or as an authorized or approved exercise of the employee's preference, payment shall be made on a mileage basis unless payment on an actual expense basis is specifically authorized by law.

(b) *Distance measurements*—(1) *Automobile and motorcycle travel.* When transportation is authorized or approved by privately owned motorcycles or automobiles, distances between points traveled shall be as shown in standard highway mileage guides or actual miles driven as determined from odometer readings. (Actual odometer readings need not be shown on the travel voucher.) Any substantial deviations from distances shown in the standard highway mileage guides shall be explained. The mileage rate as authorized or approved may be paid from whatever point the employee or other person rendering service to the Government begins his/her journey.

(2) *Airplane travel.* The air mileage between the origin and destination airports, as determined from airways charts issued by the National Oceanic and Atmospheric Administration, Department of Commerce, shall be reported on the reimbursement voucher and shall be used in computing payment for the use of a privately owned

airplane. If a detour was necessary because of adverse weather, mechanical difficulty, or other unusual conditions, the additional air mileage may be included in the mileage reported on the reimbursement voucher and, if included, it must be explained. When an official requirement for deviation from direct route travel is such that airway mileage charts are not adequate to determine mileage, the formula of flight time multiplied by cruising speed of the airplane may be the basis for mileage determinations.

(c) *Other allowable costs.* Reimbursement for parking fees; ferry fees; bridge, road, and tunnel fees; and airplane parking, landing, and tiedown fees shall be allowed in addition to the mileage allowance unless the travel orders or other administrative determinations restrict such allowance.

§ 301–4.2 When use of a privately owned conveyance is advantageous to the Government.

(a) *Authorized mileage rates.* When the use of a privately owned conveyance is authorized or approved as advantageous to the Government for the performance of official travel as provided in § 301–2.2(c)(3), reimbursement to the traveler shall be at the mileage rates prescribed in this paragraph (a).

(1) For use of a privately owned motorcycle: 20 cents per mile.

(2) For use of a privately owned automobile: 22.5 cents per mile.

(3) For use of a privately owned airplane: 45 cents per mile.

(b) *Mileage rates outside the United States.* Generally, the mileage rates prescribed in paragraph (a) of this section are applicable outside as well as within the United States. However, if an agency determines that any mileage rate which is below the statutory maximum is inadequate compensation for use of a privately owned conveyance in a particular area outside the United States, the head of the agency may submit a request to GSA for the establishment of a higher rate for that area. Any new mileage rate approved by GSA for a particular area shall be the uniform rate payable to all Federal employees in that area. The request to establish a higher rate shall be forwarded to the General Services Administration (FB), Washington, DC 20406, and shall include the following information:

(1) A recommended mileage rate not exceeding the following statutory maximums:

(i) For use of a privately owned motorcycle: 20 cents per mile;

(ii) For use of a privately owned automobile: 25 cents per mile; and

(iii) For use of a privately owned airplane: 45 cents per mile.

(2) An analysis of the costs per mile of operating the privately owned conveyance in the particular area involved shall include the data listed in paragraphs (b)(2) (i) through (iv) of this section. Expenses which are reimbursable as separate allowances under § 301–4.1(c), such as parking or toll fees, shall not be included as cost factors in this analysis.

(i) Size/type of conveyance to which the cost data apply.

(ii) Fixed operating costs: Vehicle depreciation, insurance, taxes, and registration fees.

(iii) Variable operating costs: Gasoline, motor oil, maintenance, repairs, and tires.

(iv) Other related cost factors affecting vehicle operating costs which are peculiar to the area involved.

(c) *Special rule when permanent duty travel is involved.* The regulations contained in Chapter 302 of this title shall apply when privately owned automobiles are used in connection with employees' permanent changes of station, when the appointees or student trainees described therein travel to their first permanent duty stations, or when employees return from posts of duty outside the continental United States to places of actual residence for separation.

(d) *To and from common carrier terminals and office*—(1) *Round trip instead of taxicab to carrier terminals.* Instead of using a taxicab under § 301–2.3(c), payment on a mileage basis at the rate of 22.5 cents per mile and other allowable costs as set forth in § 301–4.1(c) shall be allowed for the round-trip mileage of a privately owned automobile used by an employee going from either the employee's home or place of business to a terminal or from a terminal to either the employee's home or place of business. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under § 301–2.3(c) for a one-way trip between the applicable points.

(2) *Round trip instead of taxicab between residence and office on day of travel.* Instead of using a taxicab under § 301–2.3(d) (in connection with official travel requiring at least one night's lodging), payment on a mileage basis at the rate of 22.5 cents per mile and other allowable costs as set forth in § 301–4.1(c) shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from the employee's residence to the employee's place of business or returning from place of business to residence on a day travel is performed. However, the amount of reimbursement for the round trip shall not exceed the taxicab fare, including tip, allowable under § 301–2.3(d) for a one-way trip between the points involved.

(3) *Privately owned conveyance used to transport other employees between residence, office, and common carrier terminals.* Payment under paragraphs (d) (1) and (2) of this section may be made without the taxicab fare limitation when the privately owned conveyance used by the employee for official travel is also used to pick up and transport one or more additional employees traveling between home, office, and common carrier terminals incident to a temporary duty assignment. Employee participation under this provision is voluntary. The names of the additional employees and their employing offices/agencies should be stated on the travel voucher in accordance with § 301–4.5.

(4) *Parking when automobile is left at terminal.* The fee for parking an automobile at a common carrier terminal or other parking area while the traveler is away from his/her official station shall be allowed only to the extent that the fee plus the allowable reimbursement to and from the terminal or other parking area does not exceed the estimated cost for use of a taxicab to and from the terminal under the provisions of § 301–2.3(c).

§ 301–4.3 Use of a privately owned conveyance instead of common carrier transportation.

Whenever a privately owned conveyance is used for official purposes as a matter of personal preference instead of common carrier transportation under § 301–2.2(d), payment for such travel shall be made on the basis of the actual travel performed, computed under § 301–4.1 at the mileage rate prescribed in § 301–4.2(a) plus the per diem allowable for the actual travel. The total allowable shall be limited to the total constructive cost of appropriate common carrier transportation including constructive per diem by that method of transportation. Constructive cost of transportation and per diem by common carrier shall be determined under the following rules:

(a) *Mode of travel to be used for comparison*—(1) *Airplane.* The mileage payment shall not exceed the constructive cost of coach accommodations (or tourist or economy accommodations if a carrier uses this term instead of "coach

accommodations") on airplanes when such service is provided by a carrier. If it is not provided, the comparison will be made with standard class accommodations if provided; otherwise, with first-class accommodations. When accommodations are provided on both jet and propeller-driven planes, the comparison shall be made with the jet planes. (For the purpose of this provision, a class of service is considered to be provided by a carrier when it is scheduled on flights serving origin and destination points, regardless of whether space would have been available had the traveler used air transportation for the official travel.)

(2) *Train.* When none of the accommodations described in paragraph (a)(1) of this section is provided by an air carrier, the mileage payment shall be limited to the constructive cost of first-class rail transportation or coach accommodations when the elapsed time of the rail journey is 4 hours or less. The constructive cost comparison may also be made with rail transportation, even though air transportation is provided, when an administrative determination is made that such comparison, including related per diem, is more economical, and the travel order or other administrative directive so provides.

(3) *Bus.* When neither air nor rail accommodations are provided, the mileage payment shall be limited to the constructive cost of bus transportation.

(b) *Transportation costs to be considered in addition to fares.* In determining the constructive common carrier cost, there shall also be included the usual transportation costs to and from the common carrier terminals. In addition, the cost of excess baggage shall be included when it would have been allowed had the traveler used the carrier upon which the constructive transportation costs are determined, provided the traveler certifies as to the weight of the baggage or presents other acceptable evidence of its weight.

(c) *Per diem allowance.* The constructive per diem shall be the amount which would have been allowable if the traveler had used the carrier upon which the constructive transportation costs are determined.

(d) *Use of actual and reasonable schedules.* In making the foregoing constructive cost comparisons of transportation, scheduled departure and arrivals of planes, trains, and buses at unreasonable hours shall be disregarded. (For this purpose, "unreasonable hours" means those which would unduly inconvenience the traveler or adversely affect his/her safety, or which would result in unduly increasing the constructive per diem.)

§ 301–4.4 Use of a privately owned conveyance instead of a Government-furnished automobile.

(a) *Planning for use of Government-furnished automobiles.* When use of a privately owned conveyance is authorized or approved under § 301–2.2(e) even though use of a Government-furnished automobile would be more advantageous to the Government, reimbursement to the employee shall be limited to the cost which would be incurred for use of a Government-furnished automobile. The normal rate of reimbursement shall be that provided in paragraph (b) of this section; however, agencies should obtain commitments from employees who are expected to perform extensive automobile travel on official business whether they will use Government-furnished automobiles or whether they will elect to use privately owned conveyances. Such commitments will be for periods of time which warrant the making of arrangements for supply of Government-furnished automobiles, and commitment changes shall be made in sufficient time in advance of their effective dates to permit arrangements to be made for acquisition or disposal of Government-furnished automobiles as required. An employee who is committed to use a Government-furnished automobile shall not be authorized reimbursement for use of his/her privately owned conveyance instead of a Government-furnished automobile; except that, if such an employee occasionally uses his/her privately owned conveyance when a Government-furnished automobile is available, mileage reimbursement limited to the cost of operating a Government-furnished vehicle (fixed costs excluded as provided in paragraph (c) of this section) may be authorized or approved.

(b) *Reimbursement based on Government costs.* It has been determined that the average mileage cost for use of a Government-furnished automobile for travel in the continental United States is 18.0 cents. Therefore, the mileage rate for authorized use of a privately owned conveyance when use of a Government-furnished automobile would be most advantageous to the Government shall be 18.0 cents. Exceptions to the 18.0–cent limitation may be authorized if an agency determines that, because of unusual circumstances, the cost of providing a Government-furnished automobile would be higher than 18.0 cents. In such instances, the agency may allow reimbursement at such higher rate within the rate stated in § 301–4.2(a) for advantageous use that will most nearly equal the cost of providing a Government-furnished automobile in those circumstances. In addition to mileage for the distance allowed under § 301–4.1(b), the employee may be reimbursed for expenses authorized under § 301–4.1(c) which would have been incurred if a Government-furnished vehicle had been used.

(c) *Partial reimbursement when Government automobile is available.* When an employee who is committed to using a Government-furnished automobile, or who because of the availability of Government-furnished automobiles, would not ordinarily be authorized to use a privately owned conveyance instead of a Government-furnished automobile, nevertheless requests use of a privately owned conveyance, reimbursement may be authorized or approved. The rate of reimbursement shall be 9.5 cents per mile, which is the approximate cost of operating a Government-furnished automobile, fixed costs excluded.

(d) *Reimbursement claims.* When claiming mileage at the 18.0-cent rate, the employee shall state on the voucher that a commitment was not made to use a Government-furnished automobile and that reimbursement for use of a privately owned automobile was not limited under paragraph (c) of this section.

§ 301–4.5 More than one person in conveyance.

Mileage shall be payable to only one of two or more employees traveling together on the same trip and in the same conveyance, but no deduction shall be made from the mileage otherwise payable to the employee entitled thereto by reason of the fact that other passengers (whether or not Government employees) may travel with him/her and contribute to defraying the operating expenses. The names of employees and their employing agencies should be stated on the voucher. (See § 301–11.5(d).)

§ 301–4.6 Actual expense basis.

(a) *Used only when authorized by law.* Reimbursement on an actual expense basis applies to reimbursement for use of a privately owned motorcycle, automobile, or airplane only where such method of reimbursement is authorized by law; otherwise, reimbursement is to be made under the provisions of §§ 301–4.1 through 301–4.5.

(b) *Comparative cost requirement.* The use of a privately owned conveyance on an actual expense basis, as distinguished from a mileage basis under §§ 301–4.1 through 301–4.5, may

be authorized or approved provided the aggregate of allowable expenses plus any increased subsistence expenses through increased travel time or less subsistence savings through reduced travel time, as the case may be, does not exceed the cost of transportation available by common carrier.

(c) *Reimbursable costs.* For such travel on an actual expense basis, the employee shall be entitled to reimbursement of the cost of gasoline, oil, feed of horses, garage or hangar rent and stabling of horses while officially detained en route, and bridge, ferry, and other tolls. In determining the amount of increased subsistence expenses or subsistence savings for a given period of time, the per diem rate named in the travel order shall be used. Charges for repairs, depreciation, replacements, grease, antifreeze, towage, and similar speculative expenses shall not be allowed. Exemption from payment of tax on gasoline in States providing such exemption shall be claimed. The standard Federal forms shall be used for that purpose. When exemption is refused, receipts shall be obtained in duplicate. (See §§ 301–11.3(c)(7) and 301–11.5(c)(2).)

PART 301–5—BAGGAGE

Sec.

301–5.1 Definitions.
301–5.2 Authorization for excess baggage.
301–5.3 Payment of costs for baggage.
301–5.4 Stoppage in transit.
301–5.5 Requirement for use of least costly means of shipment.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–5.1 Definitions.

(a) *Baggage.* The term "baggage" as used in this regulation means Government property and personal property of the traveler necessary for official travel.

(b) *Excess baggage.* Baggage in excess of the weight, size, or number of pieces that is carried free by transportation companies shall be classed as excess baggage.

§ 301–5.2 Authorization for excess baggage.

Where less-than-first-class accommodations are used, transportation of baggage up to the number of pieces or weight carried free on first-class service shall be allowed at Government expense; in all other instances, excess baggage charges shall be allowed only when authorized or approved.

§ 301–5.3 Payment of costs for baggage.

(a) *Transportation charges for excess baggage.* As a general rule, travelers shall make each payment of domestic airline excess baggage charges that do not exceed $15. Where excess baggage services are specifically authorized, the travel order shall clearly state whether such charges are to be paid for in cash by the traveler or to be authorized on the Government transportation request. If the authorization for excess baggage is not included on the transportation request, the traveler's claim for reimbursement shall be included on the travel voucher.

(b) *Transfer of baggage.* Necessary charges for the transfer of baggage shall be allowed.

(c) *Storage of baggage.* Charges for the storage of baggage shall be allowed when it is shown that the storage was solely on account of official business.

(d) *Checking and handling of baggage.* Charges for checking baggage shall be allowed. Charges or tips at transportation terminals shall be allowed for handling Government property carried by the traveler.

§ 301–5.4 Stoppage in transit.

Care should be taken to stop baggage that has been checked on a ticket beyond the point where the traveler leaves the carrier. If baggage cannot be intercepted or transferred and is carried through to original destination on the unused portion of the ticket, full explanation of the facts shall be made to the administrative office at the time the unused ticket is forwarded for redemption, or the explanation shall be shown on the voucher. Failure to observe this rule shall result in any excess cost to the Government being charged to the employee.

§ 301–5.5 Requirement for use of least costly means of shipment.

(a) *Selection of transportation service.* When the total weight of Government property and personal effects or other property needed by the traveler exceeds the baggage allowance, quantities in excess of the allowance shall be shipped by parcel post, where practical, or, if not suitable for mailing, by freight or express if any of those less costly means of shipment will suffice. Shipments must not be made as accompanied baggage or express when ordinary freight service will meet the official needs. Due consideration must be given to the probable cost of collecting or delivering the shipment and the time required for transmission.

(b) *Use of Government bills of lading.* Express and freight shipments shall be made on Government bills of lading unless such handling will interfere with the official purposes of the trip or unless it is not practical. Charges on shipments made on Government bills of lading must not be paid by the traveler.

(c) *Government bills of lading not accepted.* When acceptance of shipments on Government bills of lading is refused, payment of the amount demanded shall be made. A report of the circumstances shall be sent to the administrative office. When Government bills of lading are refused or not used and cash payment is demanded, the carrier's receipt showing the original point of shipment, destination, number of packages, contents and separate weight of each package, and rate and amount of charges paid shall be accepted in support of the charge.

PART 301–6—COMMUNICATIONS SERVICES

Sec.

301–6.1 Authorization.
301–6.2 Type of service used.
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Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–6.1 Authorization.

When necessary, telephone, teletype, telegraph, cable, and radio service may be used on official business.

§ 301–6.2 Type of service used.

(a) *Government equipment.* Whenever possible, official long distance telephone calls and other communications services shall be through the use of Government-owned and -leased equipment.

(b) *Use of commercial services.* If Government services are not available, the least expensive practicable type and class of commercial service shall be used.

§ 301–6.3 Written messages.

When necessary, written messages may be used while on official business. However, care shall be exercised in preparing messages to provide only those words, figures, and punctuation necessary to the meaning of the message.

§ 301–6.4 Official communications.

(a) *Local calls.* Charges for local telephone calls on official business shall be allowed as a transportation expense. (See § 301–11.5(a)(1) regarding entry of such calls on travel vouchers as a transportation expense.)

(b) *Reservation of accommodations.* Charges for commercial communication services when necessary for reserving airplane, train, or other transportation accommodations for official business are transportation expenses and may be allowed when supported by a satisfactory explanation.

(c) *Use of Government telephone systems during official travel.* The Federal Telecommunications System (FTS) intercity network and other Government-provided long distance telephone services are to be used only to conduct official business; i.e., if the call is necessary in the interest of the Government (31 U.S.C. 1348(b)). These networks are to be used for placement of calls instead of the commercial toll network to the maximum extent practicable. (See § 301–6.2.) Authorization or approval of employees' use of the Government telephone systems (including calls over commercial systems which will be paid for by the Government) during official travel shall be in accordance with agency directives issued pursuant to the Federal Information Resources Management Regulation (FIRMR) (41 CFR 201–38.007 through 201–38.007–7).

§ 301–6.5 Supporting statement.

Charges for official commercial telephone calls, telegrams, cablegrams, or radiograms on official business may be allowed provided a statement is furnished showing the points between which service was rendered, the date, the amount paid for each telephone call, telegram, cablegram, or radiogram, and that they were required on official business. When the public interest so requires, the points between which telephone service was rendered need not be stated in the official travel voucher, but may be stated in confidence to the administrative official.

§ 301–6.6 Charges for telegraph, cable, and radio services.

(a) *Collect service.* Official telegrams, cablegrams, and radiograms sent to Government offices having authorized charge accounts shall be endorsed by the sender as "Official Business-Collect" unless otherwise directed by a designated authority. All others shall be prepaid.

(b) *Cash payment.* When "collect" service is refused, payment of the amount demanded shall be made. A report of the circumstances and a receipted copy of the message shall be sent to the administrative office.

(c) *Words chargeable.* All messages shall be subject in all respects to the prevailing commercial count of chargeable words. In addition, collect messages may include a surcharge.

§ 301–6.7 Priority of official messages.

All Government communications by telegraph, cable, or radio shall have priority over all other business, except radio communications or signals which are given absolute priority under the Communications Act of 1934, as amended, and shall be subject to the prevailing classifications, practices, and regulations applicable to the corresponding commercial communications. Employees sending such communications shall endorse thereon the words "official business." Complaints may be filed with the Federal Communications Commission in accordance with section 208 of the Communications Act of 1934, as amended.

PART 301–7—PER DIEM ALLOWANCES

Sec.

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Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–7.1 General.

This Part 301–7 applies worldwide (both within and outside CONUS) except as specifically provided herein.

(a) *Authority.* Per diem allowances shall be paid as prescribed in this Part 301–7 for official travel away from the official station (including travel incidental to a change of official station), except when actual subsistence expense reimbursement is authorized or approved as provided in Part 301–8.

(b) *Definitions.* For purposes of this Part 301–7, the following definitions apply:

(1) *Calendar day.* Calendar day means the 24-hour period from one midnight to the next midnight. For purposes of this regulation, the calendar day technically begins one second after midnight (reflected herein as 12:01 a.m.) and ends at 12:00 midnight.

(2) *CONUS.* CONUS refers to the "Continental United States", defined in § 301–1.3(c)(5) as the 48 contiguous States and the District of Columbia. (See 5 U.S.C. 5701(6).)

(3) *Locality rates.* Locality rates are maximum per diem rates prescribed for specific localities within CONUS. Locality rates are listed by State and city in Appendix A of this chapter.

(4) *Standard CONUS rate.* Generally, the standard CONUS rate is prescribed for any location within CONUS that is not included in one of the defined localities or areas for which a specific rate is prescribed in Appendix A of this chapter. The standard CONUS rate is also prescribed in certain specified circumstances as provided herein for all locations within CONUS, including the separately defined localities.

(5) *Per diem allowance.* The per diem allowance is a daily payment instead of actual expenses for lodging, meals and related incidental expenses (see paragraph (c) of this section). The per diem allowance is distinguished from transportation expenses and other miscellaneous travel expenses as described in paragraphs (b)(5) (i) and (ii) of this section.

(i) *Transportation expenses.* Transportation expenses include commercial bus, air, rail, or vessel/steamship fares and are reimbursable in addition to the per diem allowance. Transportation expenses also include local transit system and taxi fares, cost of commercial rental cars and other special conveyances, and mileage and other allowances for use of privately owned conveyances, including fees for parking, ferries, etc. (See Parts 301–2, 301–3, and 301–4 for governing provisions.)

(ii) *Other miscellaneous travel expenses.* Other miscellaneous travel expenses are those described in Part 301–9 that are directly attributable and necessary to the travel and temporary duty as authorized and performed. When authorized or approved by the agency concerned, these expenses are reimbursable in addition to the per diem allowance and transportation expenses.

(c) *Types of expenses covered by per diem.* The per diem allowance covers all charges, including taxes and service charges where applicable, for the following types of subsistence expenses.

(1) *Lodging.* (i) The term "lodging" includes expenses for overnight sleeping facilities; baths; personal use of the room during daytime; and service charges for fans, air conditioners, heaters, and fires furnished in rooms when such charges are not included in the room rate.

(ii) The term "lodging" does not include accommodations on airplanes, trains, buses, or vessels. The cost of accommodations furnished aboard common carriers is included in the transportation cost and is not considered a subsistence expense. However, in determining the overall cost to the Government when authorizing the mode of transportation to be used (see § 301–2.2), the availability of these accommodations shall be considered.

(2) *Meals.* Expenses for breakfast, lunch, and dinner (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

(3) *Incidental expenses related to subsistence.* (i) Fees and tips to waiters and waitresses, porters, baggage carriers, bellhops, hotel maids, dining room stewards or stewardesses and others on vessels, and hotel servants in foreign countries.

(ii) Laundry and cleaning and pressing of clothing.

(iii) Transportation between places of lodging or business and places where meals are taken except as provided in § 301–2.3(b).

(iv) Telegrams and telephone calls necessary to reserve lodging accommodations. (See Part 301–6 for allowable telegram and telephone expenses incurred for other purposes.)

(d) *Employee responsibility.* An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. Employees will be responsible for excess costs and any additional expenses incurred for personal preference or convenience. (See § 301–1.3(a).)

(e) *Agency responsibilities for authorizing/approving rates.* It is the responsibility of the head of each agency, or his/her designee, to authorize or approve only those per diem allowances that are justified by the circumstances affecting the travel and are allowable under the specific rules in this Part 301–7. However, the per diem rates provided for under these rules represent the maximum allowable. To prevent authorization or approval of per diem allowances in excess of amounts required to meet the necessary subsistence expenses of official travel, consideration shall be given to factors such as those listed in this paragraph (e) that reduce the necessary expenses of employees (see specific guidelines in § 301–7.7 for reducing rates):

(1) Known arrangements or established cost experience at temporary duty locations showing that lodging and/or meals can be obtained without cost or at reduced cost to the employee;

(2) Situations in which special rates for accommodations have been made available for a particular meeting, conference, training or other temporary duty assignment;

(3) Traveler's familiarity with establishments providing lodging and meals at a lower cost in certain localities, particularly where repetitive travel or extended stays are involved;

(4) Modes of transportation where accommodations are provided as part of the transportation cost; and

(5) Situations in which the Government furnishes lodging, such as Government quarters or other lodging procured for the employee by means of an agency purchase order. (See § 301–7.7(a).)

§ 301–7.2 Maximum per diem rates.

Per diem allowances for official travel authorized or approved under this Part 301–7 shall be at daily rates not in excess of the maximum per diem rates established as follows:

(a) *Continental United States (CONUS).* The per diem allowances payable for official travel within CONUS shall not exceed the maximum per diem rates established by the Administrator of General Services and listed in Appendix A of this Chapter 301. (See instructions in § 301–7.3 for requesting rate adjustments and § 301–7.5 for application of per diem rules within CONUS.)

(b) *Nonforeign areas outside CONUS.* The per diem allowances payable for official travel in nonforeign areas shall not exceed the maximum per diem rates established by the Secretary of Defense and listed in Civilian Personnel Per Diem Bulletins published periodically in the **Federal Register.** The term "nonforeign areas" includes the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States.

(c) *Foreign areas.* Per diem allowances payable for official travel in foreign areas shall not exceed the maximum per diem rates established by the Secretary of State and published in the Per Diem Supplement to the Standardized Regulations (Government Civilians, Foreign Areas). The term "foreign areas" includes any area (including the Trust Territory of the Pacific Islands) situated both outside CONUS and the nonforeign areas as described in paragraphs (a) and (b) of this section.

§ 301–7.3 Rate adjustment requests for travel within CONUS.

(a) Federal agencies may submit a request to GSA for review of the subsistence costs in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in Appendix A of this Chapter 301 will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for subsistence rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Travel and Transportation Regulations Staff (FBR), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies.

(b) Requests for rate adjustments shall include a city designation and a description of the surrounding location involved (county or other defined area) and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

§ 301–7.4 General rules affecting entitlement to per diem.

(a) *No allowance at official station.* A per diem allowance shall not be allowed within the limits of the official station (see definition in § 301–1.3(c)(3)) or at, or within the vicinity of, the place of abode (home) from which the employee commutes daily to the official station. Agencies may define a radius or commuting area that is broader than the limits of the official station within which per diem will not be allowed for travel within 1 calendar day.

(b) *Travel of 10 hours or less (10-hour rule).* A per diem allowance shall not be allowed when the period of official travel is 10 hours or less except as provided in § 301–7.6(b)(1). (See also § 301–7.5(b)(1).)

(c) *Beginning and ending of entitlement.* For computing per diem allowances, official travel begins at the time an employee leaves his/her home, office, or other authorized point of

departure and ends when the traveler returns to his/her home, office, or other authorized point at the conclusion of the trip.

(d) *Deductions for meals and/or lodgings furnished.* Where meals and/or lodging are furnished without charge or at a nominal cost by a Federal Government agency at a temporary duty station, an appropriate deduction shall be made from the authorized per diem rate. (See §§ 301–7.5(a)(2)(ii), 301–7.6(e), and 301–7.7(b).)

§ 301–7.5 Lodgings-plus per diem computation rules for travel within CONUS.

Except as otherwise provided in this Part 301–7, the per diem allowances authorized or approved for all official travel within CONUS, including travel incident to a change of official station, shall be computed under the lodgings-plus per diem system as prescribed herein. Under this system, the per diem allowance for each travel day is established on the basis of the actual amount the traveler pays for lodgings plus an allowance for meals and incidental expenses (M&IE), the total not to exceed the applicable maximum per diem rate. The rules provided in paragraphs (a) through (d) of this section shall be applied in the specific situations covered.

(a) *Maximum CONUS per diem rates.* Maximum per diem rates prescribed under § 301–7.2(a) for travel within CONUS are listed in Appendix A of this Chapter 301 for certain specific localities. For all CONUS locations not specifically listed or encompassed by the defined boundaries of a listed location, a standard maximum per diem rate of $66 is prescribed. For all CONUS locations, whether or not they are specifically listed, the standard CONUS rate applies in certain specified travel circumstances (see paragraph (b)(2) of this section) and for subsistence allowances incident to a change of official station (see Parts 302–2, 302–4, and 302–5 of this title). The following elements comprise the per diem allowance:

(1) *Maximum lodging expense allowance.* The maximum per diem rates include a maximum amount for lodging expenses. The employee will be reimbursed for actual lodging costs incurred up to the applicable maximum amounts listed in Appendix A of this Chapter 301. Receipts for lodging are required as provided in paragraph (c)(1) of this section.

(2) *Meals and incidental expenses (M&IE) allowance.* (i) The maximum per diem rates include a fixed allowance for meals and for incidental expenses related to subsistence. This allowance is reflected in Appendix A of this chapter as the M&IE rate. When the M&IE rate, or fraction thereof, is authorized or approved as provided herein, it is payable to the traveler without itemization of expenses or receipts. For partial days of travel, the M&IE rate shall be prorated as provided in paragraph (b)(1)(iii), (b)(2)(i)(C), or (b)(2)(iii)(B) of this section.

(ii) The M&IE rate shall be allocated as shown in the following table when making necessary deductions from the per diem for meals furnished to the employee without charge by the Federal Government (see §§ 301–7.4(d) and 301–7.7(b)). The total amount of deductions made on partial days shall not cause the employee to receive less than the amount allocated for incidental expenses.

	M&IE Rates	
	$26	$34
Breakfast	$5	$7
Lunch	5	7
Dinner	14	18
Incidentals	2	2

(b) *Per diem allowance computations.* The per diem allowance is to be calculated using the rules stated in this paragraph (b).

(1) *Travel of 24 hours or less*—(i) *10 hours or less.* Per diem shall not be allowed for travel of 10 hours or less. (See § 301–7.4(b).) This prohibition is also applicable to travel incident to a change of official station within CONUS.

(ii) *Exception to 10-hour rule.* Per diem shall not be allowed for employees who qualify for per diem solely on the basis of working a non-standard workday; e.g., four 10-hour days or other compressed or flexible schedule. In such instances, per diem shall not be allowed for travel periods less than or equal to the employee's workday hours plus 2 hours.

(iii) *More than 10 hours.* When the travel period (entire trip) for which per diem has been authorized is 24 hours or less, the travel period will be divided into 6-hour periods starting from the actual time travel begins and ending with the traveler's arrival at home, office, or other authorized point, upon conclusion of the trip. The per diem allowance for the trip will be calculated as follows:

(A) *Lodging not required.* If lodging is not required, one-fourth of the M&IE rate applicable to the location of the temporary duty assignment will be allowed for each 6-hour period, or fraction thereof. If more than one temporary duty point is involved, the per diem allowance will be calculated using the M&IE rate prescribed for the location where the majority of the time is spent performing official business.

(B) *Lodging required.* If lodging is required, the rules for travel of more than 24 hours apply.

(2) *Travel of more than 24 hours.* The applicable maximum per diem rate (standard CONUS or locality rate from Appendix A of this chapter) for each calendar day of travel shall be determined by the travel status and location of the employee at 12:00 midnight and whether lodging is required at such location. When lodging is required, the applicable maximum per diem rate shall be the maximum rate prescribed in Appendix A for the temporary duty location, or a stopover point where lodging is obtained while en route to, from, or between temporary duty locations (see paragraphs (b) (3) and (4) of this section for rules on lodging location and travel incident to a change of official station, respectively). Only one maximum rate will be applicable to a calendar day or fraction thereof. The following rules shall be applied in calculating the allowable per diem for travel of more than 24 hours:

(i) *Day travel begins*—(A) *Lodging required.* When lodging is required on the day travel begins (day of departure from the official station or other authorized point), the per diem allowable shall be the actual cost of lodging incurred by the employee, limited to the applicable maximum lodging allowance prescribed in Appendix A of this chapter, plus the applicable M&IE rate prorated as provided in paragraph (b)(2)(i)(C) of this section.

(B) *Lodging not required.* When lodging is not required on the day travel begins, the per diem allowable shall be the standard CONUS M&IE rate prorated as provided in paragraph (b)(2)(i)(C) of this section.

(C) *Method of prorating M&IE rate.* The M&IE rate shall be prorated by dividing the day of departure into 6-hour periods starting from the actual time travel begins and running through 12:00 midnight. For each 6-hour period, or fraction thereof, one-fourth of the applicable M&IE rate shall be allowed.

(ii) *Full calendar days of travel*—(A) *Lodging required.* For each full calendar day that the employee is in a travel status and lodging is required (whether en route or at a temporary duty location), the actual cost of lodging incurred by the traveler shall be added to the applicable M&IE rate. The resulting amount, limited to the

maximum per diem rate prescribed for the location in Appendix A of this chapter, shall be the allowable per diem for the full calendar day.

(B) *Lodging not required.* For any full calendar day of travel when lodging is not required (such as when employee is en route overnight returning to the official station), the maximum per diem rate shall be the M&IE rate applicable to the preceding calendar day.

(iii) *Day travel ends*—(A) *Determining applicable rate.* For the day travel ends (when employee returns to the official station or other authorized point, or arrives at the new official station incident to a change of official station), the per diem allowable shall be the M&IE rate applicable to the preceding calendar day prorated as provided in paragraph (b)(2)(iii)(B) of this section.

(B) *Method of prorating M&IE rate.* The M&IE rate shall be prorated by dividing the day travel ends into 6-hour periods beginning at 12:01 a.m. and running until the employee arrives at home, office, or other authorized point at the conclusion of the trip. For each 6-hour period, or fraction thereof, one-fourth of the applicable M&IE rate shall be allowed.

(iv) *Lodging obtained after midnight.* Although per diem generally is based on the employee's location at midnight, there will be instances in which he/she is en route and does not arrive at the lodging location (either temporary duty location or en route stopover point) until after midnight. In such cases, the lodging shall be claimed for the preceding calendar day and the applicable maximum per diem for the preceding day will be determined as if the employee had been at the lodging location at 12:00 midnight of that day.

(3) *Lodging location rules*—(i) *Lodging at temporary duty location.* It is presumed that the employee will obtain lodging at the temporary duty location. However, if the employee obtains lodging away from or outside the temporary duty location because of personal preference or convenience, the allowable per diem shall be limited to the maximum per diem rate prescribed for the temporary duty location.

(ii) *Lodging not available at temporary duty location.* In certain circumstances, lodging accommodations may not be available at the temporary duty location and the employee must obtain lodging in an adjacent locality where the prescribed maximum per diem rate is higher than the maximum per diem rate for the location of the temporary duty point. In such instances, the agency may make an administrative determination on an individual case basis to authorize or approve the higher maximum per diem rate. If the higher maximum rate is not justified and authorized in advance, the employee must furnish a statement with the travel voucher satisfactorily explaining the circumstances that caused him/her to obtain lodging in an area other than at the temporary duty point designated in the travel authorization.

(4) *Maximum rate applicable to change of official station travel.* The standard CONUS rate shall be the applicable maximum per diem rate for en route travel performed incident to a change of official station.

(c) *Receipt requirements and allowable lodging expenses*—(1) *Lodging receipt requirements.* Receipts shall be required to support all lodging costs for which an allowance is claimed under the lodgings-plus per diem system except that a statement instead of a receipt may be accepted for the fee or service charge incurred for the use of Government quarters. Receipts are not required when a specific or reduced rate has been authorized in advance of the travel as provided in paragraph (d) of this section and in § 301–7.7.

(i) *Double occupancy.* If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the travel voucher with the name, and employing agency or office, of the person sharing the room if such person is a Government employee on official travel. One-half of the double occupancy charge shall be allowable for each employee. If the person sharing the room is not another Government employee on official travel, identification of the person sharing the room is not required and the employee may be allowed the single room rate.

(ii) *Receipts lost or impractical to obtain.* If receipts have been lost or destroyed or are impractical to obtain, a statement acceptable to the agency explaining the circumstances shall be furnished with the travel voucher, including the name and address of the lodging facility, the dates the lodging was obtained, and the cost incurred. Agencies may require employees to obtain copies of lost or destroyed receipts from the lodging establishment. (See also § 301–11.3(d).)

(2) *Allowable lodging expenses.* As provided in § 301–7.5(a)(1), the traveler will be reimbursed only for his/her actual cost of lodging up to the maximum amount. No minimum amount is authorized for lodging under the lodgings-plus per diem system since reimbursement is based on the actual cost of lodging incurred by the employee. Expenses incurred in the situations described in paragraphs (c)(2)(i) through (v) of this section will be allowed as lodging expenses:

(i) *Conventional lodging.* When an employee uses conventional lodging facilities (hotels, motels, boarding houses, etc.), the allowable lodging expense will be based on the single room rate for the lodging used (for double occupancy, see paragraph (c)(1)(i) of this section). (See § 301–7.9(a) for computing daily lodging expense when lodging is rented on a weekly or monthly basis.)

(ii) *Government quarters.* A fee or service charge paid for the use of Government quarters is an allowable lodging expense.

(iii) *Lodging with friends or relatives.* When the employee obtains lodging from friends or relatives (including members of the immediate family) with or without charge, no part of the per diem allowance will be allowed for lodging unless the host actually incurs additional costs in accommodating the traveler. In such instances, the additional costs substantiated by the employee and determined to be reasonable by the agency may be allowed as a lodging expense. Neither costs based on room rates for comparable conventional lodging in the area nor flat "token" amounts will be considered as reasonable.

(iv) *Lodging in nonconventional facilities.* When no conventional lodging facilities are present (e.g., in remote areas) or when there is a shortage of rooms because of an influx of attendees at special events (e.g., world's fairs or international sports events), costs of lodging obtained in nonconventional facilities may be allowed. Such facilities may include college dormitories or similar facilities and rooms generally not offered commercially that are made available to the public by area residents in their homes. In such cases, the traveler must provide an explanation of the circumstances which is acceptable to the agency.

(v) *Use of travel trailer or camping vehicle for lodgings.* A per diem allowance for lodging may be allowed when the traveler uses a travel trailer or camping vehicle while on temporary duty assignments away from his/her official station. (See § 301–7.9(b) for per diem computations in such situations.)

(d) *Deviation from lodgings-plus per diem system.* An agency may determine that the lodgings-plus per diem system as prescribed in this section is not appropriate for certain travel assignment situations, such as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other

reason the subsistence costs to be incurred by the employee can be determined in advance. (For example, see situations described in §§ 301–7.7 and 301–7.9.) In such instances, a specific per diem rate may be established within the maximum per diem otherwise applicable to the travel situation and any appropriate reductions made in accordance with § 301–7.7, provided the exception from the lodgings-plus per diem system and the specific per diem rate are authorized in advance on the travel authorization by an appropriate official of the agency concerned. Such specific per diem rate authorized on the travel authorization shall be the per diem rate payable on the travel voucher without receipts and/or itemization by the employee.

§ 301–7.6 Per diem computation rules for travel to, from, between, or within locations outside CONUS.

Except as otherwise provided in this Part 301–7, per diem allowances authorized or approved for official travel to, from, between, or within locations outside CONUS (including travel incident to a change of official station) shall be computed under the quarter-day system as provided in paragraphs (a) through (f) of this section.

(a) *Maximum per diem allowable.* Per diem allowances for official travel within localities outside CONUS will be at rates not to exceed the maximum per diem rate established under § 301–7.2 (b) or (c) for the locality in which the travel is performed. Per diem allowances for en route travel to, from, or between localities outside CONUS will be determined as provided in paragraph (c) of this section. Whenever lodging is not required during a calendar day of official travel under this section, the applicable maximum rate shall be reduced to reflect such fact as provided in § 301–7.7(a).

(b) *Computation of basic per diem entitlements*—(1) *Travel of 10 hours or less.* Per diem shall not be allowed when the travel period is 10 hours or less during the same calendar day (or employee's workday hours plus 2 hours for employees who would otherwise qualify for per diem solely on the basis of working a non-standard workday; e.g., four 10-hour days or other compressed or flexible schedule), except when the travel period is 6 hours or more and either begins before 6 a.m. or ends after 8 p.m. (This rule does not apply for en route travel incident to a change of official station.)

(2) *Methods of prorating travel days.* Basic per diem entitlements will be calculated on a calendar day basis. When a change in travel status requires a change in the applicable rate during a calendar day or a per diem allowance must be calculated for partial days of travel, the travel day will be prorated as follows:

(i) *Travel of 24 hours or less.* For continuous travel of 24 hours or less, the travel period will be divided into 6-hour periods starting from the actual time travel begins and ending with its completion at home, office, or other authorized point. For each 6-hour period, or fraction thereof, one-fourth of the applicable per diem rate for a calendar day will be allowed.

(ii) *Travel of more than 24 hours.* In computing per diem allowances for travel periods covering more than 24 hours, the calendar day (midnight to midnight) shall be the unit. The calendar day shall be divided into four 6-hour periods (quarter days) and one-fourth of the applicable per diem rate shall be allowed for each quarter day. The per diem rate in effect at the beginning of a quarter day shall continue to the end of that quarter. When the per diem rate changes during a calendar day, such rate will take effect at the beginning of the next quarter day immediately following the quarter day in which the rate change occurred. For a partial day at the beginning or ending of a travel period, one-fourth of the applicable per diem rate for the calendar day shall be allowed for each quarter day, or fraction thereof, that the employee is in a travel status during the partial day.

(iii) *30-minute rule.* When the time of departure from home, office, or other authorized point at the beginning of the trip or the time of return thereto at the end of the trip involves only a 30-minute fraction of a quarter day, per diem shall not be allowed for either such quarter day unless the traveler provides a statement with the travel voucher explaining the necessity for the specific time of departure or return that is acceptable to the agency. The 30-minute rule applicable to the payment of per diem as provided herein does not apply to the beginning of continuous travel of 24 hours or less as provided in paragraph (b)(2)(i) of this section; however, it is applicable to the end of such travel.

(3) *International dateline.* In computing per diem in cases where the traveler crosses the international dateline (180th meridian), the actual elapsed time shall be used to compute per diem rather than calendar days.

(c) *Computation of per diem rates for en route travel to, from, or between locations outside CONUS.* The maximum per diem rate for en route travel to, from, or between locations outside CONUS is based on the traveler's travel time (including time spent at rest stop locations or stopovers at intermediate points) as prescribed in this paragraph (c).

(1) *Duty point.* As used herein, the term "duty point" means the official station outside CONUS, any other place outside CONUS at which official travel begins or ends, or the point of exit or entry within CONUS.

(2) *Rates and conditions.* For en route travel beyond the limits of CONUS by airplane, train, or boat (regardless of whether commercially or Government-owned), whether en route between a duty point within CONUS and a locality beyond or between localities outside CONUS, including stopovers of less than 6 hours, the maximum per diem that may be authorized or approved (except for the provisions of paragraph (b)(1) of this section) is as follows:

(i) *Same day return.* When the traveler departs from a duty point within CONUS or a locality outside CONUS and returns during the same calendar day to a duty point within CONUS or the locality outside CONUS, respectively, the maximum per diem rate allowable for the trip shall be that of the duty point at which the trip began. Since lodging is not required in this instance, the per diem rate applicable to any duty point within CONUS shall be the standard CONUS M&IE rate prescribed in Appendix A of this chapter. For the same reason, the maximum per diem rate for the origin locality outside CONUS shall be reduced to an appropriate amount to reflect no lodging costs.

(ii) *En route less than 6 hours.* For travel other than that described in paragraph (c)(2)(i) of this section, when the en route travel time is less than 6 hours between a duty point within CONUS and a duty point in a locality outside CONUS or between two duty points outside CONUS, the maximum per diem rate allowable between duty points shall be that of the destination duty point. When the destination duty point is within CONUS, the maximum per diem rate shall be the standard CONUS rate prescribed in Appendix A of this chapter, except when a higher rate for travel time at the duty point is authorized or approved under paragraph (c)(4)(ii) of this section.

(iii) *En route 6 hours or more.* When the en route travel time is 6 hours or more between the duty points described in paragraph (c)(2)(ii) of this section, the per diem rate applicable for travel between the duty points is $6, except:

(A) For vessel travel of more than 9 successive calendar days, in addition to the fractional days of embarkation and

debarkation, the per diem rate for the succeeding calendar days and for the fractional day of debarkation is $2; and

(B) When either the $6 or $2 rate prescribed herein is not commensurate with a traveler's subsistence expenses, a different per diem rate may be authorized or approved not in excess of the maximum per diem rate applicable to the destination duty point or, with respect to vessel travel, not in excess of $9, except that the rate for travel by the Alaska Ferry System shall not exceed the standard M&IE rate for CONUS.

(3) *Stopovers of 6 hours or more.* When the en route travel period between origin and destination duty points involves a stopover at an intermediate point and the time spent at the stopover point is 6 hours or more, the per diem rate for the travel period at the stopover point shall be the rate applicable to the locality in which the stopover takes place. The applicable per diem rate shall take effect at the beginning of the quarter day following the actual time of arrival at the intermediate stopover point. When determining per diem rates for en route travel, the length of time at an intermediate stopover point is controlling regardless of whether the stopover is necessary because of official duty, common carrier scheduling, or an authorized rest stop (see paragraph (c)(6) of this section). Stopovers of less than 6 hours are considered part of the en route travel as provided in paragraph (c)(2) of this section.

(4) *Travel beginning or ending within CONUS.* When the travel covered by this paragraph (c) begins or ends at a place within CONUS other than a duty point, the maximum per diem applicable to the travel between such place and the duty point (place of exit or entry) within CONUS, including time in a travel status at the duty point or an intermediate location, shall be determined as provided in paragraphs (c)(4) (i) through (iii) of this section.

(i) Generally, the applicable maximum per diem rate shall be the standard CONUS maximum per diem rate prescribed in Appendix A of this chapter, except that such maximum rate shall be limited to the M&IE portion of the standard CONUS rate in the following travel circumstances:

(A) For the day travel begins when the traveler is in an en route travel status at 12:00 midnight and no lodging is required that day because of the en route travel status; or

(B) For the day(s) of return (or day travel ends) when lodging is not required because of en route status at 12:00 midnight or arrival at home or official station.

(ii) When either the standard CONUS maximum per diem rate, or the M&IE portion thereof, is not commensurate with a traveler's subsistence expenses (such as when lodging is required at the duty point or an intermediate location), a different rate may be authorized or approved not in excess of the maximum per diem rate applicable for the locality involved; or

(iii) When the travel described in paragraph (c)(4) of this section involves temporary duty within CONUS and lodging is required within CONUS, per diem shall be computed under the lodgings-plus per diem system as provided in § 301–7.6(f). In such instances, paragraph (c)(4) of this section applies only to travel days prior to or immediately following the travel days for which the lodgings-plus per diem system is applicable.

(5) *Travel beginning or ending outside CONUS.* When en route travel outside CONUS is required between a home, official station, or some other location and the common carrier or other terminal or between localities outside CONUS, and such travel is by a mode of transportation other than airplane, train, or boat, per diem for the quarter days involved will be based on the locality rate where the traveler is located at the beginning of each quarter day. Per diem for the first quarter day of the travel will be at the origin rate.

(6) *Rest stops.* (i) When travel is direct between duty points which are separated by several time zones and at least one duty point is outside CONUS, a rest period not in excess of 24 hours may be authorized or approved when air travel between the duty points is by less-than-first-class accommodations and the scheduled flight time (including stopovers of less than 8 hours) exceeds 14 hours by a direct or usually traveled route.

(ii) The rest stop may be authorized at any intermediate point, including points within CONUS, provided the point is midway in the journey or as near to midway as requirements for use of U.S. flag air carriers and carrier scheduling permit.

(iii) A rest stop shall not be authorized when an employee, for personal convenience, elects to travel by an indirect route resulting in excess travel time.

(iv) The per diem rate for the rest stop shall be the rate applicable for the rest stop location (see paragraph (c)(3) of this section).

(v) When carrier schedules or the requirements for use of U.S. flag air carriers preclude an intermediate rest stop, or a rest stop is not authorized, it is recommended that the employee be scheduled to arrive at the temporary duty point with sufficient time to allow a reasonable rest period before reporting for duty. (See § 301–3.6 for guidelines on the use of U.S. flag carriers.)

(d) *When lodging is not located at duty point outside CONUS.* When suitable lodging is not available at place of temporary duty in a locality outside CONUS and the employee is required to obtain lodging in a different locality, the maximum applicable per diem rate shall be that of the locality in which the lodging is obtained.

(e) *Deductions for meals and/or lodgings furnished.* Where meals and/or lodging are furnished without charge or at a nominal cost by a Federal Government agency at a temporary duty station, an appropriate deduction shall be made from the authorized per diem rate. (See § 301–7.7(b).)

(f) *Travel involving temporary duty within CONUS.* As a general rule, when travel covered under this section involves temporary duty within CONUS and lodging is required within CONUS incident to such temporary duty either at the temporary duty location, the entry or exit duty point within CONUS, or an intermediate stopover point within CONUS, the lodgings-plus per diem system prescribed in § 301–7.5 is applicable to the travel time within CONUS. For the remainder of the trip, or when temporary duty is of such short duration that lodging is not required, per diem will be computed under the quarter-day system. The specific rules provided in paragraphs (f) (1) through (3) of this section will be applied to determine specific time periods for application of the lodgings-plus system.

(1) *Round-trip travel beginning outside CONUS.* When round-trip travel is from a duty point outside CONUS for temporary duty within CONUS, the lodgings-plus per diem system takes effect at 12:01 a.m. on the first day lodging is required within CONUS and extends through 12:00 midnight of the last calendar day that lodging is required within CONUS.

(2) *Travel beginning within CONUS.* When travel begins within CONUS and temporary duty is performed within CONUS prior to departure from the CONUS exit duty point, the lodgings-plus per diem system will be in effect beginning on the day of departure from home, office, or other authorized point within CONUS through 12:00 midnight of the last calendar day that lodging is required within CONUS.

(3) *Travel ending within CONUS.* When travel ends within CONUS and temporary duty is performed within CONUS prior to conclusion of the travel,

the lodgings-plus per diem system will be in effect beginning at 12:01 a.m. on the first day lodging is required within CONUS through the time of arrival at home, office, or other authorized point within CONUS upon completion of the travel.

§ 301–7.7 Reductions in maximum per diem rates when appropriate (worldwide).

An agency may, in individual cases or situations, authorize a reduced per diem rate under certain circumstances, such as when lodgings and/or meals are obtained by the employee at a reduced cost or furnished to the employee at no cost or a nominal cost by the Government; or when for some other reason the subsistence costs to be incurred by the employee can be determined in advance. In exercising its responsibilities outlined in § 301–7.1(e), the agency should consider any known factors that will cause the traveler's subsistence expenses in a specific situation to be less than the applicable maximum rates prescribed under § 301–7.2. If it can be determined in advance of the travel that such factors are present, the agency should authorize a reduced rate that is commensurate with the known expense levels. Such reduced rate authorized on the travel authorization shall be the per diem rate payable on the travel voucher without receipts and/or itemization by the employee. When reduced rate situations involve partial days, agencies may either prorate the rate by quarters or prescribe a special reduced rate for the partial travel days. Specific guidelines for reducing rates and situations where reduced rates may be appropriate are provided in paragraphs (a) through (e) of this section.

(a) *When no lodging expenses incurred.* For travel within or outside CONUS which is less than 24 hours or in any other travel situation where lodging expenses will not be incurred, including instances where lodging is furnished by the Government without charge, the maximum per diem rate shall be reduced accordingly. For CONUS travel, the lodgings-plus per diem system automatically reduces the maximum per diem rate to the M&IE rate (or fraction thereof). When lodging is furnished at no cost to the employee through use of an agency purchase order, the agency shall not authorize or approve a per diem allowance for other subsistence expenses that will, when combined with the cost of lodging furnished, exceed the applicable maximum per diem rate prescribed under § 301–7.2.

(b) *When meals/lodgings are furnished by the Government.* When all or part of the meals and/or lodging are furnished at no cost or at a nominal cost to the employee by the Federal Government, the applicable maximum per diem rate or the M&IE rate, as appropriate, shall be reduced to a daily amount commensurate with the remaining expenses expected to be incurred by the employee. If a reduced per diem rate was not authorized in advance of the travel, an appropriate deduction shall be made from the total per diem payable on the travel voucher. (See §§ 301–7.4(d), 301–7.5(a)(2)(ii), and 301–7.6(e).)

(c) *Extended stays.* When travel assignments involve extended periods of more than 30 days at temporary duty locations and travelers are able to secure lodging and/or meals at lower costs, the per diem rate should be reduced accordingly. If the extended temporary duty is for training, see paragraph (e) of this section. (See also § 301–7.9 for allowable expenses in special situations.)

(d) *Meetings and conventions.* In the interest of uniform treatment of employees, whenever a meeting or conference is arranged which will involve the travel of attendees from other agencies or components of the same agency, and reduced cost lodging accommodations have been prearranged at the meeting or conference site, the agency or agencies sponsoring the meeting or conference shall recommend to the other participating agencies or components a per diem allowance that would be reasonable.

(e) *Subsistence payments for extended training assignments.* (1) The Government Employees Training Act (5 U.S.C. 4101–4118) authorizes agencies to pay all or a part of the subsistence expenses of an employee assigned to training at a temporary duty station. Implementing regulations prescribed by the Office of Personnel Management (OPM) at 5 CFR 410.603 provide specific guidelines for payment of subsistence expenses for employees on extended training assignments of more than 30 calendar days at temporary duty locations.

(2) Generally the OPM guidelines require a reduced subsistence payment of not more than 55 percent of the applicable maximum per diem rate prescribed in this regulation (see § 301–7.2). Subsistence payments above these levels (not to exceed the maximum per diem rates) must be justified. Agencies shall refer to the OPM guidelines in 5 CFR 410.603 for specific criteria to determine the appropriate subsistence payments. Guidelines are also published by OPM in the Federal Personnel Manual, Chapter 410, Section 6–3.

§ 301–7.8 "Mixed travel" reimbursements.

"Mixed travel" occurs when official travel within a single trip is subject to payment of the daily subsistence expenses under different reimbursement systems; i.e., CONUS lodgings-plus, outside CONUS quarter-day, or actual subsistence expense.

(a) *Transition between reimbursement systems.* Reimbursement for subsistence expenses will be computed under only one reimbursement system for each calendar day except when the provisions of § 301–8.2(b) apply. When travel to or from locations outside CONUS involves temporary duty (with lodging) within CONUS, the rules in § 301–7.6(f) govern the transition between the CONUS lodgings-plus system and the outside CONUS quarter-day system. When actual expense reimbursement for certain travel days is intermittent with the per diem method for others, the rules in § 301–8.6 govern.

(b) *Determining maximum daily rate(s).* Reimbursement for each day will be subject to only one maximum rate, except for travel under § 301–7.6 which may require different rates within a calendar day due to the quarter-day per diem calculation method. The rules for determining maximum rates within each reimbursement system are provided in §§ 301–7.5 and 301–7.6, and Part 301–8.

§ 301–7.9 Per diem allowance computations for special situations (worldwide).

(a) *Per diem for weekly or monthly rentals*—(1) *Types of expenses included in lodging costs.* When an employee rents a room, apartment, house, or other lodging incident to a temporary duty assignment, the following expenses may be considered part of the lodging cost: the rental cost; if unfurnished, the rental cost of appropriate and necessary furniture and appliances, such as a stove, refrigerator, chairs, tables, bed, sofa, television, and vacuum cleaner; cost of connection, use, and disconnection of utilities; cost of reasonable maid fee and cleaning charges; monthly telephone use fee (does not include installation and long-distance calls); and, if ordinarily included in the price of a hotel or motel room in the area concerned, the cost of special user fees, such as cable TV charges and plug-in charges for automobile head bolt heaters.

(2) *Computation of daily lodging costs.* When the employee obtains lodging on a weekly or monthly rental basis, the daily lodging cost shall be computed by dividing the total lodging cost for the expenses listed in paragraph (a)(1) of this section by the number of

days the accommodations are actually occupied, provided that the employee acts prudently in renting by the week or month, and that the cost to the Government does not exceed the cost of renting conventional lodging at a daily rate. Otherwise the daily lodging cost shall be computed by dividing by the number of days in the rental period; e.g., 7 or 30 days, as appropriate.

(3) *Per diem allowable.* (i) Under the lodgings-plus system for CONUS travel, the allowable per diem consists of the daily lodging cost calculated under paragraph (a)(2) of this section plus the applicable M&IE rate not to exceed the maximum per diem rate prescribed for the location involved.

(ii) When a reduced per diem rate is being established (see § 301–7.7) in advance of the travel, the daily lodging cost calculated in paragraph (a)(2) of this section shall be added to the amount determined by the agency to be necessary for meals and incidental expenses.

(b) *Per diem allowances for use of a recreational vehicle for lodging.* The term "recreational vehicle" includes mobile homes, campers, camping trailers, or self-propelled mobile recreational vehicles.

(1) *Privately owned*—(i) *Lodging costs.* When an employee uses a privately owned camping or recreational vehicle while on official travel, allowable expenses which may be considered as a lodging cost include parking fees; fees for connection, use, and disconnection of utilities (electricity, gas, water, and sewage); bath or shower fees; and dumping fees. Depreciation shall not be considered as a lodging cost.

(ii) *Meals and incidental expenses.* The agency shall determine an appropriate amount for meals and incidental expenses based on whether the type of recreational vehicle used by the employee has meal preparation facilities. When use of the recreational vehicle is for a temporary duty assignment within CONUS, such amount shall not exceed the applicable M&IE rate.

(iii) *Per diem computation.* The daily lodging costs plus an appropriate rate for meals and incidental expenses determined under paragraph (b)(1)(ii) of this section shall be the per diem rate, limited to the applicable maximum rate prescribed under § 301–7.2 for the locality involved. An agency may authorize a reduced per diem rate within the applicable maximum per diem rates if the actual costs expected to be incurred can be determined in advance of the travel.

(2) *Rented recreational vehicle.* When the use of a rented recreational vehicle is authorized or approved as advantageous to the Government, the rental fee and the allowable expenses shown in paragraph (b)(1)(i) of this section may be considered as lodging costs. Advantageous use might occur when the employee is on an extended temporary duty assignment in a remote area or where conventional lodging facilities are limited or not available. If use of a rented recreational vehicle is not authorized or approved as advantageous, only those expenses listed in paragraph (b)(1)(i) of this section may be considered as lodging costs.

(c) *Per diem computations when temporary duty is curtailed, canceled, or interrupted for official purposes.* When an employee has made advance arrangements for lodging (such as those described in paragraph (a) or (b) of this section), with reasonable expectation of the travel assignment being completed as ordered or directed, and subsequently the temporary duty assignment is curtailed, canceled, or interrupted for official purposes, or for other reasons beyond the employee's control that are acceptable to the agency, lodging costs may be calculated and paid as follows:

(1) *Travel assignment curtailed or interrupted.* When the temporary duty assignment is curtailed or interrupted for the benefit of the Government or for other reasons beyond the employee's control and the employee is unable to obtain a refund of prepaid rent, expenses incurred for unused lodging may be reimbursed under the following conditions:

(i) *Determination of reasonableness.* The agency must determine that the employee acted reasonably and prudently in incurring allowable lodging expenses pursuant to temporary duty travel orders. Included in this determination should be a consideration of whether the employee sought to obtain a refund of the prepaid lodging cost or otherwise took steps to minimize the costs once the temporary duty was officially curtailed or interrupted.

(ii) *Adjusted calculation and reimbursement of lodging costs.* If the agency determines that the employee acted reasonably, the unused portion of the prepaid lodging cost may be reimbursed as follows:

(A) The daily lodging costs for the period covered by the voucher shall be calculated by dividing the total cost for the rental period by the number of days of actual occupancy. The total of the lodging costs thus calculated plus the appropriate daily amount authorized for meals and incidental expenses may be reimbursed not to exceed the per diem rate authorized in the employee's travel orders for the days that the lodging was occupied.

(B) If the authorized per diem rate is insufficient for the days of occupancy, the daily lodging cost calculated in paragraph (c)(1)(ii)(A) of this section plus the amount authorized for meals and incidental expenses may be reimbursed on an actual expense basis not to exceed appropriate maximum daily rates determined as provided in § 301–8.3.

(C) The excess amount (if any) of the unrefunded lodging cost not reimbursed under paragraph (c)(1)(ii)(B) of this section may be paid as a miscellaneous travel expense incident to the travel assignment, if otherwise proper.

(D) In instances where the travel assignment was interrupted for official purposes (e.g., when the employee is directed to perform temporary duty at another location), allowable subsistence expenses (if any) incurred during the interruption may be reimbursed separately from those reimbursements outlined in paragraphs (c)(1)(ii) (A) and (B) of this section, if otherwise proper and in conformance with the provisions of this Part 301–7.

(2) *Travel assignment canceled.* When the employee incurs lodging expenses in reasonable expectation of a travel assignment being completed as ordered or directed, and due to a change in travel orders the travel assignment is canceled before its commencement, the prepaid lodging expenses may be reimbursed as a miscellaneous travel expense provided the amounts are reasonable and the conditions in paragraph (c)(1)(i) of this section are met.

(3) *Forfeited rental deposits.* If, in situations described in paragraphs (c)(1) and (2) of this section, the employee was required by the terms of a lease or rental agreement to pay a rental deposit and all or part of the deposit is forfeited to cover unpaid lodging costs, the amount of the forfeited deposit may be reimbursed as a miscellaneous travel expense provided the conditions in paragraph (c)(1)(i) of this section are met. Reimbursement for deposits forfeited for damages to lodging accommodations shall not be allowed.

(d) *Per diem while aboard Government vessel.* For temporary duty aboard Government vessels where meals and lodgings are furnished at no cost or at a reduced cost, agencies shall prescribe an appropriate per diem rate within the provisions of this Part 301–7. The term "Government vessel" includes

vessels owned and operated, leased and operated, or chartered by the Government.

§ 301-7.10 Time determinations.

(a) *Duty to record pertinent times.* The date and hour of departure from and arrival at the official station or any other place at which official travel begins or ends must be shown on the travel voucher. The same information also must be shown for points at which temporary duty is performed when such arrival or departure affects the per diem allowance or other travel expenses. Other points visited should also be shown but the time of arrival and departure need not be entered.

(b) *Use of standard time.* The hours of departure and arrival recorded on the voucher shall be those of the standard time in effect at the place involved. (See 15 U.S.C. 262.)

§ 301-7.11 Interruptions of per diem entitlement.

For purposes of this section, the term "place of abode" means the place from which the employee commutes daily to the official station.

(a) *Leave and nonworkdays*—(1) *General.* Leave of absence (other than as provided in paragraph (d) of this section) for one-half, or less, of the prescribed daily working hours shall be disregarded for per diem purposes. Where the leave is more than one-half of the prescribed daily working hours, no per diem shall be allowed for that day.

(2) *Nonworkdays.* Legal Federal Government holidays and weekends or other scheduled nonworkdays are considered nonworkdays. Employees are considered to be in a per diem status on nonworkdays except when they return to their official station or place of abode (see paragraph (b) of this section), or except under conditions stated in paragraphs (a)(2) (i) and (ii) of this section.

(i) *Leave before and after nonworkdays.* Per diem shall not be paid for nonworkdays when:

(A) Employees are in a leave status at the end of the workday before the nonworkdays and at the beginning of the workday following the nonworkdays, and

(B) The period of leave on either of those days is more than one-half of the prescribed working hours for that day.

(ii) *Leave between nonworkdays.* Per diem shall not be paid for more than two nonworkdays in cases where leave of absence is taken for all of the prescribed working hours between the nonworkdays.

(b) *Return to official station for nonworkdays*—(1) *Required return — official business.* An employee who is required by appropriate agency officials to return to his or her official station for the nonworkdays to perform official business or because it is otherwise advantageous to the Government shall be allowed the round-trip transportation expenses and per diem for the en route travel.

(2) *Authorized return — substantial cost savings.* An agency may authorize per diem and transportation expenses to an employee to return home for nonworkdays where a significant cost savings will be achieved. Travel time shall be scheduled within the employee's duty hours to the extent practicable. The cost of lost productivity attributable to the duty hours involved in traveling to and from the employee's residence for nonworkdays shall be considered in determining the cost savings.

(3) *Authorized return incident to extended temporary duty.* Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem en route for periodic return travel to their official stations or places of abode for nonworkdays. Agencies are cautioned that this authority is to be used with the utmost discretion and consideration of the length and purpose of the temporary duty assignments and the distance of the return travel. The periodic return travel may be authorized as provided in paragraphs (b)(3) (i) and (ii) of this section.

(i) The head of the agency has determined, based on an appropriate cost analysis, that the costs of periodic weekend return travel (including the costs of potential overtime, if applicable) are outweighed by savings in terms of increased employee efficiency and productivity, as well as reduced costs of recruitment and retention of employees. This cost analysis shall be conducted no less frequently than every other year.

(ii) Return travel for nonworkdays authorized under these provisions constitutes an exception to the directive on scheduling of travel contained in 5 U.S.C. 6101(b)(2) and therefore should be performed outside the employee's regularly scheduled duty hours or during periods of authorized leave. However, in the case of employees not exempt from the Fair Labor Standards Act overtime provisions, consideration should be given to scheduling the authorized travel to minimize payment of overtime, including scheduling of travel during regularly scheduled duty hours when necessary. (See Office of Personnel Management regulations for further guidelines covering overtime during travel.)

(4) *Voluntary return.* When an employee voluntarily returns to his/her official station or place of abode for nonworkdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the per diem allowance and travel expenses which would have been allowed had the employee remained at the temporary duty station. The employee shall perform any such voluntary return travel during non-duty hours or periods of authorized leave.

(c) *Indirect route or interrupted travel.* If there is an interruption of travel or deviation from the direct route resulting in excess travel time because of an employee's personal preference or convenience or through the taking of leave, the per diem allowed shall not exceed that which would have been allowed on uninterrupted travel by a direct or usually traveled route except as provided in Part 301–12 for certain emergency travel situations. (See §§ 301–2.5, 301–7.10(a), and 301–11.5(a)(3).)

(d) *Illness or injury or a personal emergency situation.* Provisions governing per diem allowable for emergency travel performed due to an employee's incapacitating illness or injury or because of a personal emergency situation, as well as the continuation of per diem due to incapacitating illness or injury of the employee, are found in Part 301–12.

PART 301–8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

Sec.

301–8.1 General.
301–8.2 Conditions warranting authorization or approval of actual expenses.
301–8.3 Maximum daily rates and reimbursement limitations.
301–8.4 Authorization or approval.
301–8.5 Requirements for documentation, review, and administrative controls.
301–8.6 Mixed travel (per diem and actual subsistence expense) reimbursement.
301–8.7 Interruption of subsistence entitlements.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–8.1 General.

The provisions contained herein apply to travel within and outside the continental United States (CONUS).

(a) *Authority.* Agencies may authorize or approve reimbursement for the actual and necessary subsistence expenses of official travel when such expenses are unusually high due to special or unusual circumstances, or for occasional meals and/or lodging, as provided herein. This authority shall be used for individual travel assignments or specific travel situations only after appropriate consideration of the actual facts existing at the time the travel is directed and performed.

(b) *Delegation of authority.* Heads of agencies may delegate, with provisions for limited redelegation, the authority to authorize or approve travel on an actual subsistence expense basis. Such delegation or redelegation shall be held to as high an administrative level as practicable to ensure that authorization or approval of travel on an actual subsistence expense basis or reimbursement therefor is based on adequate consideration and review of the travel circumstances warranting such reimbursement.

(c) *Agency responsibility.* Heads of agencies shall, in accordance with provisions of this Part 301–8, prescribe administrative policies and procedures under which reimbursement for actual and necessary expenses of official travel may be authorized or approved to ensure that the authority contained herein is administered in accordance with the intent of this regulation.

(d) *Relationship to per diem.* Generally, authorization or approval of actual subsistence expenses is contingent on the entitlement to per diem. Except as otherwise provided in this Part 301–8, the definitions and rules stated in Part 301–7 applicable to the employee's entitlement to a per diem allowance shall apply to travel on an actual expense basis.

(e) *Allowable expenses.* Actual subsistence expense reimbursement may be allowed for the same types of expenses that are covered by the per diem allowance in § 301–7.1(c) provided such expenses are determined to be actual and necessary expenses incident to the particular travel assignment.

(f) *Prudent traveler.* An employee traveling on the actual subsistence expense basis is expected to exercise the same care in incurring expenses as set forth in Part 301–7 for travel on a per diem basis.

§ 301–8.2 Conditions warranting authorization or approval of actual expenses.

(a) *Travel assignments involving special or unusual circumstances.* Travel on an actual subsistence expense basis may be authorized or approved for travel assignments within and outside CONUS when the applicable maximum per diem rate (see § 301–7.2) is inadequate due to special or unusual circumstances. The maximum per diem rate, although generally adequate, may be insufficient for a particular travel assignment because the actual and necessary subsistence expenses are unusually high due to special duties or because subsistence costs have escalated temporarily during special events. Actual subsistence expense reimbursement shall not be authorized or approved when the actual and necessary subsistence expenses exceed or are expected to exceed the applicable maximum per diem allowance by only a small amount. Since lodging costs constitute a major portion of the subsistence expenses, travel on an actual expense basis may be authorized or approved for travel when, due to special or unusual circumstances, the lodging costs absorb all or nearly all of the applicable maximum per diem allowance. Examples of travel assignments or situations that may warrant authorization or approval of actual and necessary expenses include but are not limited to the following:

(1) The employee attends a meeting, conference, or training session away from the official duty station where lodging and meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs incurred, because of these prearranged accommodations, absorb all or practically all of the applicable maximum per diem allowance;

(2) The travel is to an area where the applicable maximum per diem allowance is generally adequate but subsistence costs have escalated for short periods of time during special functions or events such as missile launching periods, international or national sports events, world's fairs, conventions, or natural disasters;

(3) Based on a situation described in paragraph (a)(2) of this section, affordable lodging accommodations are not available or cannot be obtained within a reasonable commuting distance of the employee's temporary duty point and transportation costs to commute to and from the less expensive lodging facility consume most or all of the savings achieved from occupying less expensive lodging;

(4) The employee, because of special duties of the assignment, necessarily incurs unusually high expenses in the conduct of official business, such as to procure superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he/she would normally have to pay for accommodations; or

(5) The employee necessarily incurs unusually high expenses incident to his/her assignment to accompany another employee in a situation as described in paragraph (a)(4) of this section.

(b) *Situations requiring reimbursement for occasional meals and/or lodging.* Although lodging and/or meals are furnished without cost (or at a nominal cost) for a particular assignment, the employee may necessarily incur expenses for occasional lodgings and/or meals. The agency may approve reimbursement of appropriate expenses incurred for occasional meals or lodging that are determined to be necessary and justified by the circumstances involved. For travel assignments within CONUS, the actual expense allowable for lodging or each meal may not exceed the lodging or individual meal allowance set out in § 301–7.5(a), or 150 percent of those amounts if special or unusual circumstances are involved; for travel assignments outside CONUS, similar limitations on the amount of reimbursement for such expenses shall be determined by the authorizing agency. Each agency shall establish necessary administrative procedures for travel under these provisions.

§ 301–8.3 Maximum daily rates and reimbursement limitations.

The maximum amount of reimbursement for actual subsistence expenses that may be authorized or approved for each calendar day or fraction thereof is as provided in paragraphs (a) and (b) of this section. Agencies shall determine appropriate and necessary daily maximum rates not to exceed these amounts when authorizing or approving travel under this Part 301–8. Maximum daily rates need not be prorated for fractions of a day; however, see paragraphs (a)(2) and (b)(2) of this section for reimbursement limitations.

(a) *Travel within CONUS*—(1) *Maximum daily rates.* For travel within CONUS, the maximum daily rate for subsistence expenses shall not exceed 150 percent of the applicable maximum per diem rate (rounded to the next highest dollar) prescribed in Appendix A of this chapter for the travel assignment location.

(2) *Reimbursement limitation.* (i) When the actual subsistence expenses incurred during any 1 day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred

and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the agency. (See § 301–8.5(b).) Reimbursement for meals and incidental expenses shall not, under any circumstances, exceed 150 percent of the M&IE rate applicable to the temporary duty location.

(ii) The agency may limit reimbursement for meals and incidental expenses to 100 percent of the applicable M&IE rate and deviate from the requirement for receipts and/or itemization of such expenses as provided in § 301–8.5(a)(3). In such instances, the M&IE rate shall be prorated for partial days of travel as provided in § 301–7.5(b).

(b) *Travel outside CONUS*—(1) *Maximum daily rates.* For travel outside CONUS, the maximum daily rate for subsistence expenses shall not exceed the amount prescribed by the Departments of Defense and State, respectively, for nonforeign and foreign areas as set forth in paragraph (b) (i) or (ii) of this section, whichever is greater:

(i) 150 percent of the applicable maximum per diem rate (rounded to the next higher dollar) prescribed under § 301–7.2 (b) or (c); or

(ii) $50 plus the applicable maximum per diem rate prescribed under § 301–7.2 (b) or (c).

(2) *Reimbursement limitation.* When the actual subsistence expenses incurred during any one day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the agency. (See § 301–8.5(b).) Reimbursement for meals and incidental expenses generally should not exceed 50 percent of the maximum daily rate authorized under paragraph (b)(1) of this section. When appropriate, however, agencies may establish a different limitation.

(c) *When lodging is procured through use of an agency purchase order.* When actual subsistence expense reimbursement is authorized or approved under this Part 301–8 and lodging is furnished to the employee at no cost through use of an agency purchase order, the agency shall not authorize or approve reimbursement for other subsistence expenses that will, when combined with the cost of lodging furnished, exceed the maximum daily rate authorized under paragraph (a) or (b) of this section.

§ 301–8.4 Authorization or approval.

(a) *Requests for authorization or approval of actual expense reimbursement.* It is the employee's responsibility to request authorization or approval for actual subsistence expense reimbursement when conditions appear to warrant such reimbursement and to furnish appropriate justification to support the request.

(b) *Prior authorization of actual expense travel.* Normally, travel on an actual expense basis should be authorized in advance and the daily maximum rate authorized by the agency shall be stated in the travel authorization.

(c) *Approval after travel is completed.* If travel is performed without prior written authorization or is authorized on a per diem basis and otherwise conforms to the provisions of this Part 301–8, reimbursement for actual and necessary subsistence expenses may be approved after completion of the travel.

§ 301–8.5 Requirements for documentation, review, and administrative controls.

(a) *Documentation of actual expenses on the voucher*—(1) *Itemization.* When travel is authorized or approved on an actual subsistence expense basis, the employee shall itemize on the travel voucher each expense for which reimbursement is claimed on a daily basis. Meals must be itemized separately; i.e., breakfast, lunch, and dinner. Those expenses that do not usually accrue on a daily basis, such as laundry and cleaning and pressing of clothing, may be averaged over the number of days that actual expense reimbursement is authorized or approved.

(2) *Receipts.* Receipts shall be required for lodging, regardless of amount, and any individual meal when the cost is over $25. Agencies may, at their discretion, require receipts for other allowable subsistence expenses; however, the employee must be informed of this requirement in advance of travel. The provisions of § 301–7.5(c)(1) (i) and (ii) covering double occupancy and missing receipts apply to this Part 301–8.

(3) *Exception to receipts and/or itemization requirement.* When an agency limits reimbursement for meals and incidental expenses to 100 percent of the applicable M&IE rate (as provided in § 301–8.3(a)(2)(ii)), receipts and/or itemization of meals and incidental expenses need not be required except at agency discretion.

(b) *Agency review and administrative controls.* Procedures shall be established by each agency to ensure that actual subsistence expense reimbursement under the provisions of this Part 301–8 is properly administered and controlled to prevent abuse of the authority contained herein. (See § 301–8.1(c).) An appropriate review of the justification for travel on an actual subsistence expense basis shall be made. Expenses claimed by an employee shall be reviewed by the agency to determine whether the expenses are reasonable and allowable subsistence expenses, and are necessarily incurred in connection with the travel assignment.

§ 301–8.6 Mixed travel (per diem and actual subsistence expense) reimbursement.

(a) Generally, when actual expense reimbursement is authorized or approved for a particular temporary duty location, and is the only reimbursement system involved, the partial day of travel to and from that location also will be on an actual expense basis. However, if the en route travel to or from the actual expense location entails more than 1 day, the agency may authorize actual expense reimbursement, or per diem in accordance with Part 301–7, whichever is administratively advantageous and commensurate with the expenses expected to be incurred by the traveler.

(b) If actual expense reimbursement authorized for particular locations is intermingled with per diem at other locations in a single trip, either within or outside CONUS, the agency shall determine when the transition between reimbursements systems occurs, provided that only one method or system is authorized for any given calendar day.

§ 301–8.7 Interruption of subsistence entitlements.

The provisions of § 301–7.11 applicable to interruptions of per diem entitlements (leave and nonworkdays, return to official station for nonworkdays, indirect route or interrupted travel, and illness or injury or a personal emergency situation) shall apply to travel on an actual subsistence basis.

PART 301–9—MISCELLANEOUS EXPENSES

Sec.

301–9.1 Expenses allowable.
301–9.2 Payment to Government employees.
301–9.3 Payment and reimbursements.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–9.1 Expenses allowable.

(a) *Miscellaneous expenses.* Charges for necessary stenographic or typing services or rental of typewriters in connection with the preparation of reports or correspondence, clerical assistance, services of guides, interpreters, packers, drivers of vehicles, and storage of property used on official business shall be allowed when authorized or approved.

(b) *Hire of a room.* When necessary to engage a room at a hotel or other place to transact official business, a separate charge therefor shall be allowed when authorized or approved. (See § 301–11.3(c)(8).)

(c) *Traveler's checks, money orders, or certified checks.* Reimbursement for cost of traveler's checks, money orders, or certified checks purchased in connection with official travel may be allowed. The amount of the checks or money orders may not exceed the amount of funds necessary to cover the estimated reimbursable expenses.

(d) *Fees relating to travel outside the continental United States.* Reimbursement for the following items of expenses may be authorized or approved:

(1) *Conversion of currency.* Commissions for conversion of currency in foreign countries. (See § 301–11.5(e).)

(2) *Check cashing costs.* Charges covering exchange fees for cashing United States Government checks or drafts issued for the reimbursement of expenses incurred for travel in foreign countries. (See § 301–11.5(e)(1).) Exchange fees incurred in cashing checks or drafts issued in payment of salary shall not be allowed in travel expense accounts.

(3) *Trip insurance.* Cost of trip insurance purchased by employees for use of a Government-furnished or privately owned vehicle during official business for specific or individual trips into a foreign country. Trip insurance covers potential liability for property damage or personal injury or death to third parties. Reimbursement is limited to instances in which the purchase of such insurance is required by foreign statute or is a practical necessity due to the legal procedures of a foreign country which, in the event of an accident, could result in detainment of the driver or impoundment of the vehicle. The amount of reimbursement is limited to the cost of the minimum amount of insurance required for the use of a foreign country's roads or the minimum amount required to be purchased by industrial custom.

(4) *Travel document costs.* Fees in connection with the issuance of passports, visa fees, costs of photographs for passports and visas, costs of certificates of birth, health, and identity, and of affidavits and charges for inoculation which cannot be obtained through a Federal dispensary.

(e) *Other expenses.* Miscellaneous expenditures not enumerated in this section, when necessarily incurred by the traveler in connection with the transaction of official business, shall be allowed when approved.

§ 301–9.2 Payment to Government employees.

Neither payment nor reimbursement shall be allowed under any agreement made by the traveler with an employee of the Government for personal services.

§ 301–9.3 Payment and reimbursements.

Where cash payment is made for services covered by this Part 301–9, reimbursement for the charges actually made may be allowed provided the voucher shows the quantity, unit, and unit price. (See § 301–11.3(c).) If cash payment is not made, the account shall be approved by the traveler, certified by the payee, and forwarded to the administrative office for approval and payment direct to the person who rendered the service. The account must show the dates of service, quantity, unit price, and any other particulars that may be needed for a clear understanding of the charge. If a Government voucher form is not used, care should be taken that each account is submitted in duplicate, the original of which shall bear the approval of the traveler and the following certificate by the payee: "I certify that the foregoing account is correct and just and that payment therefor has not been received."

PART 301–10—SOURCES OF FUNDS

Sec.

301–10.1 Employee to provide funds.
301–10.2 Procurement of common carrier transportation.
301–10.3 Advance of funds.
301–10.4 Use of foreign currencies.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–10.1 Employee to provide funds.

Employees traveling on official business shall provide themselves with funds for all current expenses. However, Government contractor-issued charge cards, transportation request forms, and travel advances as authorized by §§ 301–10.2 and 301–10.3, respectively, should be used to reduce the need for travelers to use their own money. Employees issued a Government charge card in accordance with FTR Temporary Regulation 3 are encouraged to use the charge card to pay for official travel expenses to the maximum extent possible.

§ 301–10.2 Procurement of common carrier transportation.

(a) *U.S. Government transportation requests (GTR's).* All passenger transportation services by common carrier must be procured through the use of Standard Form 1169, U.S. Government Transportation Request (GTR), unless otherwise specifically provided herein and in 41 CFR 101–41.203.

(1) *Regulations governing use.* The GTR and procedures for its use are prescribed by the Administrator of General Services in 41 CFR Part 101–41.

(2) *Use of the GTR.* The GTR shall be issued and used only for officially authorized passenger transportation by common carrier or for authorized transportation services or accommodations furnished by common carrier; i.e., air, bus, rail, or vessel. The GTR shall not be issued and used in the following instances:

(i) For personal transportation services or privileges which increase or exceed the cost of those authorized. When an indirect route or accommodations superior to those authorized are requested or used by the traveler for personal reasons, the additional cost, including the applicable share of the Federal transportation tax, shall be at personal expense and paid to the carrier;

(ii) For individually procured taxicab, airport limousine, intracity transit, rental automobiles, or other for-hire automobile services;

(iii) For payment of toll road or toll bridge charges; or

(iv) For passenger transportation services costing $10 or less, excluding Federal transportation tax, or excess baggage services costing $15 or less for each leg of a trip, unless special circumstances justify use of a GTR.

(3) *Lost or stolen GTR.* When a GTR in the possession of a traveler or other accountable person is lost or stolen, an immediate report shall be made to the administrative office in the manner prescribed by the agency concerned. If the lost or stolen GTR shows the carrier service desired, and point of origin, the named carrier and other local initial carriers shall be promptly notified. A GTR which is recovered subsequent to having been reported lost shall not be used but shall be sent to the administrative office. A traveler may be held liable for any expenditure by the Government caused through negligence on his/her part in safeguarding GTR's or tickets received in exchange for a GTR.

(See §§ 301–1.6(a), 301–3.5, and 301–11.5(c)(1).)

(b) *Cash payments for procurement of common carrier transportation services.* The use of cash to procure passenger transportation services may not be authorized except under the conditions specified in paragraphs (b) (1) through (3) of this section. For this paragraph (b), the use of checks (personal or travelers), personal credit cards, or individual Government contractor-issued charge cards is considered the equivalent of cash. Cash payments may be made with a travel advance (see § 301–10.3) or through the use of personal funds.

(1) *Procedures for the use of cash.* The procedures for the use of cash to procure passenger transportation services are prescribed by the Administrator of General Services in 41 CFR 101–41.203–2, as follows:

(i) *When cost of transportation is $10 or less.* Travelers shall use cash to procure all passenger transportation services costing $10 or less, excluding Federal transportation tax, and to pay excess baggage charges costing $15 or less for each leg of a trip, unless special circumstances justify the use of a GTR.

(ii) *When cost of transportation is over $10 but does not exceed $100.* Agencies may, by appropriate regulations, require a traveler to use cash to procure passenger transportation services from, to, or between points in the United States and its possessions or the trust territories when the cost is over $10 but does not exceed $100, excluding Federal transportation tax, for each trip as authorized on the travel authorization (see note below).

Note: The National Railroad Passenger Corporation (AMTRAK) will not accept a GTR for travel under $50. AMTRAK will accept personal checks or major credit cards provided proper identification is shown when purchasing a ticket.

(iii) *When cost of transportation exceeds $100.* Except as noted in paragraph (b)(2) of this section, a GTR must be used to procure passenger transportation services costing in excess of $100, excluding Federal transportation tax, unless otherwise exempted in writing by GSA as provided in 41 CFR 101–41.203–2.

(2) *Exception to cash payment limitation.* As an exception to the rule stated in paragraph (b)(1)(iii) of this section cash payment of official transportation expenses, without regard to the $100 limitation, is authorized under the following conditions:

(i) *Reduced group or excursion fares available from travel agencies.* Cash payments in excess of $100 may be authorized by the agency for individual employees or a group of employees to secure reduced group or excursion fares available only through travel agents under certain conditions as provided in § 301–3.4(b)(2). A copy of the administrative determination required under § 301–3.4(b)(2) shall accompany the travel voucher.

(ii) *Use of individual Government contractor-issued charge card for procurement of transportation exceeding $100.* Cash payment of passenger transportation services in excess of $100 is authorized when a participating agency or its employees use a charge card issued by a contractor under contract with the General Services Administration for official travel. Use of charge or credit cards held by the employee for personal use and issued by any other credit card company is not authorized under this exception. (See FTR Temporary Regulation 3 governing the Government's charge card program.)

(iii) *Emergency circumstances.* Under emergency circumstances when the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize or approve travelers' use of cash exceeding the $100 limitation when procuring passenger transportation services as provided in 41 CFR 101–41.203–2(b). Under this cited provision, the delegation of authority to authorize or approve the use of cash in excess of $100 for the procurement of emergency transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances.

(3) *Reimbursement*—(i) *Claim.* The travel voucher claiming reimbursement for cash payments for transportation services shall show the ticket number, carrier name, accommodations used, origin and destination of travel performed, and the agent's valuation of the transportation ticket. A traveler who has procured passenger transportation services with cash (whether using personal funds, a travel advance, or a Government charge card) shall assign to the Government his/her right to recover any excess payment involving a carrier's use of improper rates. (See statement/voucher requirements in § 301–11.5(c)(3). See also § 301–1.6(b) for provisions on promotional materials received from carriers and §§ 301–1.6(c) and 301–3.5 for provisions on denied boarding compensation.)

(ii) *Documentation required.* Receipts, passenger coupons, or other appropriate evidence shall be required to support reimbursement claims for cash payments for passenger transportation services in all cases except for use of local transit systems (see §§ 301–11.3(c)(18) and 301–11.5(c)(3)).

§ 301–10.3 Advance of funds.

(a) *Authority.* The head of each agency or his/her designated representative may advance through proper disbursing officers to any person entitled to per diem, mileage allowance, or subsistence expenses, or for the procurement of transportation by group or charter under § 301–3.4(b)(2), any sums as may be deemed advisable considering the character and probable duration of the travel to be performed or the cost of the transportation to be paid for by the employee. However, the amount of the advance shall not exceed 80 percent of the minimum estimated expenses that the employee is expected to incur before reimbursement. As a general rule, especially when the traveler is a Government contractor-issued charge card holder, advances shall be held to a minimum and allowed only when circumstances indicate that an advance is warranted and only in connection with a travel authorization. These provisions apply to advances issued for trip-by-trip authorizations as well as to permanent advances issued in connection with open travel authorizations. The need for a permanent advance and the amount of the advance shall be reviewed and justified when the corresponding open travel authorization is reviewed and justified. (See § 301–1.5 (a) and (d).)

(b) *Funds chargeable.* Advances to travelers shall be chargeable to the appropriation or other funds available for the payment of the traveler's expenses.

(c) *Recovery of advances*—(1) *Deduction from vouchers.* It shall be the responsibility of the head of each agency or his/her designee to ensure that the amount previously advanced is deducted from the total expenses allowed or that it is otherwise recovered. In instances where the traveler is in a continuous travel status, or where periodic reimbursement vouchers are submitted on specific authorizations, the full amount of travel expenses allowed may be reimbursed to that traveler without any deduction of his/her advance until such time as the final voucher is submitted. If the amount advanced is less than the amount of the voucher on which the advance is deducted, the traveler shall be paid the net amount. In the event the advance exceeds the reimbursable amount, the traveler shall refund immediately the excess.

(2) *Direct refunds.* In the event of cancellation or indefinite postponement of authorized travel, the head of the agency or his/her designee shall take immediate steps to secure the refund of any advances that may have been made.

(3) *Other means of recovery.* Outstanding advances which have not been recovered by deductions from reimbursement vouchers or voluntary refunds by the traveler shall be recovered promptly by a setoff of salary due or retirement credit or otherwise from the person to whom it was advanced, or his/her estate, by deduction from any amount due from the United States, or by any other legal method of recovery that may be necessary. Salary or other amounts due shall be considered before the retirement credit. In view of these protections, which are specifically included in the law, travelers shall not be required to furnish bonds in order to obtain travel advances (31 U.S.C. 9302).

(d) *Accounting for advances.* The accounting for cash advances for travel purposes, recovery, and reimbursements shall be in accordance with procedures prescribed by the General Accounting Office (General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, Fiscal Procedures).

§ 301–10.4 Use of foreign currencies.

Travelers to, in, and from foreign countries will use excess and near-excess foreign currencies owned by the United States for paying expenses of official travel, including payments to carriers providing service under Government transportation requests and bills of lading and for subsistence and other local expenses. The use of such currencies is prescribed by the Office of Management and Budget (OMB) Circular A–20, and a list of excess and near-excess foreign currencies is published periodically in OMB bulletins. The Department of State also issues an informational "Foreign Currency Bulletin" series concerning the use of foreign currencies. It is essential that travelers to, in, and from foreign countries and persons authorizing such travel be familiar with the latest version of these issuances. The OMB leaflet containing general guidance for using excess and near-excess foreign currencies should be furnished to travelers before foreign travel arrangements are made.

PART 301–11—CLAIMS FOR REIMBURSEMENT

Sec.

301–11.1 Fraudulent claims.
301–11.2 Records of travel and expenses.
301–11.3 Travel vouchers and attachments.
301–11.4 Submission and review of travel vouchers.
301–11.5 Preparation of voucher.
301–11.6 Administrative approvals.
301–11.7 Suspension of charges.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–11.1 Fraudulent claims.

A claim against the United States is forfeited if the claimant attempts to defraud the Government in connection therewith (28 U.S.C. 2514). In addition, there are two criminal provisions under which severe penalties may be imposed on a traveler who knowingly presents a false, fictitious, or fraudulent claim against the United States (18 U.S.C. 287 and 1001). Travelers' claims for reimbursement shall accurately reflect the facts involved in every instance so that any violation or apparent violation of those provisions may be avoided.

§ 301–11.2 Records of travel and expenses.

All persons authorized to travel on business for the Government (see certificate on travel voucher form) should keep a record of expenditures properly chargeable to the Government, noting each item at the time the expense is incurred and the date. The information thus accumulated will be available for the proper preparation of travel vouchers.

§ 301–11.3 Travel vouchers and attachments.

(a) *Use of authorized form.* All claims for the reimbursement of traveling expenses shall be submitted on authorized reimbursement forms and must be itemized and stated in accordance with this regulation unless, for special reasons, compliance with certain provisions has been waived or modified by written determination of the Administrator of General Services.

(b) *Evidence of authorization.* The travel voucher must be supported by a copy of the travel authorization. If the travel authorization has been filed or attached to a previous voucher, reference to the previous voucher shall be made.

(c) *Receipts required.* Receipts are required for allowable cash expenditures in amounts in excess of $25, plus any applicable tax. When receipts are not available, the expenditures shall be explained on the voucher. Receipts are required for the following expenditures regardless of amount:

(1) Excess baggage. The receipt shall indicate the weight of the baggage and the points between which the baggage was moved. (See § 301–5.3(a).)

(2) Baggage, transfer, and checking charges. (See §§ 301–5.3(b) and 301–5.3(d).)

(3) Clerical assistance. (See § 301–9.1(a).)

(4) Fees relating to travel outside the continental United States. (See § 301–9.1(d).)

(5) Hire of special conveyance such as livery, boat, automobile (not taxicabs locally), and aircraft. Livery and other special transportation receipts must describe the service hired, the service rendered, and the rate of compensation by the day, hour, or other unit, as may have been agreed. If the subsistence of driver or team is included in the cost, that fact must be stated. A receipted bill or other form or receipt will be accepted, provided it is made out to show the period and service rendered or articles purchased and the unit price. (See § 301–3.2.)

(6) Miscellaneous expenses allowable. (See § 301–9.1(e).)

(7) Operating expenses of privately owned conveyance, such as gasoline, oil, garage and hangar rental, and feeding and stabling of horses. (See § 301–4.6.)

(8) Rental of rooms for official business. (See § 301–9.1(b).)

(9) Rental of typewriters. (See § 301–9.1(a).)

(10) Services, personal, such as guides, interpreters, packers, and drivers of vehicles. (See § 301–9.1(a).)

(11) Services, stenographic and typing. (See § 301–9.1(a).)

(12) Shipments, freight or express, regardless of amount. (See § 301–5.5.)

(13) Steamer chairs, steamer cushions, and steamer rugs. (See § 301–2.1.)

(14) Storage of baggage or property. (See § 301–5.3(c).)

(15) Telegrams, cablegrams, radiograms. (See § 301–6.6(b).)

(16) Telephone messages, long distance, except that where a coin box telephone is used and it is so stated in the travel voucher, a receipt shall not be required. (See § 301–6.5.)

(17) Copies of records, etc., furnished by State officials (clerks of courts, etc.). (See § 301–9.1(d).)

(18) Cash payments for passenger transportation services. (See § 301–10.2(b)(3)(ii).)

(d) *Lack of receipt*—(1) *Impracticable to obtain.* If it is impracticable to furnish receipts in any instance as required in paragraph (c) of this section, the failure

to do so must be fully explained on the travel voucher. Mere inconvenience in the matter of taking receipts shall not be considered. In no case shall a receipt be taken in duplicate, except as provided in § 301–4.6(c).

(2) *Confidential expenditure.* When the duties of the traveler are of a confidential nature and the public interest so requires, the requirements for receipts may be waived by the appropriate administrative official.

§ 301–11.4 Submission and review of travel vouchers.

(a) *Agency administrative procedures.* Agencies are authorized to prescribe the administrative procedures for travelers to follow in submitting travel vouchers under the guidelines published in this Part 301–11. Number of copies required will be as directed by the agency. The time of submission will also be as directed by the agency but should be within 5 working days after completion of the trip or period of travel, or every 30 days if the employee is in a continuous travel status. Only the original of the voucher is required to be signed by the traveler. Travel voucher forms may be typed when prepared by clerical personnel from information provided by the traveler. However, typing of travel voucher forms is not required and should not be done when travelers prepare legible, handwritten vouchers. Handwritten vouchers must be prepared in ink.

(b) *Supervisory/administrative review.* The supervisory review of the completed travel voucher is primarily to confirm that the travel for which expenses are being claimed was performed as authorized. This review should not be a detailed audit for accuracy and shall not duplicate the functions of the voucher examiners and certifying officers in the payment centers/finance offices. (See paragraph (c) of this section.) The supervisory review should be at a level that is fully knowledgeable of the employee's activities. One level of supervisory review is generally considered sufficient. Administrative approval of the voucher shall be in accordance with § 301–11.6.

(c) *Payment center/finance office functions and responsibilities.* The responsibility of the voucher examiner is to ensure that the voucher is properly prepared according to pertinent regulations and agency procedures before it is certified for payment. The voucher examiner reviews the claim (1) to ascertain accuracy of the amounts claimed, (2) to determine whether the types of expenses being claimed are authorized and allowable expenses, and (3) to ensure that required receipts, statements, justifications, etc. are attached to the voucher in support of the claimed expenses. The voucher examiner also will examine the supporting documents for unused passenger tickets and transportation refund applications and initiate the refund process according to agency procedures and 41 CFR 101–41.209 and 210. (See § 301–3.5.) The certifying officer assumes ultimate responsibility for these actions when certifying a voucher for payment. The accounting responsibilities pertaining to payment of travel claims shall be in accordance with procedures prescribed by the General Accounting Office in the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, Fiscal Procedures.

§ 301–11.5 Preparation of voucher.

(a) *Itemization*—(1) *Chronological order.* Expenses incurred shall be itemized on travel reimbursement vouchers in chronological order except that agencies may authorize travelers to enter total amounts spent during a voucher period for local telephone calls; local metropolitan streetcar, bus, and subway fares; and parking meter fees.

(2) *Leave of absence.* When leave of absence of any kind is taken while an employee is in a travel status, the exact hour of departure from and return to duty status must be shown on the travel voucher.

(3) *Indirect-route travel.* The travel voucher should set forth the details of the expenses actually incurred, the hour of departure from post of duty, and the hour of arrival at place of duty. Where leave has been taken while in travel status, the date and time that leave began and terminated should be shown.

(4) *Suspended items.* Items suspended from previous travel vouchers and reclaimed (see § 301–11.7) must be stated after all other items have been listed.

(5) *Receipts attached chronologically.* Receipts must be numbered consecutively, commencing with No. 1 for each account.

(b) *Subsistence claims*—(1) *Per diem.* Itemization of subsistence expenses must not be made on the travel voucher where a per diem is allowed under Part 301–7. The exact period for which per diem is claimed must be stated.

(2) *Actual subsistence expenses.* When actual subsistence reimbursement is authorized under Part 301–8, claims shall be submitted in accordance with agency requirements issued under § 301–8.5.

(c) *Transportation expenses*—(1) *Transportation requests, unused tickets.* The travel voucher must show, in the space provided for such information, the serial numbers of the transportation request(s) issued, with: Dates of travel, the points of departure and destination, classes of service used, name of transportation company, and the value of the transportation secured. Any differences in the actual travel performed as opposed to that shown on the GTR, shall also be shown. When itineraries are changed or trips canceled after tickets have been issued to the traveler, a statement shall be entered on the voucher, and initialed by the traveler, that tickets have been either used for official travel or all unused tickets, or portions thereof, have been properly accounted for and attached to the voucher. (See § 301–3.5(a).)

(2) *Special conveyance.* When a special conveyance or a privately owned conveyance is used, the travel voucher must show the dates and points of travel and the type of conveyance used. If the distance traveled between any given points is greater than the usual route between these points, the reason for the greater distance shall be shown. When transportation is authorized by a privately owned conveyance on an actual expense basis, a statement shall also be furnished showing the make of the automobile used; the quantity of gasoline and oil consumed and places between which the travel was performed; the distance traveled and unit price per gallon or quart paid; and whether all gasoline, oil, garage rent, feed and stabling of horses, and bridge, ferry, or other tolls for which claim is made were used or required by official travel.

(3) *Cash payment for common carrier fare.* A traveler using cash to purchase any authorized passenger transportation service for official travel as provided in § 301–10.2(b) shall account for those expenses on an authorized travel voucher form, furnishing pertinent receipts, passenger coupons, or other appropriate evidence to support the claim for reimbursement. Receipts are not required for local transit system fares. A traveler who has procured passenger transportation services with cash (whether using personal funds or a travel advance) shall assign to the Government his/her right to recover any excess payment involving a carrier's use of improper rates by including the following statement on the travel voucher: "I hereby assign to the United States any rights I may have against other parties in connection with any

reimbursable carrier transportation charges described herein."

(d) *Reporting payments to other employees.* Reimbursement shall not be allowed for payments made to other Government employees for transportation expenses, except in cases of necessity, which shall be satisfactorily explained. (See § 301–4.5.)

(e) *Foreign travel*—(1) *Claims for exchange fees.* Charges for cashing United States Government checks issued in reimbursement of expenses incurred for travel in foreign countries shall be allowed in subsequent vouchers. (See § 301–9.1(d)(2).)

(2) *Foreign currencies used.* Persons traveling in foreign countries should report their expenditures by items in the money of the country in which the expenditures were made. The total expenditure in foreign currency must be converted into United States dollars at the rate or rates at which the foreign money was obtained. The rates of conversion and the commissions charged must be shown.

(f) *Erasures and alterations.* Erasures and alterations in totals on travel vouchers must be initialed by the traveler, and erasures and alterations in the totals on receipts must be initialed by the person who signed the receipt.

(g) *Purpose of travel statement.* The purpose(s) of travel shall be stated on the travel voucher form for each trip for which reimbursement is being claimed. If travel is performed for several different purposes, such as travel authorized under an unlimited open authorization or a limited open authorization, the purpose of travel for each trip must be stated on the reimbursement claim. The purpose of travel statement should be consistent with the purpose(s) stated on the corresponding travel authorization. (See § 301–1.5(c).)

§ 301–11.6 Administrative approvals.

(a) *Administrative approval of the voucher.* The administrative approval of the voucher shall constitute the approvals required for:

(1) Return to official station due to illness or injury. (See §§ 301–2.4, 301–7.11(d) and 301–8.7, and Part 301–12.)

(2) Use of a privately owned conveyance on an actual expense basis. (See § 301–4.6(b).)

(3) Excess baggage charges. (See § 301–5.2.)

(4) Continuation of per diem during leave of absence due to illness or injury. (See §§ 301–7.11(d) and 301–12.5(a).)

(5) Continuation of actual subsistence during leave of absence due to illness or injury. (See §§ 301–8.7 and 301–12.5(a).)

(6) Charges for arranging reservations of accommodations. (See § 301–6.4.)

(b) *Authorizations or approvals specifically stated.* Except as listed in paragraph (a) of this section, the authorizations or approvals required by this regulation must be specifically stated in agency regulations, travel orders, or reimbursement vouchers. Such authorization or approvals include:

(1) Authority for travel. (See § 301–1.4.)

(2) Travel required to places where meals are obtained. (See § 301–2.3(b).)

(3) Taxicab fares between residence and office on day travel is performed. (See § 301–2.3(d).)

(4) Taxicab fares between residence and office in cases of necessity. (See § 301–2.3(e).)

(5) Taxicab for local travel. (See § 301–3.1(a).)

(6) Rental of automobile or special conveyance. (See § 301–3.2(a).)

(7) Hire of a conveyance from another employee or member of employee's family. (See § 301–3.2(d).)

(8) Use of accommodations superior to those authorized. (See § 301–3.3.)

(9) Use of extra-fare trains. (See § 301–3.3(b)(3).)

(10) Use of higher cost service when lower cost service is available on same mode of transportation. (See § 301–3.4(c).)

(11) Use of foreign flag air carriers. (See § 301–3.6(c).)

(12) Use of a privately owned conveyance when it is advantageous to the Government. (See § 301–4.1(a).)

(13) Use of a privately owned vehicle when use of common carrier transportation is most advantageous to the Government. (See § 301–4.3.)

(14) Use of a privately owned vehicle when use of a Government-furnished vehicle would be most advantageous to the Government. (See § 301–4.4(a).)

(15) Reductions in maximum per diem rates when appropriate. (See § 301–7.7.)

(16) Additional per diem when travel en route is 6 hours or more. (See § 301–7.6(c)(2)(iii).)

(17) Reimbursement of actual subsistence expense. (See § 301–8.4.)

(18) Maximum daily reimbursement. (See § 301–8.3.)

(19) Miscellaneous expenses. (See § 301–9.1(a).)

(20) Hire of a room. (See § 301–9.1(b).)

(21) Traveler's checks, money orders, or certified checks. (See § 301–9.1(c).)

(22) Fees relating to travel outside continental United States. (See § 301–9.1(d).)

(23) Payment of account when agency billed direct. (See § 301–9.3.)

(24) Waiver of requirements for receipts. (See § 301–11.3(d)(2).)

(25) Waiver of itemization for local telephone calls; local metropolitan streetcar, bus, and subway fares; and parking meter fees. (See § 301–11.5(a)(1).)

(26) Return to official station due to a personal emergency situation. (See §§ 301–2.4, 301–7.11(d), and 301–8.7, and Part 301–12.)

(27) Travel to an alternate location due to illness or injury or a personal emergency situation. (See §§ 301–2.4, 301–7.11(d), and 301–8.7, and Part 301–12.)

§ 301–11.7 Suspension of charges.

Items in travel vouchers not stated in accordance with this regulation or not properly supported by receipts when required shall be suspended, and the notification of such action shall indicate the reasons therefor. Such items as may be subsequently allowable shall be included in a subsequent regular or supplemental travel voucher. Full itemization shall be required for all suspended items which are reclaimed and charges must be supported by the original suspension notice or a copy thereof.

PART 301–12—EMERGENCY TRAVEL OF EMPLOYEE DUE TO ILLNESS OR INJURY OR A PERSONAL EMERGENCY SITUATION, WITHIN OR OUTSIDE CONUS

Sec.

301–12.1 General.
301–12.2 Agency responsibility/delegation of authority.
301–12.3 Employee responsibility and documentation.
301–12.4 Definitions.
301–12.5 Incapacitating illness or injury of employee.
301–12.6 Personal emergency situation.
301–12.7 Procurement of transportation.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–12.1 General.

Transportation and subsistence expenses may be allowed to the extent provided in this Part 301–12 when an employee discontinues or interrupts a temporary duty travel assignment before its completion because of incapacitating illness or injury or a personal emergency situation.

§ 301–12.2 Agency responsibility/delegation of authority.

Agencies may authorize or approve reimbursement for transportation and per diem expenses based on the exigencies of the employee's personal situation and the agency mission. Each agency shall prescribe written administrative policies and procedures

to govern its authorizations and approvals under these provisions. Agency heads may delegate their authority under this Part 301–12. Such delegation shall be held to as high an administrative level as practical to ensure adequate consideration and review of the circumstances surrounding the need for emergency travel.

§ 301–12.3 Employee responsibility and documentation.

As soon as an employee is incapacitated by illness or injury or informed of an emergency situation which necessitates discontinuance or interruption of the temporary duty travel assignment, he/she should attempt to contact the designated travel-approving official for instructions. In the event that such contact cannot be made on a timely basis, agencies may approve payments after the travel has been performed.

§ 301–12.4 Definitions.

As used in this Part 301–12, the following definitions apply:

(a) *Official station.* The term "official station" also refers to the home or regular place of business as it pertains to experts and consultants described in 5 U.S.C. 5703. (See § 301–1.3(c)(2).)

(b) *Alternate location.* An alternate location is a destination, other than the employee's official station or the point of interruption, where necessary medical services or a personal emergency situation exists. In the case of illness or injury of the employee, the nearest hospital or medical facility capable of treating the illness or injury is not considered to be an alternate location.

(c) *Incapacitating illness or injury of employee.* For purposes of this Part 301–12, an incapacitating illness or injury is one that occurs suddenly for reasons other than the employee's own misconduct and renders the employee incapable of continuing, either temporarily or permanently, the travel assignment. A sudden illness or injury may include a recurrence of a previous medical condition thought to have been cured or under control. The illness or injury may occur while the employee is at, or en route to or from, a temporary duty location.

(d) *Family.* Family means those individuals defined in § 302–1.4(e) of this title who are members of the employee's household at the time the emergency situation arises. For compassionate reasons, when warranted by the circumstances of a particular emergency situation, an agency may on an individual case basis expand this definition to encompass other members of the extended family of an employee and employee's spouse, such as the individuals named in § 302–1.4(e) of this title who are not dependents of the employee or members of the employee's immediate household. In using this authority and deciding each case, agencies shall evaluate the extent of the emergency and the employee's relationship to, and degree of responsibility for, the individual(s) involved in the emergency situation.

(e) *Personal emergency situation.* Personal emergency situation means the death or serious illness or injury of a member of the employee's family or a catastrophic occurrence or impending disaster such as a fire, flood, or act of God which directly affects the employee's home at the official station or the family and occurs while the employee is at, or en route to or from, a temporary duty location.

(f) *Serious illness or injury of family member.* Serious illness or injury of a family member means a grave, critical, or potentially life-threatening illness or injury; a sudden injury such as an automobile or other accident where the exact extent of injury may be undetermined but is thought to be critical or potentially life threatening based on the best assessment available; or other situations involving less serious illness or injury of a family member in which the absence of the employee would result in great personal hardship for the immediate family.

(g) *Fire, flood, or act of God.* Fires or floods may be due to natural causes or human actions (e.g., arson) or other identifiable causes. Act of God means an extraordinary happening by a natural cause (as fire, flood, tornado, hurricane, earthquake, or other natural catastrophe) for which no one is liable because experience, foresight, or care could not prevent it.

§ 301–12.5 Incapacitating illness or injury of employee.

When an employee interrupts or discontinues a travel assignment because of an incapacitating illness or injury (as defined in § 301–12.4(c)), transportation expenses and per diem may be allowed to the extent provided in this section.

(a) *Continuation of per diem at point of interruption.* An employee who interrupts the temporary duty assignment because of an incapacitating illness or injury and takes leave of any kind shall be allowed a per diem allowance under the provisions of § 301–7.5 or § 301–7.6, as appropriate, not to exceed the maximum rates prescribed under § 301–7.2 for the location where the interruption occurs. Such per diem may be continued for a reasonable period, normally not to exceed 14 calendar days (including fractional days) for any one period of absence. However, a longer period may be approved by the employee's agency if justified by the circumstances of a particular case. The point of interruption may include the nearest hospital or medical facility capable of treating the employee's illness or injury. Per diem shall not be allowed while an employee is confined to the hospital or medical facility that is within the proximity of the official station or that is the same one the employee would have been admitted to if the illness or injury had occurred while at the official station.

(1) *Receipt of payments from other Federal sources.* If, while in travel status under circumstances described in paragraph (a) of this section, the employee receives hospitalization (or is reimbursed for hospital expenses) under any Federal statute (including hospitalization in a Veterans Administration or military hospital) other than 5 U.S.C. 8901–8913 (Federal Employees Health Benefits Program), the per diem allowance for the period involved shall not be paid or, if paid, shall be collected from the employee.

(2) *Documentation and evidence of illness.* The type of leave and its duration must be stated on the travel voucher. No additional evidence of the illness or injury need be submitted with the travel voucher. The evidence filed with the agency concerned, as required by that agency under the annual and sick leave regulations of the Office of Personnel Management, shall suffice.

(b) *Return to official station or home.* When an employee discontinues a temporary duty assignment before its completion because of an incapacitating illness or injury, expenses of appropriate transportation and per diem while en route shall be allowed for return travel to the official station. Such return travel may be from the point of interruption or other point where the per diem allowance was continued as provided in paragraph (a) of this section. If, when the employee's health has been restored, the agency decides that it is in the Government's interest to return the employee to the temporary duty location, such return is considered to be a new travel assignment at Government expense.

(c) *Travel to an alternate location and return to the temporary duty assignment—*(1) *Conditions and allowable expenses.* When an employee, with the approval of an appropriate agency official, interrupts a temporary duty assignment because of an

incapacitating illness or injury and takes leave of absence for travel to an alternate location to obtain medical services and returns to the temporary duty assignment, reimbursement for certain excess travel costs may be allowed as provided in paragraph (c)(2) of this section. The nearest hospital or medical facility capable of treating the employee's illness or injury will not be considered an alternate location (see § 301–12.4(b)).

(2) *Calculation of excess costs.* The reimbursement that may be authorized or approved under paragraph (c)(1) of this section, shall be the excess (if any) of actual costs of travel from the point of interruption to the alternate location and return to the temporary duty assignment, over the constructive costs of round-trip travel between the official station and the alternate location. The actual cost of travel will be the transportation expenses incurred and en route per diem for the travel as actually performed from the point of interruption to the alternate location and from the alternate location to the temporary duty assignment. (No per diem is allowed for the time spent at the alternate location.) The constructive cost of travel is the sum of transportation expenses the employee would reasonably have incurred for round-trip travel between the official station and the alternate location (had the travel begun at the official station) plus per diem calculated under Part 301–7 for the appropriate en route travel time. The excess cost that may be reimbursed is the difference between the two calculations.

§ 301–12.6 Personal emergency situation.

(a) *Return to official station or home.* When an employee discontinues a temporary duty assignment before its completion because of a personal emergency situation as defined in § 301–12.4(e), expenses of appropriate transportation and per diem while en route may be allowed, with the approval of an appropriate agency official, for return travel from the point of interruption to the official station. If, when the personal emergency situation has been resolved, the agency decides that it is in the Government's interest to return the employee to the temporary duty location, such return is considered to be a new travel assignment at Government expense.

(b) *Travel to an alternate location and return to the temporary duty assignment.* When an employee, with the approval of an appropriate agency official, interrupts a temporary duty assignment because of a personal emergency situation, takes leave of absence for travel to an alternate location where the personal emergency exists, and returns to the temporary duty assignment, reimbursement may be allowed for certain excess travel costs (transportation and en route per diem) to the same extent as provided in § 301–12.5(c) for incapacitating illness or injury of the employee.

§ 301–12.7 Procurement of transportation.

(a) *Use of discount fares.* The discount fares offered by contract air carriers in certain city pairs, as well as other reduced fares available to Federal travelers on official business, should be used to the extent possible for travel authorized or approved under this Part 301–12.

(b) *Return to official station.* When the employee is authorized emergency return travel, from the point of interruption or discontinuance of the travel assignment to the official station, appropriate transportation services may be purchased by the agency or the employee. The unused return portion of round-trip transportation tickets procured by the agency for the travel assignment shall be used, if appropriate, for the mode of transportation required for the emergency travel. If not used, the agency and the employee shall ensure that all unused tickets are properly accounted for (see § 301–3.5).

(c) *Travel to alternate location.* An agency may require employees to use personal funds for emergency travel to an alternate location and return to the temporary duty assignment. A Government contractor-issued charge card also may be used for this purpose. However, if the employee does not have sufficient personal funds available and is not a Government charge card holder, the agency may procure (or provide an advance of funds for the employee to procure) appropriate transportation. The employee, upon completion of the emergency travel, shall reimburse the Government for any cost of such transportation or travel advance that is above the amount of allowable reimbursement that may be authorized or approved under this Part 301–12.

PART 301–13—[RESERVED]

PART 301–14—PAYMENT OF SUBSISTENCE AND TRANSPORTATION EXPENSES FOR THREATENED LAW ENFORCEMENT/INVESTIGATIVE EMPLOYEES

Sec.

301–14.1 Authority.
301–14.2 Agency responsibility/delegation of authority.
301–14.3 Policy.
301–14.4 Eligible individuals.
301–14.5 Procedures for evaluating risk to threatened individuals.
301–14.6 Eligibility conditions and limitations.
301–14.7 Allowable subsistence payments.
301–14.8 Transportation to and from a location away from the employee's designated post of duty.
301–14.9 Authorizations and payment of claims.
301–14.10 Advance of funds.

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–14.1 Authority.

The head of an employing agency (hereafter referred to as "agency") may authorize or approve payment of subsistence and certain transportation expenses for threatened individuals (see § 301–14.4) whose lives are placed in jeopardy as a result of the employee's assigned duties and who, as a protective measure, are moved to temporary living accommodations at or away from the official station within or outside CONUS.

§ 301–14.2 Agency responsibility/delegation of authority.

Heads of agencies are responsible for issuing regulations or guidelines to implement the provisions of this Part 301–14 and for ensuring that the agency's policy is adhered to. The agency head may delegate the authority to authorize or approve payment of allowable subsistence and transportation expenses for the use of temporary living accommodations by eligible individuals as provided herein. The delegation of authority shall be held to as high an administrative level as practical to ensure proper review of the circumstances surrounding the need to take protective action by moving eligible individuals from their homes.

§ 301–14.3 Policy.

The authority under § 301–14.1 is to be given priority consideration when the life-threatening situation is expected to be of temporary duration (normally no more than 60 days) and the only feasible alternative is to transfer the employeee to a new duty station. The head of an agency or his/her designee must make the final decision as to how long such payments should continue based on the specific nature and potential duration of the life-threatening situation and the alternative costs of a change of official station for protective purposes.

§ 301–14.4 Eligible individuals.

Employees (as defined in § 301–1.3(c)(2)) who specifically serve in a law enforcement, investigative, or similar capacity, or other Federal employees

detailed into these capacities for special law enforcement/investigational purposes, are eligible for the allowances covered by this Part 301–14. The employing agency shall be deemed to be the one to whom the employee was assigned at the time of the threat. Members of such employees' immediate families (as defined in § 302–1.4(e) of this title) also are eligible.

§ 301–14.5 Procedures for evaluating risk to threatened individuals.

When a situation occurs that appears to be life-threatening, the agency's first responsibility is to take any appropriate action necessary to protect the eligible individual(s), including removal from the home. The agency may ask the Criminal Division of the Department of Justice (DOJ) for assistance in determining the degree and seriousness of the threat. The agency, however, ultimately is responsible for deciding in each individual case, based on its own assessment of the situation (and the advice of the DOJ, if requested and furnished), whether protective action should be initiated, or continued if already undertaken, and the amount of subsistence and transportation expenses that will be approved. At 30-day intervals the agency will reevaluate the situation and decide whether any further extension of the time period is appropriate.

§ 301–14.6 Eligibility conditions and limitations.

(a) *Limits on duration of temporary living accommodations.* Subsistence payments may begin as soon as the agency determines that the provisions of this Part 301–14 be invoked in a particular situation. Normally, subsistence payments may be allowed for a period of no more than 60 days; the agency may, however, approve extensions of the time period as provided in § 301–14.5. If the threatened individuals are directed to move immediately into temporary accommodations while the agency assesses the degree and seriousness of the threat, subsistence payments for this period may be allowed, even when the agency ultimately determines that the threat is not serious or no longer exists and decides to return the individuals to their home. When necessary occupancy of temporary living accommodations is expected to exceed 120 days, the agency should consider whether permanently relocating the employee would be advantageous given the specific nature of the threat, the continued disruption of the family, and the alternative costs of a change of official station.

(b) *Location of temporary living accommodations.* The temporary living accommodations may be located in the vicinity of the employee's official station or at an alternate location away from the official station as circumstances warrant. When justified, the employee and immediate family members may occupy temporary living accommodations at different locations. The agency will designate the appropriate locations.

§ 301–14.7 Allowable subsistence payments.

(a) *Expenses covered.* Payments under this authority are intended to cover only reasonable and necessary subsistence expenses actually incurred incident to the occupancy of temporary living accommodations. Subsistence payments generally will be limited to the cost of lodgings. However, certain expenses for meals, laundry, and cleaning of clothing may be allowed as provided in paragraph (c) of this section.

(b) *Determining allowable lodging costs*—(1) *Allowable costs for daily rentals.* The same costs allowed in § 301–7.5(c)(2) for lodging facilities obtained in connection with temporary duty travel may be allowed for temporary living accommodations.

(2) *Allowable types of costs for other-than-daily rentals.* When an eligible individual rents lodgings on an other-than-daily basis for temporary occupancy, the allowable costs shall be converted to a daily basis using the general guidelines under § 301–7.9 which apply to lodgings obtained in connection with temporary duty travel.

(c) *Determining other allowable expenses.* Costs of food, laundry, and cleaning of clothing are expenses incurred in day-to-day living. Such expenses should be considered the responsibility of the employee and normally will not be reimbursed. However, if temporary living accommodations do not contain cooking and/or laundry facilities, or other extenuating circumstances are present, certain of these expenses may be allowed to the extent determined appropriate by the agency.

(d) *Maximum allowable amount*—(1) *Method of computation.* An agency may approve the actual amount of allowable expenses incurred in each 30-day period (or fraction thereof) up to a maximum amount based on the daily limitations calculated under paragraph (d)(2) of this section multiplied by 30 (or the actual number of days used if fewer than 30). The daily actual subsistence expenses required to be itemized under paragraph (e) of this section, will be totaled for each 30-day period (or fraction thereof) and compared with the maximum allowable for the particular period as prescribed under paragraph (d)(2) of this section.

(2) *Daily limitations.* The maximum amount of subsistence payments for each 30-day period (or fraction thereof) will be based on daily limitations calculated as provided in paragraph (d)(2) (i) through (v) of this section. If subsistence payments are authorized only for lodging costs, the daily limitations shall be reduced appropriately.

(i) For the employee, or for the unaccompanied spouse (one who necessarily occupies temporary accommodations without the employee or in a location separate from the employee), the daily limitation shall be an amount prescribed by the agency that shall not exceed the applicable maximum per diem rate prescribed under § 301–7.2 for the location of the temporary living accommodations.

(ii) For the spouse accompanied by the employee, the daily limitation shall not exceed three-fourths of the employee's daily limitation.

(iii) For each other member of the employee's immediate family who is 12 years of age or older, the daily limitation shall not exceed three-fourths of the daily limitation established for the employee or the unaccompanied spouse, as appropriate.

(iv) For each member of the employee's immediate family who is under 12 years of age, the daily limitation shall not exceed one-half of the daily limitation established for the employee or the unaccompanied spouse, as appropriate.

(v) For each member of the immediate family who necessarily occupies temporary living accommodations without, or at a location separate from, either the employee or the spouse, the agency may, when the limitations stated in paragraphs (d)(2) (iii) and (iv) of this section are inadequate, establish an appropriate higher daily limitation, that is within the limitation prescribed in paragraph (d)(2)(i) of this section.

(e) *Itemization and receipts.* The actual expenses shall be itemized in a manner prescribed by the agency which will permit at a minimum a review of the amounts spent daily for (1) lodging, (2) meals, and (3) other allowable items of subsistence expenses. Receipts shall be required at least for lodging and for any other allowable expenses as required by the agency.

§ 301–14.8 Transportation to and from a location away from the employee's designated post of duty.

The agency may approve the payment of transportation expenses when a situation described in § 301–14.1 requires the employee and/or members of the immediate family to be temporarily relocated to a place away from the employee's designated post of duty. Transportation to and from such location shall be in accordance with the governing provisions of Parts 301–2 through 301–4 of this chapter unless the agency specifically approves a deviation from the rules for security reasons (see § 301–10.2 regarding use of cash to procure transportation services in emergency circumstances). The documentation provisions of § 301–14.9 govern in such instances.

§ 301–14.9 Authorizations and payment of claims.

Due to the unique nature of the situations covered under this Part 301–14, agency heads shall establish specific administrative procedures for issuing authorizations and for payment of claims. In instances when documentation might compromise the security of the individuals involved, the head of the agency may waive all but absolutely essential documentation requirements.

§ 301–14.10 Advance of funds.

Funds may be advanced for subsistence and transportation expenses covered under this Part 301–14 in accordance with § 301–10.3. The advance of funds will be at intervals prescribed by the agency but for no more than a 30-day period at a time. The amount of the advance shall not exceed an amount based on the daily limitations established by the agency.

Appendix A To Chapter 301—Prescribed Maximum Per Diem Rates for CONUS

The maximum rates listed below are prescribed under § 301–7.2 of this regulation for reimbursement of subsistence expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses including applicable taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses related to subsistence. The per diem payment calculated in accordance with Part 301–7 for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
CONUS, Standard rate (Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, under certain specified travel circumstances and for certain relocation subsistence allowances. See Parts 301–7, 302–2, 302–4, and 302–5 of this title.		$40		$26		$66
ALABAMA						
Anniston	Calhoun	41		26		67
Birmingham	Jefferson	50		26		76
Gulf Shores	Baldwin	42		26		68
Huntsville	Madison	48		26		74
Montgomery	Montgomery	43		26		69
Sheffield	Colbert	63		26		89
ARIZONA						
Chinle	Apache	44		26		70
Kayenta	Navajo	56		26		82
Page/Flagstaff	Coconino	47		26		73
Phoenix/Scottsdale	Maricopa	52		26		78
Prescott	Yavapai	48		26		74
Sierra Vista	Cochise	43		26		69
Tucson	Pima; Davis-Monthan AFB	48		26		74
Yuma	Yuma	43		26		69
ARKANSAS						
Fort Smith	Sebastian	44		26		70
Helena	Phillips	47		26		73
Hot Springs	Garland	45		26		71
Little Rock	Pulaski	48		26		74
CALIFORNIA						
Chico	Butte	46		26		72
Death Valley	Inyo	88		34		122
El Centro	Imperial	46		26		72
Fresno	Fresno	50		26		76
Los Angeles	Los Angeles, Kern, Orange & Ventura Counties; Edwards AFB; Naval Weapons Center & Ordnance Test Station, China Lake.	80		34		114
Modesto	Stanislaus	50		26		76
Monterey	Monterey	66		26		92
Oakland	Alameda, Contra Costa & Marin	64		34		98
Palm Springs	Riverside	72		34		106
Redding	Shasta	51		26		77
Sacramento	Sacramento	54		34		88
San Diego	San Diego	67		34		101
San Francisco	San Francisco	78		34		112
San Jose	Santa Clara	57		34		91
San Luis Obispo	San Luis Obispo	53		34		87
San Mateo	San Mateo	66		34		100
Santa Barbara	Santa Barbara	74		34		108
Santa Cruz	Santa Cruz	66		34		100
South Lake Tahoe	Dorado	52		34		86
Stockton	San Joaquin	45		26		71

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Tahoe City	Placer	46		34		80
Vallejo	Solano	47		26		73
Victorville/Barstow	San Bernardino	49		26		75
Visalia	Tulare	60		26		86
West Sacramento	Yolo	49		26		75
Yosemite Nat'l Park	Mariposa	68		34		102
COLORADO						
Aspen	Pitkin	75		34		109
Boulder	Boulder	60		34		94
Colorado Springs	El Paso	49		26		75
Denver	Denver, Adams, Arapahoe & Jefferson	65		34		99
Durango	La Plata	48		26		74
Glenwood Springs	Garfield	45		26		71
Gunnison	Gunnison	43		26		69
Keystone/Silverthorne	Summit	52		34		86
Pagosa Springs	Archuleta	45		26		71
Steamboat Springs	Routt	48		26		74
Vail	Eagle	80		34		114
CONNECTICUT						
Bridgeport/Danbury	Fairfield	71		26		97
Hartford	Hartford & Middlesex	52		34		86
New Haven	New Haven	67		26		93
New London/Groton	New London	50		26		76
Putnam/Danielson	Windham	58		26		84
Salisbury	Litchfield	49		34		83
DELAWARE						
Dover	Kent	44		26		70
Lewes	Sussex	46		26		72
Wilmington	New Castle	63		26		89
DISTRICT OF COLUMBIA						
Washington, DC		87		34		121
(Also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) (see also Maryland and Virginia).						
FLORIDA						
Altamonte Springs	Seminole	62		26		88
Bradenton	Manatee	60		26		86
Cocoa Beach	Brevard	50		26		76
Daytona Beach/Ormond Beach/New Smyrna	Volusia	41		26		67
Fort Lauderdale	Broward	57		26		83
Fort Myers	Lee	58		26		84
Fort Pierce	Saint Lucie	47		26		73
Fort Walton Beach	Okaloosa	50		26		76
Gainesville	Alachua	48		26		74
Jacksonville	Duval; Naval Station Mayport	46		26		72
Kissimmee	Osceola	46		26		72
Lakeland	Polk	41		26		67
Miami	Dade & Monroe	55		34		89
Naples	Collier	62		26		88
Orlando	Orange	54		26		80
Panama City	Bay	50		26		76
Pensacola	Escambia	44		26		70
Punta Gorda	Charlotte	57		26		83
Saint Augustine	Saint Johns	49		26		75
Sarasota	Sarasota	54		26		80
Stuart	Martin	62		26		88
Tallahassee	Leon	45		26		71
Tampa/St. Petersburg	Hillsborough & Pinellas	52		26		78
West Palm Beach	Palm Beach	62		34		96
GEORGIA						
Albany	Dougherty	48		26		74
Athens	Clarke	41		26		67
Atlanta	Clayton, De Kalb, Fulton & Cobb	72		34		106
Augusta	Richmond	44		26		70
Brunswick	Glynn	43		26		69
Columbus	Muscogee county	42		26		68
Lawrenceville	Gwinnett	46		26		72
Savannah	Chatham	42		26		68
St. Marys	Camden; the Naval Submarine Base, Kings Bay	46		26		72
Waycross	Ware	43		26		69
IDAHO						
Boise	Ada	46		26		72
Coeur d'Alene	Kootenai	43		26		69
Ketchum/Sun Valley	Blaine	51		26		77
Pocatello	Bannock	45		26		71
ILLINOIS						
Alton	Madison	48		26		74
Champaign/Urbana	Champaign	43		26		69
Chicago	Du Page, Cook & Lake	83		34		117
Danville	Vermilion	43		26		69

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Dixon	Lee	43		26		69
Macomb	McDonough	41		26		67
Mattoon	Coles	46		26		72
Peoria	Peoria	55		26		81
Rockford	Winnebago	48		26		74
Rock Island/Moline	Rock Island	50		26		76
Springfield	Sangamon	48		26		74
INDIANA						
Anderson	Madison	48		26		74
Bloomington	Monroe	45		26		71
Charlestown/Jeffersonville	Clark; Indiana Army Ammunition Plant	47		26		73
Columbus	Bartholomew	41		26		67
Elkhart	Elkhart	52		26		78
Evansville	Vanderburgh	43		26		69
Fort Wayne	Allen	54		26		80
Gary	Lake	42		26		68
Indianapolis	Marion; Fort Benjamin Harrison	57		26		83
Jasper	Dubois	41		26		67
Lafayette	Tippecanoe	49		26		75
Muncie	Delaware	50		26		76
Nashville	Brown	52		26		78
Terre Haute	Vigo	44		26		70
South Bend	St. Joseph	50		26		76
IOWA						
Bettendorf/Davenport	Scott	44		26		70
Cedar Rapids	Linn	41		26		67
Des Moines	Polk	50		26		76
Iowa City	Johnson	41		26		67
Sioux City	Woodbury	41		26		67
KANSAS						
Kansas City	Johnson & Wyandotte (See also Kansas City, MO)	60		26		86
Manhattan	Riley	44		26		70
Topeka	Shawnee	43		26		69
Wichita	Sedgwick	54		26		80
KENTUCKY						
Covington	Kenton	46		26		72
Frankfort	Franklin	43		26		69
Hopkinsville	Christian; Fort Campbell	45		26		71
Lexington	Fayette	52		26		78
Louisville	Jefferson	47		26		73
LOUISIANA						
Alexandria	Rapides Parish	43		26		69
Baton Rouge	East Baton Rouge Parish	50		26		76
Bossier City	Bossier Parish	57		26		83
Gonzales	Ascension Parish	51		26		77
Lafayette	Lafayette Parish	41		26		67
Lake Charles	Calcasieu Parish	42		26		68
Monroe	Ouachita Parish	41		26		67
New Orleans	Parishes of Jefferson, Orleans, Plaquemines & St. Bernard	52		34		86
Shreveport	Caddo Parish	51		26		77
Slidell	St. Tammany Parish	42		26		68
MAINE						
Auburn	Androscoggin	56		26		82
Augusta	Kennebec	45		26		71
Bangor	Penobscot	48		26		74
Bar Harbor	Hancock	60		26		86
Bath	Sagadahoc	64		26		90
Kittery	Portsmouth Naval Shipyard (See also Portsmouth, NH)	56		26		82
Portland	Cumberland	63		26		89
Rockport	Knox	62		26		88
Wiscasset	Lincoln	42		26		68
MARYLAND						
(For the counties of Montgomery and Prince Georges, see District of Columbia)						
Annapolis	Anne Arundel	70		34		104
Baltimore	Baltimore & Harford	59		34		93
Columbia	Howard	87		34		121
Cumberland	Allegany	45		26		71
Easton	Talbot	48		26		74
Frederick	Frederick	54		26		80
Hagerstown	Washington	48		26		74
Lexington Park/St. Inigoes/Leonardtown	St. Marys	51		26		77
Lusby	Calvert	51		26		77
Ocean City	Worcester	85		34		119
Salisbury	Wicomico	47		26		73
Waldorf	Charles	51		26		77
MASSACHUSETTS						
Andover	Essex	81		34		115
Boston	Middlesex, Norfolk & Suffolk	81		34		115
Greenfield	Franklin	51		26		77

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Hyannis	Barnstable	56		26		82
Martha's Vineyard/Nantucket	Dukes & Nantucket	96		34		130
New Bedford	Bristol	46		26		72
Northampton	Hampshire	52		26		78
Pittsfield	Berkshire	48		26		74
Plymouth	Plymouth	86		26		112
Springfield	Hampden	57		26		83
Worcester	Worcester	57		26		83
MICHIGAN						
Ann Arbor	Washtenaw	63		26		89
Battle Creek	Calhoun	42		26		68
Bay City	Bay	42		26		68
Boyne City	Charlevoix	62		26		88
Cadillac	Wexford	48		26		74
Detroit	Wayne	66		34		100
Gaylord	Otsego	53		26		79
Grand Rapids	Kent	48		26		74
Houghton Lake	Roscommon	54		26		80
Jackson	Jackson	49		26		75
Kalamazoo	Kalamazoo	57		26		83
Lansing/East Lansing	Ingham	48		26		74
Mackinac Island	Mackinac	54		26		80
Midland	Midland	51		26		77
Mount Pleasant	Isabella	43		26		69
Pontiac	Oakland	48		26		74
Port Huron	St. Clair	42		26		68
Saginaw	Saginaw	46		26		72
St. Joseph/Benton Harbor/Niles	Berrien	45		26		71
Traverse City	Grand Traverse	55		26		81
Warren	Macomb	43		26		69
MINNESOTA						
Bemidji	Beltrami	42		26		68
Brainerd	Crow Wing	42		26		68
Duluth	St. Louis	44		26		70
Minneapolis/St. Paul	Anoka, Hennepin, & Ramsey Counties; Fort Snelling Military Reservation & Navy Astronautics Group (Detachment BRAVO), Rosemount.	54		26		80
Rochester	Olmsted	53		26		79
MISSISSIPPI						
Jackson	Hinds	50		26		76
Natchez	Adams	47		26		73
Vicksburg	Warren	41		26		67
MISSOURI						
Cape Girardeau	Cape Girardeau	43		26		69
Columbia	Boone	49		26		75
Jefferson City	Cole	46		26		72
Kansas City	Clay, Jackson & Platte (See also Kansas City, KS)	60		26		86
Osage Beach	Camden	64		26		90
Springfield	Greene	51		26		77
St. Louis	St. Charles & St. Louis	59		26		85
MONTANA						
Great Falls	Cascade	41		26		67
NEBRASKA						
Lincoln	Lancaster	41		26		67
Omaha	Douglass	50		26		76
NEVADA						
Elko	Elko	46		26		72
Las Vegas	Clark; County; Nellis AFB	69		34		103
Reno	Washoe	44		26		70
NEW HAMPSHIRE						
Concord	Merrimack	51		26		77
Conway	Carroll	81		26		107
Durham	Strafford	67		26		93
Laconia	Belknap	64		26		90
Manchester	Hillsborough	59		26		85
Portsmouth/Newington	Rockingham; Pease AFB (See also Kittery, ME)	56		26		82
NEW JERSEY						
Atlantic City	Atlantic	104		34		138
Belle Mead	Somerset	62		26		88
Camden	Camden	52		26		78
Dover	Morris; Picatinny Arsenal	62		26		88
Eatontown	Monmouth County; Fort Monmouth	50		34		84
Edison	Middlesex	50		34		84
Millville	Cumberland	45		26		71
Moorestown	Burlington	68		26		94
Newark	Bergen, Essex, Hudson, Passaic & Union	78		34		112
Ocean City/Cape May	Cape May	90		34		124
Princeton/Trenton	Mercer	80		34		114
Salem	Salem	59		26		85

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Tom's River	Ocean	77		26		103
NEW MEXICO						
Albuquerque	Bernalillo	59		26		85
Cloudcroft	Otero	64		34		98
Farmington	San Juan	49		26		75
Gallup	McKinley	47		26		73
Grants	Cibola	41		26		67
Las Cruces/White Sands	Dona Ana	43		26		69
Las Vegas	San Miguel	44		26		70
Los Alamos	Los Alamos	46		26		72
Raton	Colfax	52		26		78
Santa Fe	Santa Fe	64		34		98
Taos	Taos	49		26		75
Tucumcari	Quay	46		26		72
NEW YORK						
Albany	Albany	61		26		87
Batavia	Genesee	55		26		81
Binghampton	Broom	55		26		81
Buffalo	Erie	50		26		76
Canton	St. Lawrence	48		26		74
Corning	Steuben	58		26		84
Elmira	Chemung	49		26		75
Glens Falls	Warren	45		26		71
Ithaca	Tompkins	59		26		85
Jamestown	Chautauqua	41		26		67
Kingston	Ulster	56		26		82
Lake Placid	Essex	72		26		98
Monticello	Sullivan	54		34		88
New York City	The boroughs of Bronx, Brooklyn, Manhattan, Queens & Staten Island; Nassau & Suffolk Counties.	107		34		141
Niagara Falls	Niagara	57		26		83
Poughkeepsie	Dutchess	68		26		94
Rochester	Monroe	63		26		89
Saratoga Springs	Saratoga	45		34		79
Schenectady	Schenectady	55		26		81
Syracuse	Onondaga	57		26		83
Troy	Rensselaer	57		26		83
Utica	Oneida	56		26		82
Watertown	Jefferson	49		26		75
Watkins Glen	Schuyler	72		26		98
West Point	Orange	44		26		70
White Plains	Westchester	87		34		121
NORTH CAROLINA						
Asheville	Buncombe	45		26		71
Charlotte	Mecklenburg	58		26		84
Duck	Dare	57		26		83
Elizabeth City	Pasquotank	53		26		79
Greenville	Pitt	59		26		85
Havelock	Craven	43		26		69
High Point/Greensboro	Guilford	54		26		80
Jacksonville	Onslow	42		26		68
Kinston	Lenoir	46		26		72
Morehead City	Carteret	53		26		79
Raleigh/Durham/Chapel Hill	Wake, Durham and Orange	56		26		82
Wilmington	New Hanover	45		26		71
Winston-Salem	Forsyth	49		26		75
NORTH DAKOTA						
Bismarck	Burleigh	44		26		70
Fargo	Cass	52		26		78
Grand Forks	Grand Forks	46		26		72
Minot	Ward	48		26		74
OHIO						
Akron	Summit	54		26		80
Bellevue/Norwalk	Huron	55		26		81
Chillicothe	Ross	44		26		70
Cincinnati/Evendale	Hamilton & Warren	50		26		76
Cleveland	Cuyahoga	59		34		93
Columbus	Franklin	56		26		82
Dayton	Montgomery; Wright-Patterson AFB	61		26		87
Defiance	Defiance	42		26		68
East Liverpool	Columbiana	47		26		73
Elyria	Lorain	51		26		77
Findlay	Hancock	43		26		69
Geneva	Ashtabula	52		26		78
Hamilton/Fairfield	Butler	47		26		73
Lancaster	Fairfield	41		26		67
Lima	Allen	43		26		69
Port Clinton	Ottawa	54		26		80
Portsmouth	Scioto	44		26		70

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Sandusky	Erie	57		26		83
Springfield	Clark	43		26		69
Tinney/Fremont	Sandusky	44		26		70
Toledo	Lucas	50		26		76
Wapakoneta	Auglaize	45		26		71
OKLAHOMA						
Norman	Cleveland	44		26		70
Oklahoma City	Oklahoma	47		26		73
Stillwater	Payne	44		26		70
Tulsa/Bartlesville	Osage, Tulsa & Washington	45		26		71
OREGON						
Beaverton	Washington	46		26		72
Clackamas	Clackamas	48		26		74
Coos Bay	Coos	45		26		71
Lincoln City	Lincoln	45		26		71
Portland	Multnomah	50		26		76
Seaside	Clatsop	66		26		92
PENNSYLVANIA						
Allentown	Lehigh	50		26		76
Altoona	Blaire	44		26		70
Chester	Delaware	46		34		80
Du Bois	Clearfield	51		26		77
Easton	Northhampton	64		26		90
Erie	Erie	41		26		67
Gettysburg	Adams	49		26		75
Harrisburg	Dauphin	62		26		88
Johnstown	Cambria	55		26		81
King of Prussia/Ft. Washington	Montgomery, except Bala Cynwyd (See also Philadelphia, PA)	68		34		102
Lancaster	Lancaster	63		26		89
Lebanon	Lebanon County; Indian Town Gap Military Reservation	47		26		73
Mansfield	Tioga	49		26		75
Mercer	Mercer	54		26		80
Philadelphia	Philadelphia; city of Bala Cynwyd in Montgomery County	77		34		111
Pittsburgh/Monroeville	Allegheny	60		26		86
Reading	Berks	49		26		75
Scranton	Lackawanna	52		26		78
Shippingport	Beaver	44		26		70
Somerset	Somerset	58		26		84
State College	Centre	46		26		72
Uniontown	Fayette	73		26		99
Valley Forge	Chester	68		34		102
Warminster	Bucks; Naval Air Development Center	53		26		79
Wilkes-Barre	Luzerne	54		26		80
York	York	52		26		78
RHODE ISLAND						
East Greenwich	Kent; Naval Construction Battalion Center, Davisville	56		26		82
Newport	Newport	83		34		117
Providence	Providence	74		26		100
Quonset Point	Washington	44		26		70
SOUTH CAROLINA						
Charleston	Charleston & Berkeley	51		26		77
Columbia	Richland	48		26		74
Greenville	Greenville	42		26		68
Hilton Head	Beaufort	86		34		120
Myrtle Beach	Horry County; Myrtle Beach AFB	73		26		99
Rock Hill	York	45		26		71
Spartanburg	Spartanburg	44		26		70
SOUTH DAKOTA						
Rapid City	Pennington	51		26		77
Sioux Falls	Minnehaha	45		26		71
TENNESSEE						
Chattanooga	Hamilton	41		26		67
Columbia	Maury	49		26		75
Gatlinburg	Sevier	61		26		87
Johnson City	Washington	54		26		80
Kingsport/Bristol	Sullivan	44		26		70
Knoxville	Knox; city of Oak Ridge	49		26		75
Memphis	Shelby	50		26		76
Nashville	Davidson	52		26		78
Shelbyville	Bedford	52		26		78
TEXAS						
Abilene	Taylor	41		26		67
Amarillo	Potter	46		26		72
Austin	Travis	55		26		81
Bay City	Matagorda	41		26		67
Brownsville	Cameron	41		26		67
Brownwood	Brown	42		26		68
College Station/Bryan	Brazos	43		26		69
Corpus Christi	Nueces	54		26		80

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Dallas/Fort Worth	Dallas & Tarrant	74		34		108
Denton	Denton	47		26		73
El Paso	El Paso	49		26		75
Galveston	Galveston	53		26		79
Granbury	Hood	57		26		83
Houston	Harris; L. B. Johnson Space Center & Ellington AFB	62		34		96
Lajitas	Brewster	56		26		82
Laredo	Webb	48		26		74
Longview	Gregg	42		26		68
Lubbock	Lubbock	48		26		74
McAllen	Hidalgo	49		26		75
Midland/Odessa	Ector & Midland	48		26		74
Nacogdoches	Nacogdoches	43		26		69
Plainview	Hale	45		26		71
Plano	Collin	74		26		100
San Antonio	Bexar	50		26		76
Temple	Bell	42		26		68
Waco	McLennen	45		26		71
Wichita Falls	Wichita	41		26		6
UTAH						
Bullfrog	Garfield	69		26		9
Salt Lake City/Ogden	Salt Lake, Weber, & Davis Counties; Dugway Proving Ground & Tooele Army Depot.	60		26		[illegible]
VERMONT						
Burlington	Chittenden	43		26		[illegible]
Rutland	Rutland	50		26		[illegible]
White River Junction	Windsor	56		26		52
VIRGINIA						
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia)						
Blacksburg	Montgomery	57		26		83
Bristol*		45		26		71
Charlottesville*		52		26		78
Manassas/Manassas Park*	Prince William	52		26		78
Norfolk* (also Virginia Beach, Portsmouth, Hampton, Newport News & Chesapeake*).	York; Naval Weapons Station, Yorktown	55		26		81
Petersburg*	Fort Lee	44		26		70
Richmond*	Chesterfield & Henrico Counties; also Defense Supply Center	56		26		82
Roanoke*	Roanoke	49		26		75
Wallops Island	Accomack	51		26		77
Williamsburg*		62		34		96
* Denotes independent cities.						
WASHINGTON						
Everett	Snohomish	55		26		81
Kelso/Longview	Cowlitz	46		26		72
Seattle	King	60		34		94
Spokane	Spokane	47		26		73
Tacoma	Pierce	41		26		67
Tumwater/Olympia	Thurston	48		26		74
Vancouver	Clark	49		26		75
WEST VIRGINIA						
Beckley	Raleigh	43		26		69
Charleston	Kanawha	49		26		75
Harpers Ferry	Jefferson	48		26		74
Huntington	Cabell	43		26		69
Morgantown	Monongalia	46		26		72
Wheeling	Ohio	41		26		67
WISCONSIN						
Brookfield	Waukesha	50		26		76
Eau Claire	Eau Claire	48		26		74
Green Bay	Brown	45		26		71
Kewaunee	Kewaunee	58		26		84
La Crosse	La Crosse	48		26		74
Lake Geneva	Walworth	75		26		101
Madison	Dane	56		26		82
Milwaukee	Milwaukee	55		26		81
Minocqua/Rhinelander	Oneida	45		26		71
Mishicot	Manitowoc	55		26		81
Oshkosh	Winnebago	53		26		79
Sturgeon Bay	Door	46		26		72
Wausau	Marathon	48		26		74
Wautoma	Waushara	46		26		72
Wisconsin Dells	Columbia	45		26		71
WYOMING						
Cheyenne	Laramie	43		26		69
Cody	Park	42		26		68
Gillette	Campbell	42		26		68
Jackson	Teton	57		26		83

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate (c) [4]
Key city [1]	County and/or other defined location [2] [3]					
Thermopolis	Hot Springs	41		26		67

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties."

[3] Military installations or Government-related facilities (whether or not specifically named) that are located partially within the city or county boundary shall include "all locations that are geographically part of the military installation or Government-related facility, even though part(s) of such activities may be located outside the defined per diem locality."

[4] Federal agencies may submit a request to GSA for review of the subsistence cost in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for subsistence rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Travel and Transportation Regulations Staff (FBR), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

CHAPTER 302—RELOCATION ALLOWANCES

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PART 302–1—APPLICABILITY, GENERAL RULES, AND ELIGIBILITY CONDITIONS

Sec.

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Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–1.1 Authority.

This Chapter 302 is issued pursuant to 5 U.S.C. 5721–5734 and 20 U.S.C. 905(a).

§ 302–1.2 Applicability.

(a) *Persons covered.* Except as otherwise provided in this chapter, the following persons are covered:

(1) Civilian officers and employees upon transfer from one official station or agency to another for permanent duty.

(2) Civilian officers and employees of the United States Postal Service transferred under 39 U.S.C. 1006 from the Postal Service to an agency as defined in 5 U.S.C. 5721 for permanent duty.

(3) Civilian officers and employees assigned to posts of duty outside the continental United States in connection with overseas tour renewal agreement travel and upon return to places of residence for the purpose of separation.

(4) New appointees to any positions outside the continental United States; and new appointees to positions within the United States for which the Office of Personnel Management has determined that a personnel shortage exists.

(5) Student trainees assigned upon completion of college work to positions within the United States for which the Office of Personnel Management has determined that a personnel shortage exists.

(6) Department of Defense overseas dependents school system teachers.

(7) New appointees to the Senior Executive Service; and certain Presidential appointees.

(b) *Persons excluded.* This Chapter 302 shall not apply to:

(1) Officers and employees transferred in accordance with the provisions of the Foreign Service Act of 1980, as amended.

(2) Officers and employees transferred in accordance with the provisions of the Central Intelligence Agency Act of 1949, as amended.

(3) Persons whose pay and allowances are prescribed under title 37, United States Code, "Pay and Allowances of the Uniformed Services."

(4) Personnel of the Veterans Administration to whom the provisions of 38 U.S.C. 235 apply.

§ 302–1.3 General provisions.

(a) *Travel covered.* When change of official station or other action described in this paragraph (a) is authorized or approved by such official or officials as the head of the agency may designate, travel and transportation expenses and applicable allowances as provided in this Chapter 302 (see applicability and exclusions in pertinent parts) are payable in the case of:

(1) An employee transferring from one official station to another for permanent duty, provided the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee or at his/her request; the transfer is to a new official station which is at least 10 miles distant from the old official station; and, in the case of a relatively short distance relocation, a determination of eligibility is made under § 302–1.7(a);

(2) New appointees relocating from their places of actual residence at the time of appointment for permanent duty to official stations outside the continental United States;

(3) New appointees, as provided in § 302–1.11, relocating from their places of actual residence at the time of appointment for permanent duty to official stations within the United States;

(4) Eligible employees outside the continental United States traveling in connection with overseas tour renewal agreement travel; and

(5) Eligible employees returning from posts of duty outside the continental United States to places of actual

residence for separation as provided in § 302–1.12.

(b) *Reasonable advance notice of reassignment or transfer.* As provided in 5 U.S.C. 5724(j), "the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable." Agencies shall give as much advance notice as possible to enable the employee to begin the arrangements necessary when relocating family and residence. However, see § 302–1.7 governing payment of travel and transportation expenses and applicable allowances when short distances are involved. A reasonable period of advance notice should not be less than 30 days except when:

(1) the employee and both the losing and gaining agencies agree on a lesser period;

(2) other statutory authority and implementing regulations stipulate a lesser period (see Office of Personnel Management regulations for specified timeframes); or

(3) emergency circumstances prevail.

(c) *Travel authorization.* When it is determined that a relocation will be authorized at Government expense, a written travel authorization shall be issued to the new appointee or employee before he/she reports to the first or new official station. The agency should advise the employee, or individual selected for appointment, not to incur relocation expenses in anticipation of a relocation until he/she has received written notification. The travel authorization shall indicate the specific allowances which are authorized as provided in this Chapter 302 and provide instructions on the Federal procedures for procurement of travel and transportation services. The guidelines in § 301–1.5 of this title on issuance of travel authorizations shall be followed. See also § 302–1.11(b) for procedural requirements applicable to new appointees.

(d) *Applicable provisions for reimbursement purposes.* Because of successive changes to the statutes and the regulatory provisions governing relocation allowances and the extended period of time that employees retain eligibility for certain allowances (see §§ 302–1.6 and 302–6.1(e)), the reimbursement maximums or limitations applicable to certain allowances will not be the same for all employees even though claims may be filed within the same timeframe. The regulatory provisions in effect on the employee's or new appointee's effective date of transfer or appointment (see § 302–1.4(k)) shall be used for payment or reimbursement purposes.

§ 302–1.4 Definitions.

As used in this Chapter 302, and unless otherwise specifically provided in this chapter, the following definitions apply:

(a) *Continental United States.* Continental United States (or CONUS) means the 48 contiguous States and the District of Columbia.

(b) *United States.* United States means the 50 States and the District of Columbia. The terms "United States" and "the 50 States and the District of Columbia" are used interchangeably throughout this Chapter 302.

(c) *Employee.* A civilian officer or employee of an "agency" as defined in paragraph (d) of this section. The term also includes new appointees to permanent positions outside the continental United States and to positions described in § 302–1.11(a).

(d) *Agency.* For purposes of this Chapter 302, "agency" means:

(1) An "Executive agency" as defined in 5 U.S.C. 105 (an executive department, an independent establishment, the General Accounting Office, or a wholly owned Government corporation as defined in section 101 of the Government Corporation Control Act, as amended, but excluding a Government controlled corporation);

(2) A military department;

(3) A court of the United States;

(4) The Administrative Office of the United States Courts;

(5) The Federal Judicial Center;

(6) The Library of Congress;

(7) The United States Botanic Garden;

(8) The Government Printing Office; and

(9) The District of Columbia.

(e) *Immediate family.* (1) Any of the following named members of the employee's household at the time he/she reports for duty at the new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel:

(i) Spouse;

(ii) Children of the employee or employee's spouse who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. (The term "children" shall include natural offspring; stepchildren; adopted children; grandchildren, legal minor wards, or other dependent children who are under legal guardianship of the employee or employee's spouse; and a child born after the employee's effective date of transfer when the travel of the employee's expectant spouse to the new official station is prevented at the time of the transfer because of advanced stage of pregnancy, or other reasons acceptable to the agency concerned, e.g., awaiting completion of the school year by other children.)

(iii) Dependent parents (including step- and legally adoptive parents) of the employee or employee's spouse (see paragraph (e)(2) of this section for dependent status criteria); and

(iv) Dependent brothers and sisters (including step- and legally adoptive brothers and sisters) of the employee or employee's spouse who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. (See paragraph (e)(2) of this section for dependent status criteria.)

(2) Generally, the individuals named in paragraphs (e)(1) (iii) and (iv) of this section shall be considered dependents of the employee if they receive at least 51 percent of their support from the employee or employee's spouse; however, this percentage of support criteria shall not be the decisive factor in all cases. These individuals may also be considered dependents for the purposes of this Chapter 302 if they are members of the employee's household and, in addition to their own income, receive support (less than 51 percent) from the employee or employee's spouse without which they would be unable to maintain a reasonable standard of living.

(f) *Temporary storage.* Storage of household goods for a limited period of time at origin, destination, or en route in connection with transportation to, from, or between official stations or posts of duty or authorized alternate points.

(g) *Nontemporary storage.* Storage of household goods while an employee is assigned to or is at an official station or post of duty to which he/she will not or cannot transport such household goods.

(h) *Mobile home.* All types of house trailers and mobile dwellings constructed for use as residences and designed to be moved overland, either by self-propulsion or towing.

(i) *Household goods.* (1) All personal property associated with the home and all personal effects belonging to an employee and the immediate family when shipment or storage begins, which can be legally accepted and transported as household goods by an authorized commercial carrier in accordance with the rules and regulations established or approved by an appropriate Federal or

State regulatory authority, except the items excluded in this paragraph (i). Snowmobiles and vehicles with two or three wheels, e.g., motorcycles, mopeds, and golf carts, may be shipped as household goods. The following items are specifically excluded from the definition of household goods:

(i) Automobiles, trucks, vans and similar motor vehicles; boats; airplanes; mobile homes; camper trailers; and farming vehicles;

(ii) Live animals, birds, fowls, and reptiles;

(iii) Cordwood and building materials; and

(iv) Property for resale, disposal, or commercial use rather than for use by the employee or the immediate family; and

(v) Any property or items which carriers' tariffs prohibit carriers from accepting for shipment. Agencies are advised to consult applicable tariffs or to contact the carrier involved if problems arise concerning shipment of the following prohibited articles:

(A) Property liable to impregnate or otherwise damage equipment or other property (e.g., hazardous articles including explosives, flammable and corrosive materials, and poisons);

(B) Articles which cannot be taken from the premises without damage to the article or the premises;

(C) Perishable articles, including frozen foods, articles requiring refrigeration, or perishable plants unless: the shipment is to be transported not more than 150 miles and/or delivery accomplished within 24 hours from the time of loading; no storage of shipment is required; and no preliminary or enroute servicing or watering or other preservative method is required of the carrier.

(2) Items which are irreplaceable or are of extreme value or sentiment are not provided special security by the carrier even though extra-value insurance may be purchased. Employees and their immediate families are advised to personally transport these types of items.

(j) *Official station or post of duty.* The building or other place where the officer or employee regularly reports for duty. (For eligibility for change of station allowances, see §§ 302–1.3 and 302–1.7.) With respect to entitlement under this Chapter 302 relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official.

(k) *Effective date of transfer or appointment.* The date on which an employee or new appointee reports for duty at his/her new or first official station.

§ 302–1.5 Service agreements.

(a) *Transfers within the continental United States and appointments and assignments of new appointees and student trainees to certain positions within the 50 States and the District of Columbia.* In connection with the transfer of employees between official stations within the continental United States, expenses for travel, transportation, moving and/or storage of household goods, and allowances as provided in this Chapter 302 shall not be allowed unless and until the employee selected for such transfer agrees in writing to remain in the service of the Government for 12 months following the effective date of transfer, unless separated for reasons beyond his/her control and unless acceptable to the agency concerned. In case of a violation of such an agreement, including failure to effect the transfer, any funds expended by the United States for such travel, transportation, and allowances shall be recoverable from the individual concerned as a debt due the United States. Such an agreement also is required from certain new appointees and student trainees appointed or assigned to positions in the 50 States and the District of Columbia. (See § 302–1.11.) A signed agreement for 12 months' service shall be required for each permanent change of station.

(b) *Transfers, appointments, and separations involving posts of duty outside the continental United States.* (1) In connection with the transfer or appointment of employees to posts of duty outside the continental United States, or between posts located in (i) separate countries, (ii) separate areas of the United States located outside the continental United States (e.g., Alaska, Hawaii, the Commonwealth of Puerto Rico), or (iii) any combination of these areas, the expenses of travel, transportation, moving and/or storage of household goods, and other applicable allowances as provided in this Chapter 302 shall not be allowed unless and until the employee selected for such transfer or appointment agrees in writing to remain in the service of the Government for 12 months following the effective date of the transfer or appointment (or for 1 school year for Department of Defense overseas dependents school system teachers as determined under chapter 25 of title 20 of the United States Code), unless separated for reasons beyond his/her control and acceptable to the agency concerned. In case of a violation of such an agreement, including failure to effect the transfer, any funds expended by the United States for such travel, transportation, and allowances shall be recoverable from the individual concerned as a debt due the United States.

(2) Except as precluded by this Chapter 302, upon separation from service, the expenses for return travel, transportation, and moving and/or storage of household goods shall be allowed whether the separation is for the purposes of the Government or for personal convenience. However, such expenses shall not be allowed unless:

(i) The employee transferred or appointed to posts of duty outside the continental United States shall have served for a minimum period of not less than 1 nor more than 3 years prescribed in advance by the head of the agency (or for 1 school year for Department of Defense overseas dependents school system teachers as determined under chapter 25 of title 20, United States Code); or

(ii) Separation is for reasons beyond the control of the individual and acceptable to the agency concerned.

(3) The head of the agency also shall consider requiring a service agreement in connection with the transfer of employees not otherwise covered by this Part 302–1. The agreement shall provide that in determining any employee indebtedness for violation of such agreement, credit shall be given to the extent of any unused entitlements he/she may have earned for return travel and transportation to his/her place of actual residence for separation.

(c) *Employee liability.* The agreement to remain in the service of the Government for 12 months following the effective date of transfer is not voided by a subsequent transfer whether such subsequent transfer is at the employee's request or in the interest of the Government, nor is such agreement voided by another service agreement made in connection with a second transfer. The liability of the employee for any funds expended by the United States for his/her travel, transportation, and relocation allowances is a separate liability for each service agreement. The liability in each instance is effective for the full 12-month period in connection

with the transfer for which the service agreement was made.

§ 302–1.6 Time limits for beginning travel and transportation.

All travel, including that for the immediate family, and transportation, including that for household goods allowed under this Chapter 302, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment, except that:

(a) The 2-year period is exclusive of the time spent on furlough for an employee who begins active military service before the expiration of such period and who is furloughed for the duration of his/her assignment to the post of duty for which transportation and travel expenses are allowed;

(b) The 2-year period does not include any time during which travel and transportation is not feasible due to shipping restrictions for an employee who is transferred or appointed to or from a post of duty outside the continental United States; and

(c) The 2-year period shall be extended for an additional period of time not to exceed 1 year when the 2-year time limitation for completion of residence transactions is extended under § 302–6.1(e).

§ 302–1.7 Short distance involved.

(a) *Transfers.* When the change of official station involves a short distance (at least 10 miles between stations as provided in § 302–1.3(a)(1)) within the same general local or metropolitan area, the travel and transportation expenses and applicable allowances in connection with the employee's relocation of his/her residence shall be authorized only when the agency determines that the relocation was incident to the change of official station. Such determination shall take into consideration such factors as commuting time and distance between the employee's residence at the time of notification of transfer and his/her old and new posts of duty as well as the commuting time and distance between a proposed new residence and the new post of duty. Ordinarily, a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station. Even then, circumstances surrounding a particular case (e.g., relative commuting time) may suggest that the move of residence was not incident to the change of official station. (See also specific distance limitations applicable to individual allowances; i.e., trips to seek residence quarters in § 302–4.1(c)(4) and eligibility for temporary quarters subsistence expenses in § 302–5.2(h).)

(b) *Appointments.* For new appointees, whose place of actual residence at the time of selection for appointment and first duty station are located in the same general local or metropolitan area and who relocate their places of residence as a result of the appointment, the travel and transportation expenses as provided in § 302–1.11 shall be authorized only when the agency determines that the relocation of residence was incident to the appointment. To the extent applicable, the principles prescribed for transferred employees shall be considered in making this determination.

§ 302–1.8 Two family members employed.

Except as provided in § 302–1.13(c)(1), if two or more members of an immediate family are entitled to allowances under this Chapter 302 as Government employees incident to movements between official stations, when their old and new stations, respectively, are located close together, the allowances authorized in this Chapter 302 will apply only to one member; the other is eligible as a family member only. The same limitations apply to new appointees, overseas employees returning to places of actual residence for separation, and combinations of employees otherwise eligible.

§ 302–1.9 Reduction in force involved.

(a) *Impending separation.* When an employee is assigned to a new official station after having been notified of involuntary separation not for cause but incident to the reduction, cessation, or transfer of the work at the station where he/she was employed, the transfer of the employee is deemed to be in the interest of the Government unless there is an affirmative administrative determination that the transfer is primarily for the employee's convenience or benefit.

(b) *Reemployment after separation.* A former employee separated by reason of reduction in force or transfer of function who within 1 year of the date of separation is reemployed by an agency for a nontemporary appointment, at a different permanent duty station from that where the separation occurred, may be allowed and paid the expenses and other allowances (excluding nontemporary storage when assigned to an isolated permanent duty station within the continental United States) in the same manner as though he/she had been transferred in the interest of the Government to the permanent duty station where reemployed, from the permanent duty station where separated, without a break in service, and subject to the eligibility limitations as prescribed in this Chapter 302.

§ 302–1.10 New appointees.

(a) *Coverage*—(1) *Persons.* New appointee includes not only individuals when first appointed to Government service but also individuals appointed after a break in service except that employees separated as a result of reduction in force or transfer of function may be treated as transferees instead of new appointees under the conditions set out in § 302–1.9.

(2) *Situations.* Normally, the cost which a new appointee incurs for travel and moving his/her residence to the first official station may not be paid by the Government. The provisions of §§ 302–1.11 and 302–1.12 cover situations in which authority has been provided for the Government to pay certain costs incident to such moves.

(b) *Agency responsibility.* Because new appointees usually lack experience in Government procedures, each agency shall adopt special measures to provide full information to new appointees concerning the benefits which may be available to them for travel and transportation involved in reporting to their official stations. Special care shall be taken to inform appointees of the limitations on available benefits and to prevent any misinformation from being given to appointees who are not eligible for payment of travel and transportation costs.

§ 302–1.11 Shortage-category appointees, student trainees, Senior Executive Service appointees, and certain Presidential appointees.

(a) *Coverage.* New appointees listed in this paragraph (a) are eligible for only those travel and transportation expenses as specified in paragraphs (c) and (d) of this section.

(1) *Shortage-category appointees.* The Office of Personnel Management is responsible for the designation of positions that are in the personnel shortage category. Persons appointed to these positions are eligible for travel and transportation to their first official stations at Government expense.

(2) *Student trainees.* When student trainees, after a period of leave without pay during which they completed college work, are assigned as professional employees to positions in a

personnel shortage category (as designated by the Office of Personnel Management), they are eligible for travel and transportation to their places of assignment at Government expense unless they have received a prior payment as indicated in paragraph (b)(3) of this section.

(3) *Special statutory provisions.* Appointments under any law in effect on August 25, 1960 (effective date of Pub. L. 86–587 pertaining to manpower shortage-category appointees) which authorized payment of travel and transportation expenses of appointees by the Government are not affected by the provisions of this section. The limitations of the Act involved and the regulations issued thereunder, but not these provisions, are applicable to such cases.

(4) *Senior Executive Service (SES) appointees.* New appointees to positions in the Senior Executive Service are eligible for travel and transportation to their first official stations at Government expense.

(5) *Presidential appointees.* Any person appointed by the President to a position for which the rate of pay is equal to or higher than the minimum rate of pay prescribed for GS–16 is eligible for travel and transportation to his/her first official station at Government expense provided the effective date of appointment (see § 302–1.4(k)) is on or after October 12, 1984. A Presidential appointee to a similar position whose effective date of appointment was on or after November 14, 1983, up to and through October 11, 1984, is also eligible for travel and transportation to his/her first official station provided the appointment is by and with the advice and consent of the Senate.

(b) *Procedural requirements*—(1) *Agreement.* No payment for otherwise allowable expenses or for an advance of funds shall be made unless the appointee or student trainee has signed the agreement appropriate in his/her case as provided in § 302–1.5.

(2) *Travel before appointment.* Authorized expenses may be paid even though the individual concerned has not been appointed at the time travel to the first official station is performed. However, entitlement to such expenses does not vest by virtue of selection for the position or authorization for travel as provided in § 302–1.3(c) but vests only upon actual appointment of the individual concerned.

(3) *Prior payment.* A student trainee may not receive payments authorized in paragraph (a)(2) of this section at the time of his/her assignment if the expenses of travel and transportation were paid at the time he/she was appointed as a student trainee.

(c) *Allowable expenses.* Items of reimbursement listed in paragraphs (c)(1) through (6) of this section are payable under the conditions prescribed in this regulation governing the allowance in question. Note particularly that not all of the listed items will be applicable in each situation covered by this Part 302–1.

(1) Travel expenses including per diem for the appointee or student trainee as set forth in § 302–2.1;

(2) Transportation for immediate family of appointee or student trainee as set forth in § 302–2.2(a);

(3) Mileage if privately owned vehicle is used in travel as set forth in § 302–2.3;

(4) Transportation and temporary storage of household goods as set forth in Part 302–8;

(5) Nontemporary storage of household goods if appointed to an isolated location as set forth in § 302–9.1; and

(6) Transportation of mobile homes as set forth in Part 302–7.

(d) *Expenses not allowable.* Items of expense not listed in paragraph (c) of this section which are authorized for reimbursement in case of transfers under this Chapter 302 (e.g., per diem for family, cost of house-hunting trip, subsistence while occupying temporary quarters, miscellaneous expense allowance, residence sale and purchase expenses, lease-breaking expenses, and relocation services) are not allowable to appointees and student trainees eligible under this section.

(e) *Alternate origin and destination.* The limit on travel and transportation expenses in each individual case is the cost of direct travel or transportation as allowable between the individual's place of residence at the time of selection or assignment and the official station to which he/she is appointed or assigned; however, travel and transportation may be from and/or to other locations if the new appointee or student trainee pays any excess cost involved in such alternate travel or transportation.

(f) *Advance of funds.* An advance of funds for expenses allowable under this section may be made to appointees and student trainees under the procedures prescribed in § 302–1.14(a) and the part of this regulation governing the allowance being considered.

§ 302–1.12 Overseas assignment and return.

(a) *Transferees.* Employees transferred to, from, and between official stations outside the continental United States are eligible for many of the benefits provided by this Chapter 302, and employees transferred to such stations are eligible for return transportation under the conditions and limitations contained in paragraphs (c) through (g) of this section. Specific eligibility provisions and applicable limitations are contained in the parts of this Chapter 302 relating to the benefits provided.

(b) *New appointees*—(1) *Residence at time of appointment.* A new appointee to a position outside the continental United States is eligible for certain travel and transportation benefits under this Chapter 302 if his/her residence at the time of appointment is in an area other than the area in which his/her official station is located. Under this rule "area" means a foreign country, the continental United States, Alaska, Hawaii, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(2) *Allowable expenses.* Allowances and the parts of this Chapter 302 which apply are as follows:

(i) Travel and per diem for appointees as set forth in § 302–2.1;

(ii) Travel for the appointee's immediate family, but not per diem, as set forth in § 302–2.2;

(iii) Mileage to the extent travel is performed by privately owned automobile as set forth in § 302–2.3;

(iv) Transportation and temporary storage of household goods as set forth in Part 302–8;

(v) Nontemporary storage of household goods as set forth in § 302–9.2;

(vi) Transportation of mobile homes in limited circumstances as set forth in Part 302–7; and

(vii) Transportation of an employee's personal automobile as set forth in Part 302–10.

(3) *Expenses not allowable.* Items of expense not listed in paragraph (b)(2) of this section which are authorized for reimbursement under this Chapter 302 in the case of transfers (e.g., per diem for family, cost of house-hunting trip, subsistence while occupying temporary quarters, miscellaneous expense allowance, residence sale and purchase expenses, and lease-breaking expenses) may not be authorized for appointees eligible under this section.

(4) *Alternate origin or destination.* Travel and transportation benefits authorized are from the employee's residence at time of appointment to his/her official station. If alternate origins or destinations are involved, the cost which will be paid by the Government may not exceed the cost that would have been incurred for the travel or

transportation in question between the residence and the official station.

(5) *Advance of funds.* An advance of funds for expenses allowable under paragraph (b)(2) of this section may be made to appointees under the procedures prescribed in § 302–1.14(a) and the part of this Chapter 302 governing the allowance being considered.

(c) *Actual place of residence designation*—(1) *Designation by employee.* When an employee is selected for transfer or appointment to a post of duty outside the continental United States, the place of actual residence shall be determined at the time of selection and designated in the written agreement prescribed in § 302–1.5(b) to remain in the Government service for a minimum period of time prescribed by the agency head pursuant to law. An employee hired locally at a location outside the continental United States who claims residence at another location in the United States or its possessions or in the Commonwealth of Puerto Rico at time of appointment, shall designate in writing the claimed place of actual residence for the consideration of agency officials.

(2) *Determination by agency official.* Determination of the place of actual residence shall be made by an authorized agency official on the basis of all the facts in the record. When there is doubt as to the place of actual residence, the employee is responsible for supplying any further information necessary to support designation of the claimed place of actual residence.

(3) *Guidance in determination of residence.* While it is not feasible to establish rigid standards for what constitutes a place of residence, the concept of residence represented in an existing statutory provision (8 U.S.C. 1101(33)) may be used as general guidance. This concept views residence as the place of general abode, meaning the principal, actual dwelling place in fact, without regard to intent. Determination of the place of actual residence is primarily an administrative responsibility and the place constituting the actual residence must be determined upon the factual circumstances in each case. Examples of factors which shall be considered, whenever applicable, by agency officials charged with this responsibility are:

(i) The place of actual residence of a dependent student generally is presumed to be the same as that of the parents and, except in rare instances, this situation would not be changed by the student attending college in another place.

(ii) The place at which the employee physically resided at time of selection for appointment or transfer frequently constitutes the place of actual residence and shall be so regarded in the absence of circumstances reasonably indicating that another location may be designated as the place of actual residence.

(iii) Designation of a place of actual residence in an official document signed by the employee earlier in Government employment shall be regarded as originally intended to be a continuing designation, and the burden is upon the employee to establish clearly that the earlier designation was in error or that later circumstances entitle a different designation to be made. After an employee has been transferred or appointed to a post of duty outside the continental United States, the location of the place of actual residence incorporated in the official records of such employment shall be changed only to correct an error in the designation of residence.

(iv) Presence in the individual's work history of a representative amount of full-time employment at or in the immediate geographic area of the location designated as place of actual residence is a significant factor, but lack of such history does not preclude the designation of the location as place of actual residence.

(v) The chronological record of individual or family association with a locality is usually significant only in connection with an analysis of other circumstances explaining the nature of such association. Frequent or extended visits to a locality must be evaluated in relation to the purpose of the visits and sometimes in relation to the nature of the area itself. For example, vacation visits to a resort area, without the added support of other factors, should not be regarded as adequate to establish a place of actual residence.

(vi) Recognition and exercise by the employee of the privileges and duties of citizenship in a particular jurisdiction, such as voting and payment of taxes on income and personal property are factors for consideration, but agency application of standards about place of residence should not be such as to discourage employees from property ownership or participation in community affairs at a nonforeign location outside the continental United States.

(d) *Return for separation.* When an employee is eligible for return travel and transportation to his/her place of actual residence upon separation after completion of the period of service specified in an agreement executed under § 302–1.5(b) or is separated for reasons beyond his/her control and acceptable to the agency concerned, he/she may receive travel and transportation to an alternate location, provided the cost to the Government shall not exceed the cost of travel and transportation to his/her residence at the time he/she was assigned to an overseas station. However, under decisions of the Comptroller General, ordinarily, an employee is entitled to travel and transportation expenses upon separation only to the country of actual residence at the time of assignment to such duty.

(e) *Prior return of immediate family*—(1) *When employee is eligible for return transportation.* When an employee has become eligible for return transportation by satisfactorily completing an agreed period of service at a post of duty outside the continental United States, the Government shall pay one-way transportation expenses for returning the employee's immediate family and household goods before the employee's return to his/her place of actual residence in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, or the United States territories or possessions.

(2) *Return for compassionate reasons.* One-way transportation expenses for the return of the employee's immediate family and his/her household goods also may be paid without regard to the employee's completion of an agreed period of service provided it has been determined under regulations prescribed by the head of the agency concerned that the public interest requires the return of the immediate family for compelling personal reasons of a humanitarian or compassionate nature, which may involve physical or mental health, death of a member of the immediate family, or obligations imposed by authority or circumstances over which the individual has no control.

(3) *Limited to one return trip.* Expenses allowed as provided in paragraphs (e) (1) and (2) of this section shall be paid by the Government not more than one time during each agreed period of service and are subject to Chapter 301 of this title.

(4) *Part of household goods retained overseas.* In connection with the prior return of his/her family, the employee may elect to retain a portion of the household goods with him/her at the post of duty and ship the remainder to his/her place of actual residence. In such an instance, the Government will pay for shipment of both parts of the household goods, provided the aggregate

weight of both shipments does not exceed the applicable weight limits.

(5) *Alternate destination.* If the employee's immediate family and household goods are returned to a location in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, or to a United States territory or possession other than the place of actual residence therein, the allowable expenses shall not exceed those allowable for return over a usually traveled route between the post of duty and the place of actual residence.

(6) *Prior return at employee's expense—reimbursement.* There may be circumstances in which an employee elects to return his/her immediate family and the household goods or any part thereof at his/her own expense to any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, or a United States territory or possession when he/she is not eligible for such transportation under this paragraph (e). In such an instance, and after the employee becomes eligible for transportation at Government expense, he/she may be reimbursed for the proper expenses which he/she had previously paid. He/She will be reimbursed in accordance with the applicable provisions of this paragraph (e) only for expenses which are supported by receipts or other appropriate documentation furnished to the Government under regulations prescribed by the head of the agency concerned.

(f) *Return of former spouse and dependents.* Paragraph (e) of this section also applies to the spouse and dependents of an employee who have traveled to the employee's overseas post of duty as dependents (as provided in § 302–1.4(e)) at Government expense, even if, because of divorce or annulment, such individuals will have ceased to be dependents as of the date the employee becomes eligible for return travel. Travel of such former dependents is authorized by the employee's next entitlement to return travel but not beyond the end of the employee's current agreed tour of duty.

(g) *Return of family member over 21.* If a member of the immediate family, as defined in § 302–1.4(e), reaches his/her twenty-first birthday while the employee is assigned to duty overseas, that person may be returned to the United States (or foreign location at which the actual residence is located) at Government expense, provided his/her last travel overseas was at Government expense as a member of the employee's immediate family. Return of that person is authorized by the employee's next entitlement to travel to the United States (or foreign location at which the actual residence is located) but not beyond the end of the employee's current agreed tour of duty.

§ 302–1.13 Overseas tour renewal agreement travel.

Employees may be eligible to receive allowances for travel and transportation expenses for the purpose of returning home to take leave between tours of duty overseas as provided in this section. These provisions are applicable to employees serving tours of duty at posts of duty outside the United States. These provisions are also applicable to employees serving tours of duty in Alaska or Hawaii but only under the conditions specified in paragraphs (a)(2) and (3) of this section.

(a) *Eligibility.* Employees may be eligible to receive allowances for travel and transportation expenses for returning home between tours of duty overseas under the criteria set forth in paragraphs (a)(1) through (3) of this section.

(1) *Eligibility requirements for all areas outside the continental United States.* In order to be eligible for allowances under this section, an employee before departure from his/her post of duty outside the continental United States must have:

(i) Satisfactorily completed an agreed period of service or the prescribed tour of duty as provided in § 302–1.5(b) for return travel entitlement;

(ii) Entered into a new written agreement as provided in § 302–1.5(b) for another period of service at the same or another post of duty outside the continental United States. The agreement shall cover costs incident to the travel to the employee's place of actual residence or alternate location and return and any additional cost paid by the Government as a result of a transfer of the employee to another official station overseas at the time of the tour renewal agreement travel; but as provided in § 302–1.5(b), the agreement will be for 12 months with respect to the transfer costs; and

(iii) Qualified for eligibility status under the provisions of paragraphs (a)(2) and/or (3) of this section, if the post of duty involved is located in Alaska or Hawaii.

(2) *Employees stationed in Alaska or Hawaii on September 8, 1982.* An employee whose status on September 8, 1982, was any one of the situations listed in paragraph (a)(2)(i), (ii), or (iii) of this section involving a post of duty in Alaska or in Hawaii will continue to be eligible to receive allowances for travel and transportation expenses for tour renewal agreement travel provided the employee continues to serve consecutive tours of duty at posts of duty within Alaska or at posts of duty within Hawaii. Transfers between a post of duty in Alaska and a post of duty in Hawaii will not constitute consecutive tours of duty for purposes of continuing eligibility under these provisions. On September 8, 1982, the employee must have been:

(i) Serving a current tour of duty in Alaska or Hawaii;

(ii) En route to a post of duty in Alaska or Hawaii under a written agreement to serve a tour of duty; or

(iii) Engaged in tour renewal agreement travel and have entered into a new written agreement to serve another tour of duty in Alaska or in Hawaii.

(3) *Employees assigned, appointed, or transferred to a post of duty in Alaska or Hawaii after September 8, 1982.* (i) Except for situations described in paragraph (a)(2) of this section, the travel and transportation expenses allowable for tour renewal agreement travel under this section may not otherwise be authorized for employees assigned, appointed, or transferred to a post of duty in Alaska or Hawaii after September 8, 1982, unless it is determined under regulations prescribed by the agency head that payment of these expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii. This authority must be used sparingly and only when required to fulfill agency staffing needs to accomplish the agency's mission. These provisions are intended to ensure the availability of well qualified employees or those employees with special skills and knowledge who are not available in the local area, and to fill positions in remote areas. Agency regulations shall prescribe criteria and guidelines to determine the need for payment of tour renewal agreement travel expenses. The agency determination that it is necessary to pay the expenses of tour renewal agreement travel as a recruiting or retention incentive in order to fill a particular position in Alaska or Hawaii shall be reviewed periodically but not less than every 5 years.

(ii) The payment of travel and transportation expenses for tour renewal agreement travel for recruiting or retention purposes is limited to two round trips beginning within 5 years after the date the employee first begins any period of consecutive tours of duty in Alaska or Hawaii. Employees shall be advised in writing of this limitation.

(4) *Effect on other allowances.* Paragraphs (a) (2) and (3) of this section do not affect the provisions of § 302–1.12 governing overseas assignments and return for employees transferred or new appointees to posts of duty in Alaska and Hawaii.

(b) *Allowable travel and transportation*—(1) *Destination.* An eligible employee and his/her immediate family shall be allowed expenses for travel from the post of duty outside the continental United States to his/her place of actual residence at the time of assignment to a post of duty outside the continental United States (also referred to as "actual residence" in this section). Those expenses shall also be allowed from the place of actual residence upon return to the same or another post of duty outside the continental United States; except with respect to Alaska and Hawaii, the return must be to a post of duty located within the same State (Alaska or Hawaii) as the post of duty at which the employee served immediately before tour renewal agreement travel (see paragraph (a)(2) of this section).

(2) *Allowances.* These allowances are payable under Chapter 301 of this title and are limited to per diem and transportation costs for the employee and transportation costs, but not per diem, for his/her immediate family. (See § 302–2.1.) If a transfer is also involved, family per diem may be paid as authorized by § 302–2.2(b) to the extent such per diem is payable incident to direct travel between posts of duty.

(3) *Alternate destination.* An employee and his/her family may travel to a location in the United States, its territories or possessions, Puerto Rico, or another country in which the place of actual residence is located other than the location of the place of actual residence; however, an employee whose actual residence is in the United States must spend a substantial amount of time in the United States, its territories or possessions, or Puerto Rico incident to travel under this section to be entitled to the allowance authorized. The amount allowed for travel and transportation expenses when travel is to an alternate location shall not exceed the amount which would have been allowed for travel over a usually traveled route from the post of duty to the place of actual residence and for return to the same or a different post of duty outside the continental United States as the case may be.

(c) *Limitations*—(1) *Husband and wife both employed.* If husband and wife are both employed in the immediate geographic area by the same or different agencies as employees under the terms of this Chapter 302, the allowances authorized in this section shall apply to each of them separately, in which instance neither of them is eligible for any allowances as the spouse, or to either of them, in which instance one is considered the head of the household and the other is eligible for allowances as the spouse. In applying these alternatives, other members of the immediate family shall not receive duplicate allowances because of the fact that both husband and wife are employees. A determination as to which of the two alternatives is selected shall be made in writing and shall be signed by both husband and wife. A copy of this determination shall be filed with the agency in which each is employed.

(2) *Local hires not eligible*—(i) *Married persons in area with spouse.* An employee hired locally is not eligible for allowances under this section if he/she is married and is in the immediate geographic area because his/her spouse is in the area as a member of the Foreign Service, a member of the uniformed services (as defined in title 37, U.S.C.), a private individual, or an employee of a private individual or a non-Federal organization.

(ii) *Minors in area with parents.* An employee hired locally who is unmarried and under 21 years of age is not eligible for allowances under this section if a parent of the employee is in the immediate geographic area as a member of the Foreign Service, a member of the uniformed services (as defined in title 37, U.S.C.), a civilian employee under the terms of this regulation, a private individual, or an employee of a private individual or a non-Federal organization.

(iii) *Denial of allowance to eligible local hires.* Under regulations prescribed by the head of the agency concerned, the agency may in its discretion refuse eligibility for allowances under this Part 302–1 to an employee who was hired locally and who did not sign a written agreement as provided under § 302–1.5(b), provided the agency notifies the employee of its intention before the employee has completed a period of service equal to the period generally applicable to employees of the agency serving at the post of duty concerned or in the same geographic area.

(d) *Liability of employee—noncompliance with new agreement.* An employee who, for reasons not beyond his/her control and not acceptable to the agency concerned, fails to complete the period of service specified in a new service agreement is obligated for expenses and for allowances paid to him/her.

(1) *Failure to complete initial year of service.* (i) If the employee fails to complete 1 year of service under a new agreement, he/she is indebted to the Government for any amounts spent by the Government for:

(A) His/her transportation and per diem and transportation for his/her immediate family incident to tour renewal agreement travel from the post of duty to his/her place of actual residence and from the place of actual residence to the last post of duty where he/she failed to complete a year of service;

(B) Transportation for any member of the immediate family who traveled from the former to the last post of duty without going to the actual place of residence;

(C) Transportation of his/her household goods from the former post of duty to the last post of duty (including amounts spent for packing, crating, drayage, unpacking, and temporary storage); and

(D) Any other allowances paid under this regulation when a transfer of official station is involved.

(ii) In addition, the employee must bear the expense of transportation for himself/herself, and the family and household goods from the last post of duty to the place of actual residence, and he/she is indebted to the Government for any amounts spent by the Government for these purposes.

(iii) The employee is entitled to an allowance if, prior to his/her current agreement which he/she did not complete, he/she completed an agreed period of service for which he/she did not receive all allowances to which he/she was entitled. The employee in such an instance is entitled to allowances for the return of himself/herself, and the family and household goods (including costs of packing, crating, drayage, unpacking, and temporary storage) from the post of duty at which the former period of service was completed to the actual place of residence.

(iv) Since the employee did not avail himself/herself of the entitlement described in paragraph (d)(1)(iii) of this section, the costs that would have been incurred for that purpose may be applied as a setoff against the indebtedness described in paragraphs (d)(1) (i) and (ii) of this section. The setoff amount shall be applied as follows:

(A) If the amount of the setoff is less than the indebtedness, the difference is a debt due the United States; or

(B) If the setoff is larger than the indebtedness, the difference (excess setoff) will be applied to the costs, for

which the employee is responsible, of moving the employee, and the family and household goods from the post of duty where he/she failed to complete a year of service to the place of actual residence. If the amount of excess setoff equals or exceeds the costs for which the employee is responsible, the Government will procure and pay for such transportation in full. If the amount of excess setoff is less than the costs for which the employee is responsible, the Government may procure and pay for the transportation and obtain reimbursement from the employee for the difference between the total costs and the amount of the excess setoff to be applied against the costs, or allow the employee to pay the total costs and reimburse him/her for the applicable amounts upon submission of an appropriate voucher.

(2) *Failure to complete agreed period after initial year.* (i) If the employee completes 1 year or more of service under a new agreement, but does not complete the entire period of service specified in the agreement, he/she is not indebted to the Government for amounts spent by the Government for transportation and per diem for the employee and for transportation of his/her immediate family incident to tour renewal agreement travel from the post of duty at which he/she completed the previous tour of duty to his/her place of actual residence and from the place of actual residence to the post of duty at which he/she failed to complete the agreed upon tour of duty. Furthermore, if the post of duty where the employee failed to complete his/her agreement is not the same as the place where he/she did complete his/her previous assignment, he/she is not indebted for the costs of transporting any members of the immediate family who traveled from the former to the latter post of duty without going to the actual place of residence, nor for the costs of transporting his/her household goods between these two posts of duty, including any related costs of packing, crating, drayage, unpacking, and temporary storage or for other allowances paid under this regulation incident to the transfer of official station.

(ii) However, when the employee fails to complete the agreed period of service after the initial year, the employee must bear the costs of transportation for himself/herself and the immediate family and household goods from the post of duty at which he/she did not complete the agreed upon tour of duty under the new agreement to the place of actual residence.

(iii) For the reasons described in paragraph (d)(1)(iii) of this section, however, the employee shall be allowed credit for an amount equal to the costs of transporting, from the post of duty at which the former period of service was completed to the place of actual residence, the household goods and any members of the immediate family who did not accompany him/her when he/she returned to the place of actual residence incident to renewal agreement travel toward the costs (see paragraph (d)(2)(ii) of this section) of return to the place of actual residence.

(iv) The credit amount allowable and the costs involved shall be computed in the same manner as provided in paragraph (d)(1)(iv) of this section.

§ 302-1.14 Use of funds.

(a) *Advance of funds*—(1) *Basis.* An employee may be advanced funds for use while traveling and for certain expenses which he/she may incur incident to a transfer based on his/her prospective entitlement to reimbursement for those expenses after they are incurred.

(2) *Rules.* Advances and collection of advances by deduction from the employee's voucher are subject to Chapter 301 of this title.

(3) *Anticipated entitlements which may justify an advance.* The expected entitlement of an employee to reimbursement for the following expenses will form the basis for payment of a travel advance. Specific authority with regard to each type of expense is contained in the sections governing the particular allowances.

(i) Per diem, mileage, and common carrier costs incident to his/her change of official station travel as set forth in § 302-2.4;

(ii) Authorized house-hunting trips as set forth in § 302-4.4;

(iii) Subsistence while occupying temporary quarters as set forth in § 302-5.5;

(iv) Transportation and temporary storage of household goods as set forth in § 302-8.6;

(v) Transportation of mobile homes as set forth in § 302-7.5; and

(vi) Transportation and storage of employee's automobile as set forth in § 302-10.6.

(b) *Funding of transfers between agencies.* In the case of transfer from one agency to another, allowable expenses shall be paid from the funds of the agency to which the employee is transferred. However, in transfers between agencies for reasons of reduction-in-force or transfer of functions, expenses allowable under this regulation may be paid in whole or in part by the agency from which the employee is transferred or by the agency to which he/she is transferred as may be agreed upon by the heads of the agencies concerned except as excluded in paragraphs (b) (1) and (2) of this section.

(1) Nontemporary storage when assigned to an isolated permanent duty station within the continental United States; and

(2) Transfers to, from, or between foreign countries (except the areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)).

PART 302-2—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

Sec.

302-2.1 For the employee.
302-2.2 For members of an employee's immediate family.
302-2.3 For use of a privately owned automobile in connection with permanent change of station.
302-2.4 Advance of funds.

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302-2.1 For the employee.

Except as specifically provided in this Chapter 302, per diem, transportation costs, and other travel expenses of the employee shall be allowed in accordance with the provisions of 5 U.S.C. 5701-5709 and Chapter 301 of this title; the maximum per diem rate allowable for travel within CONUS shall be the standard CONUS rate prescribed under § 301-7.2 of this title (see also § 301-7.5(a) of this title). Within CONUS, the prohibition on paying per diem for travel of less than 10 hours will apply to change of official station travel; outside CONUS, the 10-hour exclusion does not apply (see § 301-7.4(b) of this title). This Part 302-2 applies to travel of transferred employees, new appointees (including those covered in § 302-1.11), and employees assigned to posts of duty outside the continental United States in connection with either overseas tour renewal agreement travel or return travel to places of residence for the purpose of separation.

§ 302-2.2 For members of an employee's immediate family.

(a) *Transportation.* Except as specifically provided in this Chapter 302, allowable travel expenses for the employee's immediate family, including transportation, are governed by Chapter

301 of this title. Travel of the immediate family may begin at the employee's old official station or some other point, or partially at both, or may end at the new official station or some other place selected by the employee, or partially at both. However, the cost to the Government for transportation of the immediate family shall not exceed the allowable cost by the usually traveled route between the employee's old and new official stations.

(b) *Per diem allowance when en route between employee's old and new official station.* When an employee is transferred, an allowance shall be paid for per diem instead of the subsistence expenses incurred by the employee's immediate family while traveling between the old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance shall not exceed the amount to which members of the immediate family would have been entitled if they had traveled by usually traveled route between the old and new official stations. In computing the per diem allowance under Chapter 301 of this title, within CONUS, the prohibition on paying per diem for travel of less than 10 hours will apply to permanent change of station travel; outside CONUS, the 10-hour exclusion does not apply (see § 301–7.4(b) of this title). The maximum allowable per diem rates are as follows:

(1) *For the spouse*—(i) *When accompanying the employee.* When the spouse accompanies the employee who is traveling under § 302–2.1, the spouse is authorized three-fourths of the per diem rate to which the employee is entitled. However, under this provision the minimum per diem rate shall be $6 unless the employee receives a per diem rate of less than $6 and, in that instance, the spouse will receive the same rate as the employee.

(ii) *When not accompanying the employee.* When the spouse is not accompanying the employee while he/she is traveling under § 302–2.1, the spouse is authorized the per diem rate to which the employee is entitled under § 302–2.1. In such instance the travel time of the employee and the amount of per diem allowance paid him/her are not factors in computing the amount of per diem allowance for travel of the spouse. (When more than one privately owned automobile is used, the spouse shall be considered to have been accompanied by the employee if travel is performed on the same days along the same general route.)

(2) *For each other member of the employee's immediate family.* Three-fourths of the per diem rate to which the employee is entitled is authorized for each other member age 12 or older, and one-half of the per diem rate to which the employee is entitled is authorized for each child under 12 years of age. However, under this provision the minimum per diem rate shall be $6 unless the employee received a per diem rate of less than $6 and, in that instance, the member shall receive the same rate as the employee.

(c) *Exclusions.* The provisions of paragraph (b) of this section do not authorize payment of per diem allowances for members of the immediate families of:

(1) New appointees, including those covered in § 302–1.11;

(2) Employees assigned to posts of duty outside the continental United States in connection with overseas tour renewal agreement travel;

(3) Employees assigned to posts of duty outside the continental United States returning to places of actual residence for separation; or

(4) Employees assigned under the Government Employees Training Act (5 U.S.C. 4109).

§ 302–2.3 For use of a privately owned automobile in connection with permanent change of station.

(a) *Determination of advantage to the Government.* When an employee, with or without an immediate family, who is eligible for travel allowances under Part 302–1, uses a privately owned automobile for permanent change of station travel, that use is deemed to be advantageous to the Government. The provisions in § 302–2.3 also apply to new appointees, including those covered in § 302–1.11 and employees returning from posts of duty outside the continental United States to places of actual residence for separation. The provisions do not apply to employees assigned to posts of duty outside the continental United States in connection with overseas tour renewal agreement travel. (See § 302–1.13.)

(b) *Mileage rates prescribed.* Payment of mileage allowances, when authorized or approved in connection with the transfer, shall be allowed as follows:

Occupants of automobile	Mileage rate (cents)
Employee only; or one member of immediate family	15
Employee and one member; or two members of immediate family	17
Employee and two members; or three members of immediate family	19
Employee and three or more members; or four or more members of immediate family	20

(c) *Mileage rates in special circumstances.* Heads of agencies may prescribe that travel orders or other administrative determinations specify higher mileage rates at a rate not more than the maximum rate prescribed in § 301–4.2(a)(2) of this title for individual transfers of employees or transfers of groups of employees when:

(1) Employees are expected to use the privately owned automobiles on official business while assigned to the new duty stations;

(2) The common carrier rates for the facilities provided between the old and new stations, the related constructive taxicab fares to and from terminals, and the per diem allowances prescribed under this Part 302–2 justify a higher mileage rate as advantageous to the Government; or

(3) The costs of driving the privately owned automobile to, from, or between official stations located outside the continental United States justify a higher mileage rate as advantageous to the Government.

(d) *Maximum per diem allowances when privately owned automobile is used*—(1) *Rates as prescribed by agency.* The per diem allowance for the employee while en route between the old and new duty stations shall be at appropriate rates, as prescribed by the agency concerned, within the applicable maximums and in accordance with provisions of § 302–2.1 and Chapter 301 of this title. The per diem allowances prescribed in § 302–2.2(b) apply for members of an employee's immediate family, except as excluded in § 302–2.2(c).

(2) *Maximum allowance based on total distance.* Per diem allowances should be paid on the basis of actual time used to complete the trip, but the allowances may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day. An exception to the daily minimum driving distance may be made by the agency concerned when travel between the old and new official stations is delayed for reasons clearly beyond the control of the travelers such as acts of God, restrictions by Governmental authorities, or other reasons acceptable

to the agency; e.g., a physically handicapped employee. In such cases, per diem may be allowed for the period of the delay or for a shorter period as determined by the agency. The traveler must provide a statement on his/her reimbursement voucher fully explaining the circumstances which necessitated the en route travel delay. The exception to the daily minimum driving distance requires the approval of the agency's authorizing official.

(3) *Method of computation.* In computing the per diem amount for a prescribed minimum driving distance per day, one-fourth of the prescribed per diem rate shall be allowed for each one-fourth of the prescribed minimum distance. For example, if the authorizing official prescribes a per diem rate of $12 for the employee and a reasonable minimum driving distance of 400 miles a day, the per diem amount will be $3 for each 100 miles or fraction of 100 miles traveled between the old and new official stations.

(e) *Use of more than one privately owned vehicle*—(1) *When authorized as advantageous to the Government.* Use of no more than one privately owned automobile is authorized under this Part 302–2 as being advantageous to the Government in connection with permanent change of station travel except under the following special circumstances, when use of more than one privately owned automobile may be authorized:

(i) If there are more members of the immediate family than reasonably can be transported with luggage in one vehicle;

(ii) If because of age or physical condition special accommodations are necessary in transporting a member of the immediate family in one vehicle, and a second automobile is required for travel of other members of the immediate family;

(iii) If an employee must report to a new official station in advance of travel by members of the immediate family who delay travel for acceptable reasons such as completion of school term, sale of property, settlement of personal business affairs, disposal or shipment of household goods, and temporary unavailability of adequate housing at the new official station;

(iv) If a member of the immediate family performs unaccompanied travel between authorized points other than those for the employee's travel; or

(v) If, in advance of the employee's reporting date, immediate family members must travel to the new official station for acceptable reasons such as to enroll children in school at the beginning of the term.

(2) *Allowances applicable.* In those instances where more than one automobile is authorized under this paragraph (e), the allowances under paragraphs (b), (c), and (d) of this section apply for each automobile and the occupants thereof.

(3) *Allowances when not justified as advantageous to the Government.* If the use of more than one privately owned automobile is not justified under the circumstances described in this paragraph (e), only the allowances prescribed in paragraphs (b), (c), and (d) of this section shall be paid, as if all persons involved traveled in one automobile.

§ 302–2.4 Advance of funds.

Advance of funds may be made for per diem and mileage allowances as provided in §§ 302–2.1, 302–2.2(b), and 302–2.3 except in connection with employees assigned to posts of duty outside the continental United States performing authorized or approved overseas tour renewal agreement travel. Such advances may also be made upon return to the place of residence for the purpose of separation under the policies and procedures prescribed in § 302–1.14(a).

PART 302–3—ALLOWANCE FOR MISCELLANEOUS EXPENSES

Sec.

302–3.1 Applicability.
302–3.2 Eligibility.
302–3.3 Allowable amount.
302–3.4 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–3.1 Applicability.

(a) *Purpose for allowance.* The miscellaneous expenses allowance authorized by §§ 302–3.2 and 302–3.3 is for defraying various contingent costs associated with discontinuing residence at one location and establishing residence at a new location in connection with an authorized or approved permanent change of station.

(b) *Types of costs covered.* The allowance is related to expenses that are common to living quarters, furnishings, household appliances, and to other general types of costs inherent in relocation of a place of residence. The costs intended to be reimbursed under the allowance include, but are not limited to, the following:

(1) Fees for disconnecting and connecting appliances, equipment, and utilities involved in relocation and costs of converting appliances for operation on available utilities;

(2) Fees for unblocking and blocking and related expenses in connection with relocating a mobile home, but not the transportation expenses allowed under § 302–7.3;

(3) Fees for cutting and fitting rugs, draperies, and curtains moved from one residence quarters to another;

(4) Utility fees or deposits that are not offset by eventual refunds;

(5) Forfeiture losses on medical, dental, and food locker contracts that are not transferable; and contracts for private institutional care, such as that provided for handicapped or invalid dependents only, which are not transferable or refundable; and

(6) Costs of automobile registration, driver's license, and use taxes imposed when bringing automobiles into certain jurisdictions.

(c) *Types of costs not covered.* This allowance shall not be used to reimburse the employee for costs or expenses incurred which exceed maximums provided by statute or in this regulation; costs or expenses that the employee incurred but which are disallowed elsewhere in this regulation; costs reimbursed under other provisions of law or regulations; costs or expenses incurred for reasons of personal taste or preference and not required because of the move; losses covered by insurance; fines or other penalties imposed upon the employee or members of his/her immediate family; judgments, court costs, and similar expenses growing out of civil actions; or any other expenses brought about by circumstances, factors, or actions in which the move to a new duty station was not the proximate cause. Examples of costs which are not reimbursable from this allowance are as follows:

(1) Losses in selling or buying real and personal property and cost items related to such transactions;

(2) Costs which are reimbursed under other provisions of this regulation or under any other regulations or under provisions of any statute;

(3) Cost of additional insurance on household goods while in transit to the new official station or cost of loss or damage to such property;

(4) Additional costs of moving household goods caused by exceeding the maximum weight limitation for which the employee has eligibility as provided by law or in this Chapter 302;

(5) Costs of newly acquired items, such as the purchase or installation cost of new rugs or draperies;

(6) Higher income, real estate, sales, or other taxes as the result of establishing residence in the new locality;

(7) Fines imposed for traffic infractions while en route to the new official station locality;

(8) Accident insurance premiums or liability costs incurred in connection with travel to the new official station locality, or any other liability imposed upon the employee for uninsured damages caused by accidents for which he/she or a member of his/her immediate family is held responsible;

(9) Losses as the result of the sale or disposal of items of personal property not considered convenient or practicable to move;

(10) Damage or loss of clothing, luggage, or other personal effects while traveling to the new official station locality;

(11) Subsistence, transportation, or mileage expenses in excess of the amounts reimbursed as per diem or other allowances under this regulation;

(12) Medical expenses due to illness or injuries of the employee or members of the immediate family while en route to the new official station or while living in temporary quarters at Government expense under the provisions of Part 302–5; or

(13) Costs incurred in connection with structural alterations; remodeling or modernizing of living quarters, garages or other buildings to accommodate privately owned automobiles, appliances or equipment; or the cost of replacing or repairing worn-out or defective appliances, or equipment shipped to the new location.

§ 302–3.2 Eligibility.

(a) *Coverage.* A miscellaneous expense allowance will be payable to an employee for whom a permanent change of station is authorized or approved and who has discontinued and established a residence in connection with such change regardless of where the old or new official station is located, provided the applicable eligibility conditions in Part 302–1 are met and the agreement required in § 302–1.5 is signed.

(b) *Exclusions.* The provisions of this Part 302–3 do not apply for new appointees, including those covered under § 302–1.11, employees assigned under the Government Employees Training Act (see 5 U.S.C. 4109), or employees returning from overseas assignments for the purpose of separation.

§ 302–3.3 Allowable amount.

Employees eligible for a miscellaneous expense allowance shall be paid an amount under paragraph (a) of this section or reimbursed an amount under paragraph (b) of this section, but not both, as follows:

(a) Allowances in the following amounts will be paid without support or other documentation of expenses:

(1) $350 or the equivalent of 1 week's basic pay, whichever is the lesser amount, for an employee without immediate family; and

(2) $700 or the equivalent of 2 weeks' basic pay, whichever is the lesser amount, for an employee with immediate family.

(b) Allowances in excess of those provided in paragraph (a) of this section may be authorized or approved, if supported by acceptable statements of fact and either paid bills or other acceptable evidence justifying the amounts claimed, provided the aggregate amount does not exceed the employee's basic pay (at the time the employee reported for duty) for 1 week if the employee is without an immediate family, or for 2 weeks if the employee has an immediate family. In no instance will the amount exceed the maximum rate of grade GS–13 provided in 5 U.S.C. 5332 at the time the employee reported for duty. The entire amount claimed under this paragraph (b) (including the amount otherwise payable without such documentation under paragraph (a) of this section) must be supported as required in this paragraph (b).

§ 302–3.4 Advance of funds.

No advance of funds is authorized in connection with the allowance provided in this Part 302–3.

PART 302–4—TRAVEL TO SEEK RESIDENCE QUARTERS

Sec.

302–4.1 Applicability and general policy for authorizing travel to seek residence quarters.
302–4.2 Duration of trip.
302–4.3 Procedural requirements.
302–4.4 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–4.1 Applicability and general policy for authorizing travel to seek residence quarters.

(a) Payment of travel and transportation expenses of the employee and spouse traveling together, or the employee or spouse traveling individually instead of travel by the other or together, for one round trip between the localities of the old and new duty stations for the purpose of seeking residence quarters, may be authorized when circumstances warrant. Separate round trips by the employee and spouse may be allowed provided the overall cost to the Government is limited to the cost of one round trip for the employee and spouse traveling together. A round trip performed by the employee for this purpose, when authorized, must be accomplished before reporting to the new official station. A round trip by the spouse, when authorized, may be accomplished at any time before relocation of the family to the new official station but not after the expiration of the maximum time for beginning allowable travel and transportation. (See § 302–1.6.) An appropriate official of the agency that will be responsible for payment of the travel and transportation allowances for the employee shall decide whether this trip should be authorized.

(b) A trip to seek residence quarters shall be authorized only when the circumstances indicate that it is actually needed. This Part 302–4 shall be administered to minimize or avoid the expense involved whenever other satisfactory and more economical arrangements can be made. For example, if the employee must promptly vacate the residence at his/her old post of duty, it may be less costly to the Government and more convenient to the employee to complete arrangements for new residence quarters before the move actually takes place. A trip for the purpose of finding and arranging new residence quarters may be justified in such circumstances.

(c) In other situations, it may be less costly to allow the employee and his/her family to remain in temporary quarters at the new official station for a longer period than might otherwise be required, subject to the limitations of Part 302–5, until permanent quarters are found. If temporary quarters are to be authorized, a trip for seeking permanent residence quarters may be avoided. Similarly, it may be less costly to the Government and more satisfactory to the employee for the employee's immediate family to remain at the residence in the old official station locality after the employee has reported at his/her new official station and has time to select permanent quarters after he/she has had an opportunity to become more familiar with neighborhoods, local transportation facilities, schools, and the housing market. In some instances the employee may be on temporary duty at the new station for a period before the actual transfer becomes effective. Under these circumstances, a special trip by the employee to the new official station for the purpose of finding quarters should not be necessary. It may also be possible for the agency to avoid or shorten the duration of a trip by

providing assistance and information to the employee concerning local housing conditions and markets. These guidelines shall be observed in order to eliminate wasteful or unnecessary trips. In addition, reimbursement for travel and transportation expenses for trips to seek permanent quarters shall not be authorized under the following circumstances:

(1) When an employee will be assigned to Government or other prearranged residence quarters at the new official station location;

(2) When the employee has not yet formally agreed to transfer to the new station (see § 302–1.5(a));

(3) When either the old or new duty station, or both, are located outside the continental United States; and

(4) When the map distance between the old and new stations is less than 75 miles via a usually traveled surface route.

§ 302–4.2 Duration of trip.

The round trip should be allowed for a reasonable period of time considering distance between the old and new official stations, mode of transportation to be used, and the housing situation at the new official station location. In no instance shall the period of the round trip at Government expense be allowed in excess of 10 calendar days, including travel time. In authorizing or allowing a particular mode of transportation, consideration shall be given to providing minimum time en route and maximum time at the new official station locality. Accordingly, if the use of a privately owned automobile is permitted, this use is considered advantageous to the Government and the mileage allowance shall be as provided in § 302–2.3 (b) and (c). Reasonable expenses for local transportation at the location of the new official station shall be allowed. Agencies may authorize local transportation by common carrier, local transit systems, commercially rented automobiles, or privately owned automobiles; however, the mode of local transportation must be consistent with the mode of transportation authorized for travel to and from the new official station. Expenses for the use of taxis shall be limited to transportation between depots, airports, or other carrier terminals, and place of lodging.

§ 302–4.3 Procedural requirements.

(a) *After employee's agreement to transfer.* A trip for finding residence quarters shall not be permitted at Government expense until after an employee has agreed to the transfer and the date of the transfer has been established, and shall not be authorized under circumstances where the purpose of the trip is to permit the employee to decide whether he/she will accept the transfer. If an employee accepts a transfer and, after making a trip to the new station for the purpose of finding permanent quarters or after the spouse has made such a trip, declines the transfer, he/she is subject to the provisions of § 302–1.5 concerning recovery of amounts reimbursed for travel.

(b) *Eligibility.* This Part 302–4 applies only in connection with a permanent change of station. Per diem allowances for the employee and/or spouse during the round trip shall be as prescribed in §§ 302–2.1, 302–2.2(b), and 302–2.3(d). New appointees covered under § 302–1.11 and employees assigned under the Government Employees Training Act (5 U.S.C. 4109) or their spouses shall not be allowed such round-trip travel.

(c) *Authorization prior to trip.* The trip for finding residence quarters shall not be made at Government expense unless a permanent change of station travel order has been issued which includes authorization for the round trip and mode of transportation and period of time allowed for the trip, specifies the date for reporting at the new official station, and indicates that the employee has signed the required agreement. An employee shall be in a duty status during the authorized round-trip period of absence.

§ 302–4.4 Advance of funds.

Advance of funds may be made in connection with the allowance authorized in this Part 302–4 under the policies and procedures prescribed in § 302–1.14(a).

PART 302–5—SUBSISTENCE WHILE OCCUPYING TEMPORARY QUARTERS

Sec.

302–5.1 Policy.
302–5.2 Conditions and limitations for eligibility.
302–5.3 Exclusions.
302–5.4 Allowable amount.
302–5.5 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–5.1 Policy.

Heads of agencies shall prescribe procedures for administering these provisions reasonably and equitably so that the necessity for allowing subsistence expenses and the amount of time an employee and members of his/her immediate family use temporary quarters is justified in connection with the employee's transfer to a new official station. As a general policy, the period for temporary quarters shall be reduced or avoided if a round trip to seek permanent residence quarters has been made or if, as a result of extended temporary duty at the new official station or other circumstances (for example, if the family does not move until some time after the employee's transfer), the employee has had adequate opportunity to complete arrangements for permanent quarters. The administrative determination as to whether the occupancy of temporary quarters is necessary and the length of time for occupancy shall be made on an individual-case basis.

§ 302–5.2 Conditions and limitations for eligibility.

(a) *Length of time allowed and location of new official station*—(1) *Initial period of temporary quarters.* An employee for whom a permanent change of station is authorized or approved shall be allowed subsistence expenses for himself/herself and for each member of his/her immediate family (defined in § 302–1.4(e)) for a period of not more than 60 consecutive days when occupancy of temporary quarters is determined to be necessary and the new official station is located within the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), provided a written agreement as required in § 302–1.5 is signed in connection with the transfer. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations, or for circumstances attributable to official necessity as, for example, an intervening temporary duty assignment.

(2) *Additional time in certain cases.* Subsistence expenses as provided in paragraph (a)(1) of this section may be allowed for an additional period of time not to exceed 60 consecutive days provided the head of the agency, or his/her designee, determines that there are compelling reasons for the continued occupancy of temporary quarters. The total period of time in temporary quarters shall not exceed 120 days under any circumstances. The same considerations as expressed in § 302–5.1 are applicable in allowing any part of the additional 60 days. Authorizations to extend the temporary quarters period and the number of days authorized shall be held to a minimum. Extensions of the temporary quarters period may be

authorized only in situations where there is a demonstrated need for additional time due to circumstances which have occurred during the initial 60–day period of occupancy and which are determined to be beyond the employee's control and acceptable to the agency. Examples of compelling reasons which could be considered as beyond the employee's control may include, but are not limited to, the following situations:

(i) Shipment and/or delivery of household goods to new residence is delayed due to extended transit time incident to ocean transportation, strikes, customs clearance, hazardous weather, fires, floods or other acts of God, or similar events.

(ii) New permanent residence cannot be occupied because of unanticipated problems (delays in settlement on new residence, short term delay in construction of a new residence, etc.).

(iii) Inability to locate permanent residence which is adequate for family needs because of housing conditions at the new official station.

(iv) Sudden illness, injury, or death of employee or immediate family member.

(3) *Authorizing less than maximum time.* The specified time limits are maximum periods, and the normal length of necessary occupancy of temporary quarters is expected to average much less. Temporary quarters should be regarded as an expedient to be used only if, or for as long as, necessary until the employee concerned can move into permanent residence quarters.

(b) *Transfer to foreign area.* When the new official station is located in a foreign area, the employee is not eligible for temporary quarters allowances under this regulation. When temporary lodgings are obtained in a foreign area, or in the United States prior to transferring to a foreign area, the employee may be eligible for an allowance under the Standardized Regulations (Government Civilians, Foreign Areas) prescribed by the Department of State.

(c) *What constitutes temporary quarters.* Generally, the term "temporary quarters" refers to lodging obtained from private or commercial sources for the purpose of temporary occupancy after vacating the residence occupied when the transfer was authorized. However, occupancy of temporary quarters that eventually become the employee's permanent residence shall not prevent payment of the temporary quarters allowance if, in the agency's judgment, the employee shows satisfactorily that the quarters occupied were intended initially to be only temporary. In making this determination, the agency should consider factors such as the duration of the lease, movement of household effects into the quarters, type of quarters, expressions of intent, attempts to secure a permanent dwelling, and the length of time the employee occupies the quarters.

(d) *Temporary quarters located at other than official station.* As a general rule, the location of the temporary quarters must be within reasonable proximity of the old and/or new official station. Payment of subsistence expenses for occupancy of temporary quarters in other locations shall not be allowed unless justified by circumstances unique to the individual employee or the employee's family that are reasonably related and incident to the transfer. Payment for such expenses must be authorized or approved by the head of the employing agency, or his/her designee, provided the designee is at a level high enough to ensure adequate review of the circumstances involved and to determine that payment of the temporary quarters allowance is justified. Occupancy of temporary quarters shall not be approved for vacation purposes or other reasons unrelated to the transfer.

(e) *Beginning of eligibility period.* The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, and the written agreement required in § 302–1.5 has been signed. In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his/her new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station, but not beyond the maximum time for beginning allowable travel and transportation. (See § 302–1.6.)

(f) *Computation of eligibility period and termination.* When computing the length of time allowed for temporary quarters at Government expense, the time period will begin for the employee and all members of the immediate family when either the employee or any member of the immediate family begins the period of use of such quarters for which a claim for reimbursement is made. The time period shall run concurrently for the employee and all members of the immediate family. The employee may occupy temporary quarters at one location while members of the immediate family occupy quarters at another location. (However, see limitations in paragraph (d) of this section.) The period of eligibility shall terminate when the employee or any member of the immediate family occupies permanent residence quarters or when the authorized period of time expires, whichever occurs first.

(g) *Effect of partial days on eligibility period.* Occupancy of temporary quarters for less than a whole day constitutes one full calendar day of the eligibility period.

(1) *Claim for temporary quarters when occupancy begins the same day en route travel ends.* The guidelines in paragraphs (g)(1) (i) and (ii) of this section shall be used for determining the eligibility period for temporary quarters subsistence expense reimbursement and in computing maximum reimbursement when occupancy of temporary quarters for reimbursement purposes occurs the same day that en route travel per diem ends.

(i) *En route travel of more than 24 hours.* When en route travel is more than 24 hours, the eligibility period for reimbursement for temporary quarters subsistence expenses shall start at the beginning of the calendar day quarter immediately following the calendar day quarter in which en route travel per diem ends.

(ii) *En route travel of 24 hours or less.* When en route travel is 24 hours or less, the eligibility period for reimbursement for temporary quarters subsistence expenses shall start at the beginning of the same calendar day quarter in which en route travel per diem ends.

(2) *Claims for temporary quarters occupancy in all other cases.* In all cases other than those covered in paragraph (g)(1) of this section (e.g., when occupancy of temporary quarters occurs at the old official station or when reimbursement for occupancy of temporary quarters is not claimed on the same day that en route travel per diem begins or ends), the temporary quarters period shall start as provided in paragraph (g)(2) (i) or (ii) of this section.

(i) *Old and new official stations within the continental United States.* When both the old and new official stations are within the continental United States, the temporary quarters period shall start at 12:01 a.m. of the calendar day (see § 301–7.1(b)(1) of this title) in which temporary quarters subsistence expense reimbursement is claimed, provided the temporary quarters are occupied during that calendar day.

(ii) *Old and/or new official station outside the continental United States.* When the old and/or new official

station is outside the continental United States, the temporary quarters shall start with the first quarter of the calendar day in which temporary quarters subsistence expense reimbursement is claimed, provided the temporary quarters are occupied during that calendar day.

(3) *Termination of eligibility period.* The temporary quarters period shall terminate at midnight of the last day of eligibility.

(h) *Allowance when short distance transfer is involved.* An employee or members of his/her immediate family shall not be eligible for temporary quarters expenses when the distance between the new official station and old residence is not more than 40 miles greater than the distance between the old residence and the old official station, except that the expenses of temporary quarters are allowable for the period during which the employee is awaiting the arrival of his/her household goods shipped from the old to the new residence, provided the use of such quarters is begun not later than the maximum time for beginning allowable travel and transportation. All measurements shall be made according to map distance along a usually traveled route.

(i) *Duplication of other allowances.* In no cases shall subsistence expenses under these provisions be allowed which duplicate, in whole or in part, payments received under other laws or regulations covering similar costs. (A cost-of-living allowance payable under 5 U.S.C. 5941 is not a duplication of subsistence expenses.)

§ 302–5.3 Exclusions.

The provisions of this Part 302–5 do not apply to new appointees, including those appointees covered in § 302–1.11, employees assigned under the Government Employees Training Act (5 U.S.C. 4109), or employees returning from overseas assignments for the purpose of separation.

§ 302–5.4 Allowable amount.

(a) *Actual expenses allowed.* Reimbursement shall be made only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable in amount. Allowable subsistence expenses include only charges for meals (including groceries consumed during occupancy of temporary quarters), lodging, fees and tips incident to meals and lodging, laundry, and cleaning and pressing of clothing. Expenses of local transportation incurred for any purpose during occupancy of temporary quarters shall not be allowed.

(b) *Itemization and receipts.* The actual expenses shall be itemized in a manner prescribed by the head of the agency which will permit at least a review of the amounts spent daily for (1) lodging, (2) meals, and (3) other allowable items of subsistence expenses. Receipts shall be required at least for lodging and laundry and cleaning expenses (except when coin-operated facilities are used).

(c) *Maximum reimbursement.* The amount which may be reimbursed for temporary quarters subsistence expenses shall be the actual amount of allowable expenses incurred for each 30-day period not to exceed a maximum amount based on the applicable daily rate prescribed under paragraphs (c)(2) through (4) of this section multiplied by 30. The daily actual subsistence expenses required to be itemized under paragraphs (a) and (b) of this section will be totaled for each 30-day period to permit a comparison with the maximum allowable amount for the particular period. If less than a 30-day period is authorized, or used, the maximum allowable amount will be based on the number of days authorized, or used, multiplied by the applicable daily rate.

(1) *Applicable maximum per diem rates.* The maximum per diem rate to be used for computations under paragraphs (c) (2) through (4) of this section, shall be as follows:

(i) For temporary quarters located in the continental United States the applicable maximum per diem rate is the standard CONUS rate ($66) prescribed under § 301–7.5(a) of this title.

(ii) For temporary quarters in applicable locations outside the continental United States, the maximum per diem rate is the rate prescribed by the Secretary of Defense or by the Secretary of State under § 301–7.2 (b) or (c) of this title for the locality of the temporary quarters.

(2) *For the first 30 days.* Reimbursement for the first 30 days will be limited as follows:

(i) For the employee, or for the unaccompanied spouse (i.e., the spouse necessarily occupies temporary quarters in a location separate from employee), the daily rate shall not exceed the maximum per diem rate prescribed in paragraph (c)(1) of this section.

(ii) For the spouse when accompanied by the employee, the daily rate shall not exceed two-thirds of the employee's daily rate established in paragraph (c)(2)(i) of this section.

(iii) For each other member of the employee's immediate family who is 12 years of age or older, the daily rate shall not exceed two-thirds of the daily rate established in paragraph (c)(2)(i) of this section for the employee or the unaccompanied spouse, as appropriate.

(iv) For each member of the employee's immediate family who is under 12 years of age, the daily rate shall not exceed one-half of the daily rate established in paragraph (c)(2)(i) of this section for the employee or the unaccompanied spouse, as appropriate.

(v) If the temporary quarters occupied are in the continental United States, the maximum daily rates prescribed under paragraphs (c)(2) (i) through (iv) of this section are $66, $44, $44, and $33, respectively.

(3) *For the second 30 days.* The daily rates for the second 30-day period for the employee and each member of the immediate family shall be three-fourths of the daily rates prescribed under paragraph (c)(2) of this section. For example, if the temporary quarters occupied are located in the continental United States the following limitations will apply based on a standard CONUS rate of $66:

(i) For an employee, or unaccompanied spouse, the daily rate shall not exceed $49.50;

(ii) For an accompanying spouse, the daily rate shall not exceed $33;

(iii) For each other family member 12 years of age or older, the daily rate shall not exceed $33; and

(iv) For each family member under 12 years of age, the daily rate shall not exceed $24.75.

(4) *Additional 60 days.* When the agency authorizes an extension of time for occupancy of temporary quarters beyond the first 60 days (not to exceed an additional 60 days) due to compelling reasons as provided in § 302–5.2(a)(2), the additional days shall be computed at the same rates allowed for the second 30-day period in paragraph (c)(3) of this section for the employee and each member of the immediate family.

§ 302–5.5 Advance of funds.

Advance of funds may be made in 30-day increments in connection with subsistence expenses covered by this Part 302–5 under policies and procedures prescribed in § 302–1.14(a). The initial advance of funds for temporary quarters subsistence expenses shall not exceed the maximum amount allowable under § 302–5.4(c)(2) for the first 30-day period (or other authorized period if less than 30 days). Thereafter, funds may be advanced for subsequent 30-day periods as authorized by the agency. Agencies should advise employees that when an advance of

funds is needed for the second and subsequently authorized 30-day periods, the request for advance should be submitted in sufficient time to allow for processing, approval, and issuance of the advance of funds.

PART 302–6—ALLOWANCE FOR EXPENSES INCURRED IN CONNECTION WITH RESIDENCE TRANSACTIONS

Sec.

302–6.1 Conditions and requirements under which allowances are payable.
302–6.2 Reimbursable and nonreimbursable expenses.
302–6.3 Procedural and control requirements.
302–6.4 Exclusions.
302–6.5 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–6.1 Conditions and requirements under which allowances are payable.

To the extent allowable under this provision, the Government shall reimburse an emplcyee for expenses required to be paid by him/her in connection with the sale of one residence at his/her old official station, for purchase (including construction) of one dwelling at his/her new official station, or for the settlement of an unexpired lease involving his/her residence or a lot on which a mobile home used as his/her residence was located at the old official station provided the following conditions are met:

(a) *Transfers covered—agreement required.* A permanent change of station is authorized or approved and the old and new official stations are located within the 50 States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), and the employee has signed an agreement as required in § 302–1.5. (See exclusions in § 302–6.4.)

(b) *Location and type of residence.* The residence or dwelling is the residence as described in § 302–1.4(j), which may be a mobile home and/or the lot on which such mobile home is located or will be located.

(c) *Title requirements.* The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his/her immediate family, or solely in the name of one or more members of his/her immediate family. For an employee to be eligible for reimbursement of the costs of selling a dwelling or terminating a lease at the old official station, the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his/her transfer to the new official station.

(d) *Occupancy requirements.* The dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he/she was first definitely informed by competent authority of his/her transfer to the new official station.

(e) *Time limitation*—(1) *Initial period.* The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 2 years after the date that the employee reported for duty at the new official station.

(2) *Extension of time limitation.* (i) Upon an employee's written request, the 2-year time limitation for completion of the sale and purchase or lease termination transactions may be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year.

(ii) The employee's written request should be submitted to the appropriate agency official(s) as soon as the employee becomes aware of the need for an extension but before expiration of the 2-year limitation; however, in no case shall the request be submitted later than 30 calendar days after the expiration date unless this 30-day period is specifically extended by the agency.

(iii) Approval of this additional period of time shall be based on a determination that extenuating circumstances, acceptable to the agency concerned, have prevented the employee from completing the sale and purchase or lease termination transactions in the initial timeframe and that the residence transactions are reasonably related to the transfer of official station.

(iv) When an employee is eligible for an extension of the time limitations for completion of a residence transaction and such an extension is approved by an agency, relocation entitlements and allowances shall be determined by using the entitlements and allowances prescribed by regulations in effect on the employee's effective date of transfer and not the entitlements and allowances in effect at the time the extension of the time limitation is approved. (See § 302–1.3(d).)

(f) *Payment of expenses by employee—pro rata entitlement.* The expenses for which reimbursement is claimed were paid by the employee. If any expenses were shared by persons other than the employee, reimbursement is limited to the portion actually paid by the employee. If the residence is a duplex or another type of multiple occupancy dwelling which is occupied only partially by the employee, or whenever the employee shares responsibility for a leased property (such as a shared apartment arrangement), expenses shall be reimbursed on a pro rata basis. The employee shall also be limited to pro rata reimbursement when he/she sells or purchases land in excess of that which reasonably relates to the residence site.

§ 302–6.2 Reimbursable and nonreimbursable expenses.

(a) *Brokers' fees and real estate commissions.* A broker's fee or real estate commission paid by the employee for services in selling his/her residence is reimbursable but not in excess of rates generally charged for such services by the broker or by brokers in the locality of the old official station. No such fee or commission is reimbursable in connection with the purchase of a home at the new official station.

(b) *Other advertising, selling, and appraisal expenses.* Costs of newspaper, bulletin board, multiple-listing services, and other advertising for sale of the residence at the old official station are reimbursable if the employee has not paid for such services in the form of a broker's fee or real estate agent's commission. The customary cost of an appraisal also may be reimbursed.

(c) *Legal and related expenses.* To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, the following expenses are reimbursable with respect to the sale and purchase of residences if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence: costs of (1) searching title, preparing abstract, and legal fees for a title opinion, or (2) where customarily furnished by the seller, the cost of a title insurance policy; costs of preparing conveyances, other instruments, and contracts and related notary fees and recording fees; costs of making surveys, preparing drawings or plats when required for legal or financing purposes; and similar

expenses. Costs of litigation are not reimbursable.

(d) *Miscellaneous expenses*—(1) *Reimbursable items.* The following expenses are reimbursable in connection with the sale and/or purchase of a residence, provided they are customarily paid by the seller of a residence in the locality of the old official station or by the purchaser of a residence at the new official station, to the extent they do not exceed specifically stated limitations, or in the absence thereof, amounts customarily paid in the locality of the residence:

(i) FHA or VA fee for the loan application.

(ii) Loan origination fees and similar charges such as loan assumption fees and loan transfer fees. A loan origination fee is a fee paid by the borrower to compensate the lender for administrative type expenses incurred in originating and processing a loan. Reimbursement for a loan assumption fee or a loan transfer fee or a similar charge also may be allowed, if it is assessed in lieu of a loan origination fee and reflects charges for services similar to those covered by a loan origination fee. An employee may be reimbursed for these fees in an amount not in excess of 1 percent of the loan amount without itemization of the lender's administrative charges. Reimbursement may exceed 1 percent only if the employee shows by clear and convincing evidence that:

(A) The higher rate does not include prepaid interest, points, or a mortgage discount; and

(B) The higher rate is customarily charged in the locality where the residence is located.

(iii) Cost of preparing credit reports.

(iv) Mortgage and transfer taxes.

(v) State revenue stamps.

(vi) Other fees and charges similar in nature to those listed in paragraphs (d)(1) (i) through (v) of this section, unless specifically prohibited in paragraph (d)(2) of this section.

(vii) Charge for prepayment of a mortgage or other security instrument in connection with the sale of a residence at the old official station to the extent the terms in the mortgage or other security instrument provide for this charge. This prepayment penalty is also reimbursable when the mortgage or other security instrument does not specifically provide for prepayment, provided this penalty is customarily charged by the lender, but in that case the reimbursement may not exceed 3 months' interest on the loan balance.

(viii) Mortgage title insurance policy, paid for by the employee, on a residence purchased by the employee for the protection of, and required by, the lender.

(ix) Owner's title insurance policy, provided it is a prerequisite to financing or the transfer of the property; or if the cost of the owner's title insurance policy is inseparable from the cost of other insurance which is a prerequisite to financing or the transfer of the property.

(x) Expenses in connection with construction of a residence, which are comparable to expenses that are reimbursable in connection with the purchase of an existing residence.

(2) *Nonreimbursable items.* Except as otherwise provided in paragraph (d)(1) of this section, the following items of expense are not reimbursable:

(i) Owner's title insurance policy, "record title" insurance policy, mortgage insurance or insurance against loss or damage of property, and optional insurance paid for by the employee in connection with the purchase of a residence for the protection of the employee;

(ii) Interest on loans, points, and mortgage discounts;

(iii) Property taxes;

(iv) Operating or maintenance costs;

(v) No fee, cost, charge, or expense determined to be part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90–321, as amended, and Regulation Z issued by the Board of Governors of the Federal Reserve System (12 CFR Part 226), unless specifically authorized in paragraph (d)(1) of this section; and

(vi) Expenses that result from construction of a residence.

(e) *Losses due to prices or market conditions at the old and new posts of duty.* Losses due to failure to sell a residence at the old official station at the price asked, or at its current appraised value, or at its original cost, or due to failure to buy a dwelling at the new official station at a price comparable to the selling price of the residence at the old official station, and any similar losses, are not reimbursable.

(f) *Other expenses of sale and purchase of residences.* Incidental charges made for required services in selling and purchasing residences may be reimbursable if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence.

(g) *Overall limitations.* The total amount of expenses that may be reimbursed is as follows:

(1) In connection with the sale of the residence at the old official station, reimbursement shall not exceed 10 percent of the actual sale price or $17,813, whichever is the lesser amount; and

(2) In connection with the purchase of a residence at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $8,907, whichever is the lesser amount.

(h) *Settlement of an unexpired lease.* Expenses incurred for settling an unexpired lease (including month-to-month rental) for residence quarters occupied by the employee at the old official station may include broker's fees for obtaining a sublease or charges for advertising an unexpired lease. Such expenses are reimbursable when (1) applicable laws or the terms of the lease provide for payment of settlement expenses, (2) such expenses cannot be avoided by sublease or other arrangement, (3) the employee has not contributed to the expense by failing to give appropriate lease termination notice promptly after he/she has definite knowledge of the transfer, and (4) the broker's fees or advertising charges are not in excess of those customarily charged for comparable services in that locality. Itemization of these expenses is required and the total amount shall be entered on an appropriate travel voucher. This voucher may be submitted separately or with a claim that is to be made for expenses incident to the purchase of a dwelling. Each item must be supported by documentation showing that the expense was in fact incurred and paid by the employee.

§ 302–6.3 Procedural and control requirements.

(a) *Application for reimbursement and documentation of expenses.* Employees shall be furnished appropriate forms for claiming reimbursement for expenses of real estate transactions. Agencies shall prescribe a claim application form which meets internal administrative requirements. The form should include the most commonly incurred items of expense for which reimbursement may be claimed and any necessary administrative approval blocks. Amounts claimed must be supported by documentation showing that the expense was in fact incurred and paid by the employee. Included in the required supporting documents (as appropriate) are copies of (1) the sales agreement, (2) the purchase agreement, (3) property settlement documents, (4) loan closing statements, and (5) invoices or receipts for other bills paid. An appropriate voucher shall be prepared by the employee and used in

transmitting the claim application with supporting attachments. Reimbursement may be in two parts; i.e., a payment for expenses incurred in the sale of the former residence and a payment for expenses incurred in the purchase of a new dwelling.

(b) *Review and administrative approval of sale and purchase expenses.* Applications shall be reviewed by a responsible official of the agency. The application for reimbursement of expenses for the sale of a residence shall be sent to the claimant's old official station for review and approval of the claim unless agency review and approval functions are performed elsewhere. In case of transfer between agencies, review and approval of the application shall be made, if appropriate, at an installation of the hiring agency in the locality of the employee's old official station, but if the hiring agency has no appropriate installation, it shall be sent to the losing agency at the old official station for review and approval. This review and approval are intended to be limited to determining whether the expenses claimed are reasonable in amount and customarily paid by the seller in the locality where the property is located. If items of cost appear to have been inflated or are higher than normally imposed for similar services in the locality, any portion of such costs determined to be excessive shall be disallowed. When approved, the application shall be returned with such memorandum of explanation as may be appropriate. A similar review and approval are required in connection with an application for reimbursement of the expenses of the purchase of a new dwelling. Final administrative approval of payment of the claim must be executed by an appropriate approving official. Such official may accept as conclusive the required prior approvals covering reasonableness and custom; he/she shall, however, in accordance with the provisions of this Part 302–6, independently determine whether (1) the aggregate amount of expenses claimed in connection with a sale or purchase of a residence is within the prescribed limitation for either, (2) all conditions and requirements under which allowances may be paid have been met, and (3) the expenses themselves are those which are reimbursable. The employee's claim accompanied by the application and supporting documents shall be completed and submitted in accordance with the usual procedures of the agency concerned.

(c) *Assistance provided by local offices of the Department of Housing and Urban Development.* Technical assistance in determining the reasonableness of an expense may be obtained from the local or area office of the Department of Housing and Urban Development (HUD) serving the area in which the expense occurred. The local office maintains and can furnish upon request a current Form HUD–92496, Schedule of Closing Costs, applicable to the area. This is a schedule of closing costs typically encountered in connection with the purchase and sale of single family properties in the locality. For the purpose of determining whether the expenses claimed are reasonable and may be approved for reimbursement, these closing costs should be used as guidelines and not as rigid limitations. The local office will also furnish upon request information concerning local custom and practices with respect to charging of closing costs related to either a sale or purchase, including information as to whether such costs are customarily paid by the seller or purchaser and the local terminology used to describe them. Area or insuring offices of HUD are located in all major cities. The mailing addresses for these offices are included in the U.S. Government Manual, published annually by the Office of the Federal Register, National Archives and Records Administration. A directory containing the addresses of all such offices (HUD Form 788) is available at any HUD office.

(d) *Violation of employment agreement.* In the event the employee violates the terms of the agreement required under § 302–1.5, no expenses will be paid, and any amounts paid prior to such violation shall be a debt due the United States until they are paid by the employee.

§ 302–6.4 Exclusions.

The provisions of this Part 302–6 do not apply to new appointees, including those covered under § 302–1.11, or employees assigned under the Government Employees Training Act (5 U.S.C. 4109).

§ 302–6.5 Advance of funds.

No advance of funds is authorized in connection with the allowances provided in this Part 302–6.

PART 302–7—TRANSPORTATION OF MOBILE HOMES

Sec.

302–7.1 Eligibility and limitations.
302–7.2 Computation of distances.
302–7.3 Computation of allowances.
302–7.4 Limitation on allowances.
302–7.5 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–7.1 Eligibility and limitations.

(a) *Eligibility.* An employee who is entitled to transportation of his/her household goods under this regulation shall, instead of such transportation, be entitled to an allowance, as provided in this Part 302–7, for the transportation of a mobile home for use as a residence. To be eligible for the allowance, the employee shall certify in a manner prescribed by the head of the agency that the mobile home is for use as a residence for the employee and/or his/her immediate family at the destination. If an employee is not eligible to receive an allowance for movement of his/her mobile home, he/she may be eligible to receive an allowance based on the transportation of his/her household goods under Part 302–8.

(b) *Geographic limitations.* Allowances for transportation of mobile homes may be made only for transportation of such homes within the continental United States, within Alaska, and through Canada en route between Alaska and the continental United States. Allowances for transportation within the limits prescribed may be paid even though the transportation involved originates, terminates, or passes through locations not covered, provided the amount of the allowance shall be computed on the basis of that part of the transportation which is within the continental United States, within Alaska, or through Canada en route between Alaska and the continental United States.

(c) *Relationship to other allowances.* Allowances for transporting mobile homes (including mileage when towed by employee) are in addition to payment of per diem, mileage, and transportation expenses for employees and their immediate families. However, the fact that a mobile home may be moved at Government expense only if the employee certifies that it is to be used as a residence at the destination should be considered in determining allowances to be paid under Parts 302–4, 302–5, and 302–6.

§ 302–7.2 Computation of distances.

(a) *Standard highway mileage.* Where points of origin and destination are within the continental United States and Alaska, the allowable distance between these points shall be that shown in the standard highway mileage guides or actual miles driven as determined from odometer readings. (Actual odometer readings need not be shown on the travel voucher.) Any substantial

deviation from distances shown in the standard highway mileage guides shall be explained.

(b) *Islands involved.* In addition to mileage, if the point of origin or destination is an island within the boundaries of one of the continental United States or Alaska and a ferry is used in transportation of a mobile home, the statute mileage between the island and the usual place of arrival or departure on the mainland shall be allowed, except that when such mileage is included in the standard highway mileage guides the mileage shown therein shall be used.

(c) *Unauthorized transportation involved.* Where point of origin or destination, or both, are not in the continental United States or Alaska, the allowable distance shall be limited to the distance which the mobile home is transported within or between any of the continental United States and Alaska, and through Canada en route between Alaska and the continental United States. In such instances, the mileage shall be computed as provided in paragraph (a) of this section.

§ 302-7.3 Computation of allowances.

(a) *Transportation by a commercial carrier—(1) Tariff rates.* The allowance shall include the carrier's charges for actual transportation of the mobile home in an amount not exceeding the applicable tariff as approved by the Interstate Commerce Commission (or appropriate State regulatory body for intrastate movements) for transportation of a mobile home of the size and type involved for the distance involved, provided any substantial deviation from mileage shown in the standard highway mileage guides shall be explained.

(2) *Fees, tolls, and charges.* The allowance also shall include ferry fares and bridge, road, and tunnel tolls; taxes, charges or fees fixed by a State or other government authority for permits to transport mobile homes in or through its jurisdiction; and carriers' service charges for obtaining necessary permits.

(3) *Charges excluded.* Allowances shall not include costs of preparing mobile homes for movement, maintenance, repairs, storage, insurance for valuation of homes above carriers' maximum liabilities nor charges designated in the tariffs as "Special Service." (See Part 302-3 which relates to the miscellaneous expense allowance.)

(b) *Transportation by private means.* When a mobile home is transported by means other than a commercial carrier, such as when it is towed by privately owned conveyance, an allowance of 11 cents per mile shall be made as reimbursement for all transportation costs including ferry fares, bridge, road and tunnel tolls, and similar charges. No other allowance shall be made for transportation of the mobile home under this Part 302-7, but payment of the mileage allowance for use of a privately owned conveyance may be made as provided in § 302-2.3 in addition to the 11-cent allowance.

(c) *Mixed method of transportation.* When a mobile home is transported partly by commercial carrier and partly by private means, the allowances described in paragraphs (a) and (b) of this section apply to the respective portions of the transportation.

(d) *Optional use of Government bill of lading.* Instead of the allowances to the employee provided in paragraphs (a) and (b) of this section, the agency may, when it determines such action to be in the Government's interest, assume direct responsibility for transportation of an employee's mobile home, issuing necessary bills of lading and paying the costs involved. In such instances, the employee shall not receive any other allowance for the transportation involved and shall be charged any cost the Government must pay under the bill of lading which would not be allowed under this section or which is in excess of that allowable under § 302-7.4.

§ 302-7.4 Limitation on allowances.

The total amount allowable in § 302-7.3 shall not exceed the maximum amount which would be allowable for transportation and 90 days' temporary storage of the employee's household goods if, instead of moving a mobile home, the maximum quantity of household goods allowable under § 302-8.2 had been moved.

§ 302-7.5 Advance of funds.

An advance of funds may be allowed an employee for the transportation of a mobile home under the requirements provided in § 302-1.14(a). The amount of advance shall not exceed either the estimated amount allowable under § 302-7.3(a) or the constructive cost determined under § 302-7.4.

PART 302-8—TRANSPORTATION AND TEMPORARY STORAGE OF HOUSEHOLD GOODS AND PROFESSIONAL BOOKS, PAPERS, AND EQUIPMENT

Sec.

302-8.1 Applicability.
302-8.2 General limitations.
302-8.3 Transportation within the continental United States.
302-8.4 Transportation outside the continental United States.
302-8.5 Temporary storage.
302-8.6 Advance of funds.

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11012, March 27, 1962 (27 FR 2983); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302-8.1 Applicability.

Employees covered by this regulation who have complied with the general requirements as contained in Part 302-1 are eligible for transportation and temporary storage of their household goods subject to the provisions of this Part 302-8 when they are transferred, regardless of whether the official stations involved are within or outside the continental United States, are appointed to positions in which Government transportation to the first official station is allowable, or are separated after completion of a period of service overseas.

§ 302-8.2 General limitations.

(a) *Maximum weight allowance.* The maximum weight of household goods that may be transported or stored at Government expense is limited to 18,000 pounds net weight for all employees. The total weight of household goods stored under § 302-9.2 plus the weight of household goods transported under this Part 302-8 shall not exceed the maximum weight allowance prescribed in this paragraph (a).

(b) *Professional books, papers, and equipment.* (1) For purposes of this Part 302-8, the term "professional books, papers, and equipment" includes those professional or specialized items and other materials which are personally owned by the employee for use in the performance of official duties. The term does not include sports equipment or office, household, or shop fixtures and furniture; e.g., bookcases, file cabinets, desks, and racks of any kind even though used in connection with the professional books, papers, and equipment.

(2) There is no statutory authority to transport personally owned professional books, papers, and equipment in addition to the maximum weight allowance (§ 302-8.2(a)) established by law for transportation of an employee's household goods and personal effects. However, there may be instances in which the weight of the professional books, papers, and equipment would cause an employee's household goods shipment to be in excess of the maximum weight allowance. In such instances, the personally owned professional books, papers, and equipment may be transported to the new permanent duty station as an

administrative expense of an agency (not chargeable to travel and transportation appropriations). Shipment of these items as an administrative expense would be instead of shipment as an allowance of the employee.

(3) Authority to transport professional books, papers, and equipment as an administrative expense shall be subject to agency policy and discretion within the following guidelines:

(i) The employee shall furnish an itemized inventory of professional books, papers, and equipment for review by an appropriate authorizing official at the new permanent duty station. In addition, the employee shall furnish appropriate evidence (as determined by the agency concerned) that transporting the itemized materials as part of the employee's household goods would result in an excess of the employee's maximum weight allowance.

(ii) The authorizing official at the new permanent duty station shall review and certify that the professional books, papers, and equipment as itemized are necessary in the proper performance of the employee's duties at the new duty station and that if these items were not transported to the new duty station, the same or similar items would have to be obtained at Government expense for the employee's use at the new duty station.

(iii) When professional books, papers, and equipment are certified as provided in paragraph (b)(3)(ii) of this section and shipped for the employee as an administrative expense of an agency, shipment shall be by the actual expense method; the commuted rate method shall not be used. When shipped in the same lot with the employee's household goods and other personal effects under the actual expense method, the professional books, papers, and equipment shall be packed and weighed separately; the weight thereof and the administrative appropriation chargeable shall be stated as separate items on the Government bill of lading. In unusual instances in which it is impractical or impossible to obtain separate weights, a constructive weight of 7 pounds per cubic foot may be used.

(c) *Determining the net weight*—(1) *Uncrated shipments.* When household goods are shipped uncrated as in a household mover's van or similar conveyance, the net weight shall be that shown on the bill of lading or on the weight certificate attached thereto, which, under Interstate Commerce Commission (ICC) regulations, includes the weight of barrels, boxes, cartons, and similar materials used in packing, but does not include pads, chains, dollies, and other equipment needed to load and secure the shipment. When a noncommercial means of shipment is involved (see § 302–8.3(a)(3)), the ICC regulations shall apply for determining the net weight. When an employee's claim is based on constructive weight as authorized in paragraph (c)(4) of this section, the net weight shall be the weight as determined under that provision.

(2) *Crated shipments.* When property is transported crated, the net weight shall not include the weight of the crating material. The net weight shall be computed as being 60 percent of the gross weight. However, if the net weight computed in this manner exceeds the applicable weight limitation and if it is determined that, for reasons beyond the employee's control, unusually heavy crating and packing materials were necessarily used, the net weight may be computed at less than 60 percent of the gross weight.

(3) *Containerized shipments.* When special containers designed normally for repeated use, such as lift vans, CONEX transporters, and household-goods shipping boxes are used and the known tare weight does not include the weight of interior bracing and padding materials but only the weight of the container, the net weight of the household goods shall be 85 percent of the gross weight less the weight of the container. If the known tare weight includes interior bracing and padding materials so that the net weight is the same as it would be for uncrated shipments in interstate commerce, the net weight shall not be subject to the reduction. If the gross weight of the container cannot be obtained, the net weight of the household goods shall be determined from the cubic measurement on the basis of 7 pounds per cubic foot of properly loaded container space.

(4) *Constructive weight.* If no adequate scale is available at point of origin, at any point en route, or at destination, a constructive weight, based on 7 pounds per cubic foot of properly loaded van space, may be used. Such constructive weight also may be used for a part-load when its weight could not be obtained at origin, en route, or at destination, without first unloading it or other part-loads being carried in the same vehicle, or when the household goods are not weighed because the carrier's charges for a local or metropolitan area move are properly computed on a basis other than the weight or volume of the shipment (as when payment is based on an hourly rate and the distance involved). However, in such instances the employee should obtain a statement from the carrier showing the amount of properly loaded van space required for the shipment. (See also § 302–8.3(a)(3) with respect to proof of entitlement to a commuted rate payment when net weight cannot be shown.)

(d) *Temporary storage time limit.* The time allowable for temporary storage in connection with an authorized shipment of household goods shall not exceed a period of 90 days. This time period also applies when an employee returns to his/her place of actual residence for leave before serving a new tour of duty outside the continental United States either at a different post of duty or at the same post of duty if the storage is provided instead of furnished quarters or a quarters allowance. However, upon an employee's written request, the initial 90-day period may be extended an additional period not to exceed 90 days under certain conditions if approved by the agency head or his/her designee. Justification for an additional storage period may include, but is not limited to, the following reasons:

(1) An intervening temporary duty or long-term training assignment;

(2) Nonavailability of suitable housing;

(3) Completion of residence under construction;

(4) Serious illness of employee or illness or death of a dependent; or

(5) Strikes, acts of God, or other circumstances beyond the control of the employee.

(e) *Origin and destination.* Cost of transportation of household goods may be paid by the Government whether the shipment originates at the employee's last official station or place of residence or at some other point, or if part of the shipment originates at the last official station and the remainder at one or more other points. Similarly, these expenses are allowable whether the point of destination is the new official station or some other point selected by the employee, or if the destination for part of the property is the new official station and the remainder is shipped to one or more other points. However, the total amount which may be paid or reimbursed by the Government shall not exceed the cost of transporting the property in one lot by the most economical route from the last official station of the transferring employee (or the place of actual residence of the new appointee at time of appointment) to the new official station. In connection with return from overseas for separation, see § 302–1.12(d). No property acquired by the employee en route between old and new official stations shall be eligible for transportation under this Part 302–8.

(f) *Loss and damage liability.* Limitations on the Government's liability for loss or damage of an employee's household goods are contained in the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721–3723) and in agency rules and regulations issued under the authority thereof. Since agency practices and regulations under that Act differ, and in view of the different circumstances under which household goods are transported and temporarily stored under the authority of this Part 302–8, each agency should advise transferred employees of the applicability and restrictions on claims against the Government for loss and damage as related to the transportation circumstances involved. Agencies should also be prepared to give advice to employees as to the liability of the carrier for loss and damage of transported household goods in the transportation circumstances involved so that they will be able to evaluate the need for insurance and the advisability of incurring a valuation charge. (For interstate shipments by motor carrier on commercial bills of lading, see 49 CFR Part 1056.)

§ 302–8.3 Transportation within the continental United States.

(a) *The commuted rate system*—(1) *Description.* Under the commuted rate system an employee makes his/her own arrangements for transporting household goods between points within the continental United States. He/She selects and pays the carrier or transports his/her goods by noncommercial means and is reimbursed by the Government in accordance with schedules of commuted rates which are contained in the GSA publication Commuted Rate Schedule for Transportation of Household Goods. Agencies requiring this publication shall prepare a Standard Form 1, Printing and Binding Requisition, and send it to: Superintendent of Documents, Departmental Account Representative Division, U.S. Government Printing Office (GPO), Washington, DC 20401. The schedules of commuted rates which are developed from tariffs that carriers have filed with the Interstate Commerce Commission consist of tables to be applied to the particular transportation involved. The commuted rate includes costs of line-haul transportation, packing, crating, unpacking, drayage incident to transportation, and other accessorial charges. Costs of temporary storage which are subject to reimbursement under § 302–8.5 are stated separately in the schedule of commuted rates.

(2) *Reimbursement.* When the commuted rate system is used, the amount to be paid to the employee for transportation and related services is computed by multiplying the number of hundreds of pounds shipped (within the maximum weight allowance) by the applicable rate per hundred pounds for the distance shipped as shown in the commuted rate schedule. The distance shall be determined in accordance with household goods mileage guides filed with the Interstate Commerce Commission. If the rate is not shown in the commuted rate schedule for the exact mileage, the rate shown for the next greater distance applies. If an employee is charged a minimum weight above the actual weight of his/her household goods under the applicable tariff (other than one based on expedited or special services), the reimbursement shall be based on the minimum weight as charged instead of the actual weight of the goods.

(3) *Documentation.* Claims for reimbursement under the commuted rate system shall be supported by a receipted copy of the bill of lading (a reproduced copy may be accepted) including any attached weight certificate copies if such a bill was issued. If no bill of lading was involved, other evidence showing points of origin and destination and the weight of the goods must be submitted. Employees who transport their own household goods are cautioned to establish the weight of such goods by obtaining proper weight certificates showing gross weight (weight of vehicle and goods) and tare weight (weight of vehicle alone) because compliance with the requirements for payment at commuted rates on the basis of constructive weight (see § 302–8.2(b)(4)) usually is not possible.

(b) *Actual expense method*—(1) *Description.* Under the actual expense method, the Government assumes responsibility for awarding contracts and for other negotiations with carriers. The property is shipped on a Government bill of lading, and the Government audits and pays transportation vouchers directly to carriers. Under the actual expense method, the household goods are shipped by the Government, not by the employee.

(2) *Agency responsibility.* Selection of the carrier, arranging for carrier services and for packing and crating, preparing the Government bill of lading, paying charges incurred, and processing any loss and damage claims are the direct responsibility of the agency.

(3) *Allowable charges.* The actual costs of transportation of household goods within the authorized weight limits will be allowed at Government expense. Also, within that weight limit, the actual costs for packing, crating, unpacking, drayage incident to transportation, and necessary accessorial services shall be allowed.

(4) *Multiple shipment procedures.* When the actual expense method is used in shipping household goods belonging to two or more employees between the same two points, the weight of the household goods of each employee is to be identified for the purpose of applying the maximum weight limitations.

(5) *Excess weight procedures.* When the weight of an employee's household goods exceeds the maximum weight limitation, the total quantity may be shipped on a Government bill of lading, but the employee shall reimburse the Government for the cost of transportation and other charges applicable to the excess weight, computed from the total charges according to the ratio of excess weight to the total weight of the shipment.

(c) *Use of commuted rate or actual expense method*—(1) *Considerations.* When the commuted rate system is used, the Government is relieved of the responsibility and administrative expense of selecting and dealing with carriers and making other arrangements for transporting employees' household goods; however, the Government cannot take advantage of special discounts which may be offered. On the other hand, when the actual expense method is used, the Government incurs the additional expenses of selecting and dealing with carriers, preparing bills of lading, auditing and paying transportation vouchers, supervising the packing of household goods, handling employee loss and damage claims, and other incidentals.

(2) *Estimating costs.* Under the commuted rate system, an accurate estimate of cost depends upon the accuracy of the estimate of weight. However, under the actual expense method the cost to the Government will usually depend not only on the weight involved but also on the accessorial services required, the quality of packing and the quantity of individual cartons, boxes, barrels, and wardrobes used by the carrier in packing. When the commuted rate system is used, the packing and accessorial charges are authorized and paid for by the employee from the amounts allowed for those charges under that system. Under the actual expense method, the accessorial and packing charges are paid by the Government, and if those charges are

high, they may more than offset any discount in the line-haul rate which may be available for shipments by Government bill of lading. A proper comparison of costs must take into account the line-haul transportation charge, the administrative costs as indicated in paragraph (c)(1) of this section, and the expected accessorial and packing charges.

(3) *Policy.* The general policy is that commuted rates shall be used for transportation of employees' household goods when individual transfers are involved, and that appropriate action, depending on the amount of goods to be transported, shall be taken to estimate and compare actual expense method costs with commuted rate costs when groups of employees are transferred between the same official stations at approximately the same time so that the method resulting in less cost to the Government may be used. Specific procedures to be followed are contained in paragraph (c)(4) of this section.

(4) *Criteria for use of the actual expense method*—(i) *Individual transfers.* Agency experience with the actual expense method has shown that shipment by Government bill of lading does not result in savings simply because a line-haul discount is available. Therefore, the commuted rate system shall be used for individual transfers without consideration being given the actual expense method; except that the actual expense method may be used if the actual costs to be incurred by the Government for packing and other accessorial services are predetermined (at least as to price per 100 pounds) and if that method is expected to result in a real savings to the Government of $100 or more. (For intrastate transfers, see paragraph (c)(4)(iv) of this section.)

(ii) *Multiple transfers.* Under general rate tenders arranged by GSA and the Department of Defense (DOD), participating carriers agree to transport the household goods of Government employees at rates below commercial rates for specific periods of time. These tenders are arranged under 49 U.S.C. 10721, and no further agency negotiation is necessary to take advantage of them. Agencies shall evaluate the use of such rates when, because of the transfer of several employees, they have a large volume of household goods to be moved between the same places at the same time even though no mass move is involved; however, the added costs for use of the actual expense method, as discussed in paragraph (c)(1) of this section, and the uncertainty as to total cost for packing and accessorial services, as discussed in paragraph (c)(2) of this section, shall be taken into consideration, and the actual expense method shall be selected only if it is considered likely that a real savings to the Government will result from the use of that method.

(iii) *Mass moves.* Whenever an entire facility is being relocated or whenever it is anticipated that 10 or more shipments of household goods are to be transported between the same two points at approximately the same time, the agency involved shall notify the appropriate regional or zonal office of the General Services Administration (for civilian agencies without specialized transportation personnel) or the appropriate transportation office of DOD (for components of that Department) of the forthcoming move so that an analysis can be made of existing available rates for use under the actual expense method. The notification shall be accompanied by all pertinent information concerning points of origin and destination, estimated weights of property, the number of persons or different families involved, and dates or periods of time when each person or family is expected to move. When appropriate, the GSA or DOD transportation organization shall attempt to arrange with carriers for worthwhile reduced rates and shall advise the agency concerned of the results of such efforts. If these efforts show that a saving will result, considering all direct and indirect costs involved, the actual expense method shall be used. Otherwise, the commuted rate system shall be used.

(iv) *Unusual circumstances.* The commuted rates do not take into account intrastate rates that in some instances may be substantially higher than the interstate rates that form the basis for the commuted rates. In order to avoid the necessity of prescribing commuted rates for such circumstances, the actual expense method (Government bill of lading) may be used when it is administratively determined that the commuted rate system would cause an unusual hardship for an employee transferring between official stations within a State. This authority shall not be used indiscriminately, and its use shall be carefully documented and justified.

§ 302-8.4 Transportation outside the continental United States.

(a) *Coverage.* This section contains special rules which are applicable to the transportation of household goods at Government expense to, from, and between points outside the continental United States. Individual eligibility is covered in Part 302-1.

(b) *Weight limitation.* The maximum weight specified in § 302-8.2 is applicable; however, where furnished or partly furnished quarters are to be provided outside the continental United States (in the case of a transfer to such a station) or have been provided (in the case of a return to the continental United States), agencies shall make an appropriate reduction in the weight of household goods which may be authorized for shipment at Government expense.

(c) *Allowable costs*—(1) *Actual expense basis.* Transportation authorized under this section shall be on an actual expense basis. Actual expense includes costs of transportation of household goods, packing and crating (including packing and crating materials and temporary containers), unpacking, and other necessary accessorial charges within applicable limits.

(2) *Drayage.* If door-to-door common carrier rates are not applicable, allowable costs include the actual costs of drayage to and from the common carrier for goods not in excess of the authorized weight.

(3) *Lift vans.* Charges allowable for packing and crating and for transportation include expenses incurred in hiring, transporting, and packing lift vans when shipments are made in whole or in part by water, but do not include charges in connection with any shipment or storage of empty lift vans or import duties on lift vans.

(4) *Valuation.* The valuation of property as declared for shipping will not exceed that to which the lowest freight rates will apply except as provided in paragraph (e)(3) of this section.

(d) *Procedures applicable*—(1) *Transportation and related services.* The allowable transportation and related services may be obtained by the agency concerned from any available commercial carrier, except that all shipments of property by water shall be made on ships registered under the laws of the United States whenever such ships are available.

(2) *Use of Government bill of lading.* Commercial shipments will be made on Government bills of lading or purchase orders whenever possible; otherwise, reimbursement shall be made to the employee for transportation expenses actually and necessarily incurred within the limitations prescribed by this section.

(3) *Itemization of charges.* If the services rendered cover, in addition to transportation, other services such as packing, crating, drayage, unpacking, and temporary storage, the total charge

for the services shall be itemized to show the charge for each service.

(e) *Services in excess of those authorized*—(1) *By means other than selected.* An employee may elect to have his/her household goods moved by some means other than the means selected by the Government, except as noted in paragraph (d)(1) of this section relating to transportation by foreign flag vessels, on the condition that he/she will pay the amount, if any, by which the charges for the means of transportation selected by him/her exceed the charges for the means of transportation selected by the Government.

(2) *Excess weight.* If household goods in excess of the weight allowable under this regulation are shipped on a Government bill of lading or purchase order, the employee shall promptly upon completion of the shipment pay the proper agency official for the excess cost. The excess cost shall be computed from the total charges according to the ratio of excess weight to the total weight of the shipment.

(3) *Excess valuation or insurance.* An employee may declare a valuation above the minimum permitted if he/she assumes all additional expenses resulting therefrom, including the cost of insurance needed to protect the higher valuation. (See § 302–8.2(e).)

§ 302–8.5 Temporary storage.

(a) *Applicability.* Temporary storage of household goods at Government expense may be allowable only when such storage is incident to transportation of the household goods at Government expense.

(b) *Allowable expenses*—(1) *Commuted rate system.* In connection with transportation within the continental United States under the commuted rate system, costs of temporary storage within the applicable weight limit will be reimbursed to the employee in the amount of his/her costs for storage including in and out charges and necessary drayage, but not to exceed the commuted rates for storage in the GSA publication, Commuted Rate Schedule for Transportation of Household Goods. (See § 302–8.3(a)(1).) A receipted copy of the warehouse or other bill for storage costs is required to support reimbursement.

(2) *Actual expense method.* In connection with transportation within or outside the United States when the actual expense method is used, the Government will normally arrange for necessary temporary storage and pay the cost thereof direct. If an employee must arrange for temporary storage in connection with transportation by the actual expense method, he/she may be reimbursed for reasonable costs incurred for storage including in and out charges and necessary drayage within the applicable limitations. Charges for excess weight, valuation above the minimum amount, and services obtained by the employee at higher costs shall be the responsibility of the employee in the same manner as he/she is responsible for excess costs incident to transportation. (See §§ 302–8.3(b)(5) and 302–8.4(e).)

§ 302–8.6 Advance of funds.

(a) *Commuted rate system.* Advances of funds may be made to employees up to the estimated amount of the commuted payment for the cost of authorized transportation and temporary storage of their household goods under the procedures and policies prescribed in § 302–1.14(a).

(b) *Overseas shipments.* For overseas shipment, advance of funds may be made for the estimated cost of transportation and temporary storage only if the cost of authorized transportation and temporary storage will not be paid directly by the Government, as is the case when a Government bill of lading or purchase order is used.

(c) *Procedures.* In requesting an advance of funds, the employee shall submit a written statement designating (1) the points of origin and destination, (2) the estimated weight of household goods to be shipped, and (3) any anticipated temporary storage not to exceed a period of 90 days at Government expense. The estimate of weight required in support of an advance of funds shall consist of a statement of the estimated weight signed by the carrier selected to handle the shipment, if available. If not available, evidence of actual weight or a reasonable estimate thereof acceptable to the agency shall be furnished.

PART 302–9—ALLOWANCES FOR NONTEMPORARY STORAGE OF HOUSEHOLD GOODS

Sec.

302–9.1 Nontemporary storage during assignment to isolated locations in the continental United States.
302–9.2 Nontemporary storage during assignment outside the continental United States.
302–9.3 Storage during school recess for Department of Defense overseas teachers.
302–9.4 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–9.1 Nontemporary storage during assignment to isolated locations in the continental United States.

(a) *Policy.* Nontemporary storage of household goods belonging to an employee transferred or a new appointee assigned to an official station at an isolated location in the continental United States shall be allowed only when it is clearly justified under the conditions in this Part 302–9 and is not primarily for the convenience or at the request of the employee or the new appointee.

(b) *Isolated official stations—criteria.* Under this section, an official station at an isolated location is a place of permanent duty assignment in the continental United States at which an employee has no alternative except to live where he/she is unable to use his/her household goods because:

(1) The type of quarters he/she is required to occupy at the isolated permanent duty station will not accommodate his/her household goods; or

(2) Residence quarters which would accommodate his/her household goods are not available within reasonable daily commuting distance of the official station. However, the designation of an official station as isolated in accordance with paragraph (c) of this section shall not preclude a determination in individual instances that adequate housing is available for some employees stationed there based on housing which may be available within daily commuting distance and the size and other characteristics of each employee's immediate family. In such instances, the station shall not be considered isolated with regard to those employees for whom adequate family housing is determined to be available.

(c) *Isolated official stations—designation.* Heads of agencies concerned are responsible for designating the isolated official stations at which conditions exist for allowing nontemporary storage of household goods at Government expense for some or all employees.

(d) *Eligibility.* Eligibility for nontemporary storage of household goods and personal effects applies to an employee stationed at an isolated official station, which meets the criteria in paragraph (b) of this section, who performed permanent change of station travel or travel as a new appointee under § 302–1.11.

(e) *Authorization.* The authorization for nontemporary storage should be contained in the travel order or other document authorizing transfer or appointment at an isolated official

station. However, storage may be approved subsequently if the employee or new appointee is otherwise eligible.

(f) *Allowable storage*—(1) *Place of storage.* Under regulations prescribed by the head of the agency concerned, the property may be stored either in available Government-owned storage space or in suitable commercial or privately owned space obtained by the Government if Government-owned space is not available or if commercial or privately owned space is more economical or suitable because of location, difference of transportation costs, or for other reasons.

(2) *Allowable costs.* Allowable costs for storing the property include the cost of necessary packing, crating, unpacking, uncrating, transportation to and from place of storage, charges while in storage, and other necessary charges directly relating to the storage.

(3) *Partial storage.* An eligible employee or new appointee may be authorized to have a portion of his/her household goods transported to the isolated official station and to have the remainder stored at Government expense. However, the weight of the goods stored plus the weight of the goods transported shall not exceed the maximum applicable weight allowance for which the employee is eligible.

(4) *Changes in type of storage.* Authority may be granted for the conversion of household goods from temporary to nontemporary storage and from storage at personal expense to nontemporary storage at Government expense.

(g) *Time limitations.* Nontemporary storage shall be authorized for periods of time not exceeding 1 year and extended as necessary in accordance with the length of an employee's assignment at an isolated official station. Appropriate periodic review shall be made to determine whether current conditions at the isolated locality with regard to availability of housing warrant continuation of the authority for nontemporary storage. Eligibility for nontemporary storage at Government expense shall terminate on the employee's last day of active duty at the isolated official station. When an employee ceases to be eligible, nontemporary storage at Government expense may continue until the beginning of the second month after the month in which his eligibility terminates. However, the period of nontemporary storage shall not exceed 3 years.

§ 302-9.2 Nontemporary storage during assignment outside the continental United States.

(a) *Eligibility.* Under regulations that may be prescribed by the head of the agency concerned, an employee stationed at an official station other than one located in the continental United States or an employee or new appointee transferred or appointed to such a station may be allowed nontemporary storage of his/her household goods while so assigned if:

(1) The official station is one to which he/she is not authorized to take, or at which he/she is unable to use, the household goods; or

(2) The storage is authorized in the public interest; or

(3) The estimated cost of storage would be less than the cost of round-trip transportation (including temporary storage) of the household goods to the new official station.

(b) *Authorization.* Normally, the authorization for nontemporary storage shall be contained in the travel order or other document authorizing the employee's change of station or authorizing a new appointee to report to his/her official station. However, storage may be approved subsequently if the employee or new appointee would otherwise be eligible.

(c) *Allowable storage*—(1) *Place of storage.* The property may be stored either in available Government-owned storage space or in suitable commercial or privately owned space if Government-owned space is not available or if commercial or privately owned space obtained by the Government is more economical or suitable because of location, difference of transportation costs, or other reasons.

(2) *Allowable costs.* Allowable costs for storing the property include the cost of necessary packing, crating, unpacking, uncrating, transportation to and from place of storage, charges while in storage, and other necessary charges directly relating to the storage.

(3) *Partial storage.* The employee or new appointee may be authorized to have a portion of his/her goods transported to the official station unless it is a station to which he/she is not authorized to take, or at which he/she is unable to use, any of the goods. However, the weight of the goods stored plus the weight of the goods transported shall not exceed the maximum applicable weight allowance for which the employee is eligible.

(4) *Change in type of storage.* Authority may also be granted for the conversion of household goods from temporary to nontemporary storage at Government expense, and from storage at personal expense to nontemporary storage at Government expense, if the employee or new appointee is otherwise eligible.

(d) *Time limitations.* Nontemporary storage at Government expense may be authorized for a period not to exceed the length of the employee's tour of duty at the overseas station plus 1 month prior to the time the tour begins. The storage period may be extended for subsequent service or tours of duty at the same or other overseas stations if the provisions of paragraph (a) of this section continue to be met. When an employee ceases to be eligible for the allowance, storage at Government expense may continue until the beginning of the second month after the month in which his/her eligibility terminates, unless to avoid inequity the agency extends the period. Eligibility shall be deemed to terminate on the last day of active duty at the overseas station.

§ 302-9.3 Storage during school recess for Department of Defense overseas teachers.

(a) *Description.* The Department of Defense Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 905) provides authority for the storage of the household goods of Department of Defense overseas teachers during the recess period between 2 consecutive school years.

(b) *Regulations.* Storage of household goods of Department of Defense overseas teachers may be allowed at Government expense under regulations prescribed by the Secretary of Defense in accordance with this Part 302-9.

(c) *Authorization and conditions*—(1) *Authorization.* Storage during the school recess should be authorized prior to the close of the school year. However, storage may be approved at a later date if all the required terms and conditions have been fulfilled.

(2) *Agreement.* To be eligible for recess storage, a teacher serving at the close of a school year must agree in writing to serve as a teacher for the next school year.

(3) *Forfeited entitlements.* The storage shall be instead of quarters or quarters allowance authorized by 20 U.S.C. 905 and any other storage of household goods to which the teacher might be entitled through employment in another position during any recess period between 2 school years.

(d) *Allowable storage*—(1) *Place of storage.* The property may be stored either in available Government-owned space or in suitable commercial or privately owned space if Government-owned space is not available or if

commercial or privately owned space obtained by the Government is more economical or suitable because of location, difference of transportation costs, or other reasons.

(2) *Allowable costs.* Allowable costs for storing the property include the cost of necessary packing, crating, unpacking, uncrating, transportation to and from place of storage, charges while in storage, and other necessary charges directly relating to the storage.

(3) *Weight limitations.* The weight of the household goods stored during the recess period shall not exceed the weight authorized for the employee less the weight of household goods stored under § 302–9.2.

(e) *Time limitation.* The period of storage shall not exceed the period of the recess between the 2 school years.

(f) *Breach of agreement.* If the teacher does not report for service at the beginning of the next school year, except for reasons beyond his/her control and acceptable to the Department of Defense, he/she shall be obligated to reimburse the Department in the amount paid by the Department for the commercial storage, including related services. If, however, the property was stored in a Government facility, the teacher shall pay the agency an amount equal to the reasonable value of the storage furnished, including related services.

§ 302–9.4 Advance of funds.

Advances of funds are not authorized in connection with the storage allowances covered by this Part 302–9.

PART 302–10—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY STORAGE OF PRIVATELY OWNED VEHICLES

Sec.

302–10.1 Applicability.
302–10.2 Eligibility.
302–10.3 Allowable transportation.
302–10.4 Allowable expenses.
302–10.5 Emergency storage.
302–10.6 Advance of funds.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–10.1 Applicability.

(a) *Privately owned motor vehicles—*(1) *Definitions.* As used in this Part 302–10, the terms "privately owned motor vehicle" and "privately owned vehicle" mean a motor vehicle not owned by the Government and not of a type excluded in paragraph (a)(2) of this section, which is in the possession of and used by the employee or his/her immediate family for the primary purpose of providing personal transportation.

(2) *Restriction on vehicle types.* Vehicles that may be transported under this Part 302–10 include passenger automobiles, station wagons and certain small trucks or other similar vehicles which may be used primarily for personal transportation. Transportation is not authorized for trailers, airplanes, or any vehicle intended for commercial use. In addition, an employee must pay all costs which result from shipment of a vehicle which exceeds the size limits prescribed in § 302–10.4(e). Each vehicle must be approved by the agency concerned as appropriate for use in the area of the overseas station and the vehicle must be primarily for use as personal transportation contributing to the employee's effectiveness on the job.

(b) *Transportation under this Part 302–10.* Any references to a vehicle "transported under this Part 302–10" shall include a vehicle which was driven to the employee's official station by the employee or a member of his/her immediate family but could have been transported at Government expense under the authority of this Part 302–10 had circumstances not permitted driving.

§ 302–10.2 Eligibility.

(a) *Official station outside the continental United States.* Transportation of privately owned vehicles may be authorized in connection with a transfer or assignment to an official station outside of the continental United States, including a transfer between such stations. A privately owned vehicle transported to such a station under this Part 302–10 may be transported to the United States when its use is no longer required at a station outside the continental United States under the provisions of § 302–10.3 (b) and (c).

(b) *Compliance with general conditions.* The provisions of §§ 302–1.2 and 302–1.5 through 302–1.13 with regard to service agreements and transfers for the benefit of the Government, not the employee, are applicable. However, if transportation of a privately owned vehicle is authorized after assignment or transfer on the basis of changed conditions under § 302–10.3(d), those requirements are satisfied if they were met when the employee was transferred or assigned to the official station to which the privately owned vehicle will be transported.

(c) *Agency determination required.* The cost of transporting a privately owned vehicle shall not be authorized unless it has been determined by the head of the agency concerned or his/her designee that it is in the interest of the Government for the employee to have the use of his/her privately owned vehicle at his/her post outside the continental United States. Such a determination may be made only if all of the following conditions are present:

(1) Use of the privately owned vehicle will not be primarily for the convenience of the employee and his/her immediate family;

(2) Local conditions at the official station where the privately owned vehicle is to be used make it desirable from the Government's viewpoint for the employee to have the use of a privately owned vehicle;

(3) Use of a privately owned vehicle by the employee will contribute to his/her effectiveness in his/her job;

(4) Use of a privately owned vehicle of the type involved will be suitable in the local conditions of the official station;

(5) The cost of transporting the privately owned vehicle to and from the official station involved will not be excessive considering the time the employee has agreed to serve at that official station; and

(6) The privately owned vehicle is of United States manufacture unless:

(i) The head of the agency or his/her designee determines that only vehicles of foreign manufacture may be used effectively at the official station concerned;

(ii) The privately owned vehicle to be transported was purchased by the employee before he/she was aware that he/she would be assigned to duty at an official station to which the transportation of a privately owned vehicle would be authorized; or

(iii) For other reasons, and taking into consideration the current United States balance of payments situation, it is determined that the employee should be allowed to ship a vehicle of foreign manufacture.

§ 302–10.3 Allowable transportation.

(a) *To official station upon assignment.* When the new official station outside the continental United States is one to which an employee is authorized to transport a privately owned vehicle under the conditions prescribed in § 302–10.2, one privately owned vehicle may be transported for the employee incident to his/her transfer from the old official station or place of actual residence at the time of appointment to the new official station. However, if an employee is transferred from an official station outside the continental United States at which he/she has no privately owned vehicle, he/she may be authorized to transport a privately owned vehicle from an

appropriate point within the United States to his/her new official station.

(b) *Return from official station after assignment.* An employee whose privately owned vehicle was transported to his/her official station under the authority of this Part 302–10 may have that vehicle returned to the United States at Government expense not to exceed the cost for transportation to his/her actual residence at the time of appointment or assignment to duty outside the continental United States incident to:

(1) A transfer to the continental United States or to an official station outside the continental United States to which he/she is not authorized to transport a privately owned vehicle; or

(2) Separation after completion of an agreed period of service at an official station outside the continental United States to which the vehicle was transported under this Part 302–10 or separation prior to completion of such period if the separation is for reasons beyond his/her control and acceptable to the agency.

(c) *Delayed return*—(1) *Interim transportation at personal expense.* When an employee is transferred from an official station to which a privately owned vehicle was transported under this Part 302–10 to another official station outside the continental United States to which transportation of a privately owned vehicle is not authorized and he/she chooses to transport his/her privately owned vehicle to his/her new official station at his/her own expense, that vehicle may later be returned to the continental United States in connection with his/her subsequent transfer or separation provided the cost to the Government shall not exceed the cost of transportation from the former official station to which the privately owned vehicle was shipped at Government expense to the employee's actual residence in the United States at the time of appointment or assignment.

(2) *Failure to complete tour.* An employee who has transported his/her privately owned vehicle to an official station under the authority of this Part 302–10 but fails to complete an agreed tour of duty at that official station for a reason other than one which is beyond his/her control and acceptable to the agency concerned may have the vehicle transported at Government expense only on the basis that he/she had previously completed a tour at that or a previous official station outside the continental United States after a privately owned vehicle had been transported there under the authority of this Part 302–10 and had not returned that vehicle to the United States at Government expense under the authority of this Part 302–10. In such instances, the Government shall not pay more than the cost of transporting the privately owned vehicle from the official station where the employee did complete an agreed period of service to the employee's actual residence at time of appointment or assignment.

(d) *Change in conditions while at official station*—(1) *When privately owned vehicle becomes necessary.* If, after an employee is assigned to an official station outside the continental United States without an authorization to transport a privately owned vehicle, it becomes desirable that he/she have a privately owned vehicle at that official station and if the conditions of § 302–10.2 are met, a vehicle may be transported from an appropriate point in the continental United States to the official station. In authorizing such transportation, agencies shall place particular emphasis upon the determination required in § 302–10.2(c)(5).

(2) *When privately owned vehicle becomes unnecessary.* If it is determined that the conditions which supported the authorization for transportation of a privately owned vehicle to an official station no longer exist, the agency concerned may authorize the return of a vehicle which has been transported to that official station under the authority of this Part 302–10 even though the employee concerned would not otherwise be eligible for such transportation at that time. An employee who retains his/her privately owned vehicle at the official station after such a change in conditions may be eligible for return or further transportation of the privately owned vehicle at a later date.

(e) *Replacement vehicle*—(1) *Emergency replacements.* An emergency replacement vehicle may be transported at Government expense to an employee's post of duty if (i) the employee had a privately owned vehicle at an official station outside the continental United States and it was determined to be in the Government's interest for him/her to have the vehicle; (ii) the vehicle is stolen, or seriously damaged or destroyed, or has deteriorated due to severe conditions at the post of duty, or requires emergency replacement for other reasons beyond the employee's control; and (iii) the head of the agency or his/her designee determines in advance of authorization that a replacement vehicle is necessary and in the interest of the Government. Not more than one such emergency replacement may be authorized for an employee during any 4-year period during which the employee was stationed permanently and continuously at one or more posts of duty outside the continental United States where use of a privately owned vehicle by the employee was determined to be in the interest of the Government.

(2) *Other replacements.* A privately owned vehicle may be shipped to an employee at Government expense at a post of duty outside the continental United States to replace another privately owned vehicle if:

(i) It was determined that it was in the Government's interest for the employee to have the vehicle being replaced and that it will continue to be in the Government's interest for the employee to have such a vehicle;

(ii) More than 4 years have elapsed since the date when the vehicle being replaced was transported; and

(iii) The employee has been stationed continuously during the 4–year period at posts of duty located outside the continental United States.

§ 302–10.4 Allowable expenses.

(a) *Authorized destination outside continental United States.* When an employee is authorized to transport a privately owned vehicle at Government expense to an official station outside the continental United States, the destination of the vehicle must be the employee's official station.

(b) *Alternate origins and destinations.* Transportation at Government expense may be for all or part of the distance between origin and the official station not to exceed the cost of transportation between the authorized place of origin (the former official station, residence at time of appointment, or a point in the United States as the case may be) and the official station to the extent that the employee is not expected to drive as prescribed in paragraph (c) of this section. When an employee is authorized to return his/her privately owned vehicle from an official station to which it was transported under this Part 302–10, that vehicle may be transported from the official station or some other point where it was driven or otherwise transported by the employee to the destination specified by the employee, provided the cost does not exceed the cost of transportation from the official station to the authorized destination (new official station, actual residence, or United States port) to the extent the employee is not expected to drive the privately owned vehicle as prescribed in paragraph (c) of this section.

(c) *When it is feasible to drive a vehicle.* When a privately owned vehicle may be driven on hard-surfaced,

all weather highways, using ferries as necessary, for all or part of the distance between the allowable origin and destination, the agency head concerned or his/her designee may determine that it is reasonable to expect the employee or a member of his/her family to drive the privately owned vehicle for that distance. In case of such a determination, the Government will pay transportation charges to the extent driving the privately owned vehicle was not required. For the distance the privately owned vehicle is driven, the allowance provided in § 302–2.3 applies; however, if the employee makes a separate trip to a port to deliver or pick up his/her privately owned vehicle, per diem is not allowable but one-way travel costs and the one-way mileage cost for operating the privately owned vehicle (both under the provisions of Chapter 301 of this title) may be allowed provided the total does not exceed the cost of shipping the privately owned vehicle to or from the port involved.

(d) *Commercial transportation and incidental charges.* All necessary and customary expenses directly related to the transportation of a privately owned vehicle may be allowed, including crating and packing expenses, shipping charges, and port charges for readying the vehicle for shipment at port of embarkation and for use at port of debarkation.

(e) *Size limit.* Transportation at Government expense is limited to vehicles having a gross size for shipping purposes of not more than 20 measurement tons (800 cubic feet). An employee who ships a larger vehicle which otherwise qualifies for shipment at Government expense under this Part 302–10 must pay all costs which result from the excess size of the vehicle.

(f) *Limitations in special circumstances*—(1) *Shipment of assembled new vehicle.* Subject to the limitation contained in paragraph (f)(3) of this section, if an assembled motor vehicle is purchased new from the manufacturer or manufacturer's agent, the costs set forth in paragraph (d) of this section are allowable if shipment is made f.o.b. shipping point consigned to the employee, a member of his/her immediate family, or his/her agent, but are not allowable if ownership of the vehicle is vested in the manufacturer's agent during the shipment.

(2) *Shipment of unassembled new vehicle.* Subject to the limitation contained in paragraph (f)(3) of this section, if a new motor vehicle is purchased from a manufacturer or manufacturer's agent, freight on shipment of unassembled parts from factory to assembly point and costs of onward transportation of the assembled vehicle consigned to the employee, a member of his/her immediate family, or his/her agent may be allowed if this method is more economical than shipment of the assembled vehicle from the manufacturer. A comparative statement of costs is required before shipment at Government expense may be approved in these instances, except when shipment of the unassembled parts is made from factory to an assembly plant both of which are located in the continental United States.

(3) *When shipment from factory is authorized.* If a new motor vehicle is purchased and shipped in connection with an employee's transfer or a new appointee's assignment to a post of duty outside the continental United States, the allowable transportation expenses shall not exceed the lesser of (i) the cost of transportation from the employee's old post of duty or new appointee's place of actual residence to the new post of duty, or (ii) the expenses authorized in paragraph (f)(1) of this section. However, if an employee is stationed at a post of duty outside the continental United States and subsequently is authorized to transport a privately owned vehicle, the allowable transportation expenses in connection with the purchase of a new motor vehicle shall not exceed those authorized in paragraph (f) (1) or (2) of this section, whichever is applicable.

(g) *Government and commercial means.* The heads of agencies concerned or their designees may authorize the transportation of the employee's privately owned motor vehicle by commercial means if available at reasonable rates and under reasonable conditions, or by Government means on a space-available basis.

§ 302–10.5 Emergency storage.

(a) *Conditions.* Under regulations prescribed by the head of the agency concerned, emergency storage of a privately owned vehicle may be allowed at Government expense under the following conditions:

(1) The vehicle was transported or authorized to be transported at Government expense as provided in this Part 302–10.

(2) The employee is stationed at a post of duty at which the use of the vehicle has been determined to be in the interest of the Government, and while the employee is stationed there, the head of the agency concerned designates the post of duty as being within a zone from which the employee's immediate family and household goods should be evacuated for any of the reasons specified in 5 U.S.C. 5725.

(b) *Place of storage.* Storage may be allowed at the place to which the employee's immediate family and household goods are evacuated or at another suitable place not more distant from the evacuation area. If the vehicle is being shipped to the employee at the time evacuation is ordered, the vehicle may be diverted to storage at a suitable place en route.

(c) *Allowable expenses.* Allowable expenses for storage include necessary expenses for (1) readying a vehicle for storage, (2) local transportation to point of storage, (3) storage, (4) readying a vehicle for use after storage, (5) local transportation from point of storage, and (6) other necessary expenses relating to the storage and transportation. However, insurance on the vehicle other than that which may be included in the allowable expenses described in this paragraph (c) is at the expense of the employee.

§ 302–10.6 Advance of funds.

An advance of funds may be allowed the employee, not to exceed the estimated amount of the expenses authorized under this Part 302–10 which he/she may incur for transportation and/or storage of a privately owned vehicle. Such advances shall be subject to the general conditions provided in § 302–1.14(a).

PART 302–11—RELOCATION INCOME TAX (RIT) ALLOWANCE

Sec.

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Appendix C to Part 302–11—Federal Tax Table for RIT Allowance—Year 2

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747); E.O. 12466, February 27, 1984 (49 FR 7349).

§ 302–11.1 Authority.

Payment of a relocation income tax (RIT) allowance is authorized to reimburse eligible transferred employees for substantially all of the additional Federal, State, and local income taxes incurred by the employee, or by the employee and spouse if a joint tax return is filed, as a result of certain travel and transportation expenses and relocation allowances which are furnished in kind, or for which reimbursement or an allowance is provided by the Government. The RIT allowance shall be calculated and paid as provided in this Part 302–11.

§ 302–11.2 Coverage.

(a) *Eligible employees.* Payment of a RIT allowance is authorized for employees transferred on or after November 14, 1983, in the interest of the Government from one official station to another for permanent duty. The effective date of an employee's transfer is the date the employee reports for duty at the new official station as provided in § 302–1.4(k).

(b) *Individuals not covered.* The provisions of this Chapter 302 are not applicable to the following individuals or employees:

(1) New appointees as defined in § 302–1.10, including those covered under § 302–1.11 (i.e., new appointees to shortage category or Senior Executive Service positions, and new Presidential appointees) and § 302–1.12(b) (i.e., new appointees to overseas posts of duty);

(2) Employees assigned under the Government Employees Training Act (see 5 U.S.C. 4109); or

(3) Employees returning from overseas assignments for the purpose of separation.

§ 302–11.3 Types of moving expenses or allowances covered and general limitations.

The RIT allowance is limited by law as to the types of moving expenses that can be covered. The law authorizes reimbursement of additional income taxes resulting from certain moving expenses furnished in kind or for which reimbursement or an allowance is provided to the transferred employee by the Government. However, such moving expenses are covered by the RIT allowance only to the extent that they are actually paid or incurred, and are not allowable as a moving expense deduction for tax purposes. The types of expenses or allowances listed in paragraphs (a) through (i) of this section, are covered by the RIT allowance within the limitations discussed.

(a) *En route travel.* Travel (including per diem) and transportation expenses of the transferred employee and immediate family for en route travel from the old official station to the new official station. (See Part 302–2.)

(b) *Household goods shipment.* Transportation (including temporary storage) expenses for movement of household goods from the old official station to the new official station. (See Part 302–8.)

(c) *Nontemporary storage expenses.* Allowable expenses for nontemporary storage of household goods belonging to an employee transferred on or after November 14, 1983, through October 11, 1984, to an isolated location in the continental United States. (See § 302–9.1.) Nontemporary storage expenses are not covered by the RIT allowance for transfers on or after October 12, 1984. (See § 302–11.4(c).)

(d) *Mobile home movement.* Expenses for the movement of a mobile home for use as a residence when movement is authorized instead of shipment and temporary storage of household goods. (See Part 302–7.)

(e) *Househunting trip.* Travel (including per diem) and transportation expenses of the employee and spouse for one round trip to the new official station to seek permanent residence quarters. (See Part 302–4.)

(f) *Temporary quarters.* Subsistence expenses of the employee and immediate family during occupancy of temporary quarters. (See Part 302–5.)

(g) *Real estate expenses.* Allowable expenses for the sale of the residence (or expenses of settlement of an unexpired lease) at the old official station and for purchase of a home at the new official station for which reimbursement is received by the employee. (See Part 302–6.)

(h) *Miscellaneous expense allowance.* A miscellaneous expense allowance for the purpose of defraying certain expenses associated with discontinuing a residence at one location and establishing a residence at the new location in connection with an authorized or approved permanent change of station. (See Part 302–3.)

(i) *Relocation services.* Payments, or portions thereof, made to a relocation service company for services provided to a transferred employee (see Part 302–12), subject to the conditions stated in this paragraph (i) and within the general limitations of this section applicable to other covered expenses.

(1) *For employees transferred on or after November 14, 1983, through October 11, 1984.* The amount of a broker's fee or real estate commission, or other real estate sales transaction expenses which normally are reimbursable to the employee under § 302–6.2 but have been paid by a relocation service company incident to an assigned sale from the employee, provided that such payments constitute income to the employee. For the purposes of this regulation, an assigned sale occurs when an employee obtains a binding agreement for the sale of his/her residence and assigns the inherent rights and obligations of that agreement to a relocation company that is providing services under contract with the employing agency. For example, if the employee incurs an obligation to pay a specified broker's fee or real estate commission under the terms of the sales agreement, this obligation along with the sales agreement is assigned to the relocation company and may, upon payment of the obligation by the relocation company, constitute income to the employee. (See § 302–12.7 entitled "Income tax consequences of using relocation companies.")

(2) *For employees transferred on or after October 12, 1984.* Expenses paid by a relocation company providing relocation services to the transferred employee pursuant to a contract with the employing agency to the extent such payments constitute income to the employee. (See § 302–12.7.)

Note: See reference shown in parentheses for reimbursement provisions for each allowance listed in paragraphs (a) through (i) of this section. See Section 217 of the Internal Revenue Code (IRC) and Internal Revenue Service (IRS) Publication 521 entitled "Moving Expenses" and appropriate State and local tax authority publications for additional information on the taxability of moving expense reimbursements and the allowable tax deductions for moving expenses.

§ 302–11.4 Exclusions from coverage.

The provisions of this Part 302–11 are not applicable to the following:

(a) Any tax liability that may result from payments by the Government to relocation companies on behalf of employees transferred on or after November 14, 1983, through October 11, 1984, other than the payments for those expenses specified in § 302–11.3(i)(1).

(b) Any tax liability incurred for local income taxes other than city income tax as a result of moving expense reimbursements for employees transferred on or after November 14, 1983, through October 11, 1984. (See definition in § 302–11.5(b).)

(c) Any tax liability resulting from reimbursed expenses for any nontemporary storage of household

goods except as specifically provided for in § 302–11.3(c).

(d) Any tax liability resulting from paid or reimbursed expenses for shipment of a privately owned automobile.

(e) Any tax liability resulting from an excess of reimbursed amounts over the actual expense paid or incurred. For instance, if an employee's reimbursement for the movement of household goods is based on the commuted rate schedule and his/her actual moving expenses are less than the reimbursement, the tax liability resulting from the difference is not covered by the RIT allowance. (See § 302–11.8(c)(2)(i).)

(f) Any tax liability resulting from an employee's decision not to deduct moving expenses for which a tax deduction is allowable under the Internal Revenue Code or appropriate State and local tax codes. (See §§ 302–11.8(b)(1) and 302–11.8(c)(2).)

§ 302–11.5 Definitions and discussion of terms.

For purposes of this Part 302–11, the following definitions will apply:

(a) *State income tax.* A tax, imposed by a State tax authority, that is deductible for Federal income tax purposes as a State income tax under section 164(a)(3) of the IRC. "State" means any one of the several States of the United States and the District of Columbia.

(b) *Local income tax.* A tax, imposed by a recognized city or county tax authority, that is deductible for Federal income tax purposes as a local (city or county) income tax under section 164(a)(3) of the IRC; except, that for employees transferred on or after November 14, 1983, through October 11, 1984, local income tax shall be construed to mean only city income tax. For purposes of this regulation:

(1) "City" means any unit of general local government which is classified as a municipality by the Bureau of the Census, or which is a town or township that in the determination of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places as defined by the Bureau of the Census (31 CFR 215.2(b)(1)).

(2) "County" means any unit of local general government which is classified as a county by the Bureau of the Census (31 CFR 215.2(e)).

(c) *Covered moving expense reimbursements or covered reimbursements.* As used herein, these terms include those moving expenses listed in § 302–11.3 as being covered by the RIT allowance and which may be furnished in kind, or for which reimbursement or an allowance is provided by the Government.

(d) *Covered taxable reimbursements.* Covered moving expense reimbursements minus the tax deductions allowable under the IRC and IRS regulations for moving expenses. (See determination in § 302–11.8(c).)

(e) *Year 1 or reimbursement year.* The calendar year in which reimbursement or payment for moving expenses is made to, or for, the employee under the provisions of this Part 302–11. All or part of these reimbursements (see § 302–11.6) are reported to the IRS as income (wages, salary, or other compensation) to the employee for that tax year under the provisions of the IRC and IRS regulations, and are subject to Federal tax withholding. The withholding tax allowance (WTA) (see paragraph (f)(1) of this section) is calculated in Year 1, to cover the employee's Federal tax withholding obligations each time covered moving expense reimbursements are made that result in a Federal tax withholding obligation. For purposes of this regulation, an advance of funds for any of the covered moving expenses is not considered to be a reimbursement or a payment until the travel voucher settlement for such expenses takes place. If an employee's reimbursement for moving expenses is spread over more than one year, he/she will have more than one Year 1.

(f) *Year 2.* The calendar year in which a claim for the RIT allowance is paid.

(1) Generally, Year 2 will be the calendar year immediately following Year 1 and in which the employee files a tax return reflecting his/her tax liability for income received in Year 1. However, there may be instances where the employee's claims submission and/or payment of the RIT allowance is delayed beyond the calendar year immediately following Year 1. (Year 1 will always be the calendar year that reimbursements are received; see paragraph (e) of this section.) Year 2 will be the calendar year in which the RIT allowance is actually paid.

(2) The RIT allowance is calculated in Year 2 and paid to cover the additional tax liability (resulting from moving expense reimbursements received in Year 1) not covered by the WTA paid in Year 1. If an employee's covered taxable reimbursements are spread over more than one year, he/she will have more than one Year 2.

(g) *Federal withholding tax rate (FWTR).* The tax rate applied to incremental income to determine the amount to be withheld for Federal income tax from salary or other compensation such as moving expense reimbursements. Because moving expense reimbursements constitute supplemental wages for Federal income tax purposes, the 20 percent flat rate of withholding is generally applicable to such reimbursements. (See § 302–11.7(c).) Agencies should refer to the Treasury Financial Manual, TFM 3–5000, and applicable IRS regulations for complete and up-to-date information on this subject.

(h) *Earned income.* For purposes of the RIT allowance, "earned income" shall include only the gross compensation (salary, wages, or other compensation such as reimbursement for moving expenses and the related WTA (see paragraph (n) of this section) and any RIT allowance (see paragraph (m) of this section) paid for moving expense reimbursement in a prior year) that is reported as income on IRS Form W–2 for the employee (employee and spouse, if filing jointly), and if applicable, the net earnings (or loss) for self-employment income shown on Schedule SE of the IRS Form 1040. Earned income may be from more than one source. (See § 302–11.8(d).)

(i) *Marginal tax rate (MTR).* The tax rate (for example, 35 percent) applicable to a specific increment of income. The Federal and State marginal tax rates to be used in calculating the RIT allowance are provided in Appendices A, B, and C of this Part 302–11. (See § 302–11.8(e)(3) for instructions on local marginal tax rate determinations.)

(j) *Combined marginal tax rate (CMTR).* A single rate determined by combining the applicable marginal tax rates for Federal, State, and local income taxes, using the formulas provided in § 302–11.8(e)(4).

(k) *Gross-up.* Payment for the estimated additional income tax liability incurred by an employee as a result of reimbursements or payments by the Government for the covered moving expense reimbursements listed in § 302–11.3.

(l) *Gross-up formulas.* The formulas used to determine the amount of the gross-up for the WTA and the RIT allowance. The gross-up formulas used herein compensate the employee for the initial tax, the tax on tax, etc. Note that the WTA gross-up formula in § 302–11.7(d) is different than the RIT gross-up formula prescribed in § 302–11.8(f).

(m) *RIT allowance.* The amount of payment computed and paid in Year 2 to cover substantially all of the estimated additional tax liability incurred as a

result of the covered moving expense reimbursements received in Year 1.

(n) *Withholding tax allowance (WTA).* The withholding tax allowance (WTA), paid in Year 1, covers the employee's Federal income tax withholding liability on covered taxable reimbursements received in Year 1. The amount is computed by applying the withholding gross-up formula prescribed in § 302–11.7(d) (using the Federal withholding tax rate) each time that a Federal withholding obligation is incurred on covered moving expense reimbursements received in Year 1. Grossing-up the Federal withholding amount protects the employee from using part of his/her moving expense reimbursement to pay Federal withholding taxes. (See § 302–11.7.)

§ 302–11.6 Procedures in general.

(a) This regulation sets forth procedures for the computation and payment of the RIT allowance and defines agency and employee responsibilities. This regulation does not require changes to those internal fiscal procedures established by the individual agencies pursuant to IRS regulations, or the Treasury Financial Manual, provided that the intent of the statute authorizing the RIT allowance and this regulation are not disturbed.

(b) The total amount reimbursed or paid to the employee, or on his/her behalf, for travel, transportation, and other relocation expenses and allowances is includable in the employee's gross income pursuant to the IRC and certain State or local government tax codes. Some moving expenses for which reimbursements are received may be deducted from income by the employee as moving expense deductions, subject to certain limitations prescribed by the IRS or pertinent State or local tax authorities. Reimbursements for nondeductible moving expenses are subject to income tax. (See IRS Publication 521 entitled "Moving Expenses" and the appropriate State and local tax codes for detailed information.)

(c) Usually, if the employee is reimbursed for nondeductible moving expenses, the amount of these reimbursements is subject to withholding of Federal income tax in accordance with IRS regulations at the time of reimbursement. Under existing fiscal procedures, the amount of the employee's withholding obligation is usually deducted either from reimbursements for the moving expenses at the time of reimbursement or from the employee's salary. (See Treasury Financial Manual.)

(d) Payment of a WTA established herein will offset deductions for the Federal income tax withholding on moving expense reimbursements, and on the WTA itself, from the employee's moving expense reimbursements or from salary.

(e) The total amount of the RIT allowance can be computed after the end of Year 1 as soon as the earned income level, income tax filing status, total covered taxable reimbursements, and the applicable marginal tax rates can be determined. Employee claims for the RIT allowance should be submitted in accordance with this regulation and the employing agency's procedures.

(f) Procedures are prescribed in §§ 302–11.7 and 302–11.8 for computation and payment of the WTA and the RIT allowance. These procedures are built on existing fiscal procedures and IRS regulations regarding reporting of employee income from reimbursements and withholding of taxes on supplemental wages.

§ 302–11.7 Procedures for determining the WTA in Year 1.

(a) *General rules.* The WTA is designed to cover only the employee's withholding tax obligation for Federal income taxes on income resulting from covered moving expense reimbursements. (See definition in § 302–11.5(c).) Other withholding tax obligations, if any, such as for social security taxes or for State and/or local income taxes on income resulting from moving expense reimbursements shall not be included in the calculation of the WTA payment. The amount of the WTA is equal to the Federal income tax withholding obligation incurred by the employee on covered moving expense reimbursements (which are not offset by deductible moving expenses) and on the WTA itself. Each time covered moving expense reimbursements are paid to or on behalf of the employee, the WTA shall be calculated, accounted for, and reported as provided in paragraphs (b) through (g) of this section.

(b) *Determination of amount of reimbursement subject to withholding.* Under IRS regulations, income resulting from reimbursements for nondeductible moving expenses is subject to withholding of Federal income taxes. (See IRS Publication 521, "Moving Expenses.") There are some moving expenses which may be reimbursed but are not covered taxable reimbursements (see definition in § 302–11.5(d)) for purposes of the WTA and RIT allowance calculations, such as nontemporary storage of household goods. (See exclusions in § 302–11.4.) Therefore, the actual amount of the covered taxable reimbursements may be different than the amount of nondeductible moving expenses subject to Federal income tax withholding. The difference in these amounts should not be substantial; therefore, the amount of nondeductible moving expenses subject to Federal income tax withholding, as determined by the agency pursuant to IRS regulations, may be used in calculating the WTA. (Note that the RIT calculation procedure in § 302–11.8 requires determination of covered taxable reimbursements.)

(c) *Determination of Federal withholding tax rate (FWTR).* Because moving expense reimbursements constitute supplemental wages for Federal income tax purposes, the 20 percent flat rate of withholding is generally applicable to income generated by such reimbursements. The 20 percent rate should be used in calculating the WTA unless under an agency's internal fiscal (withholding) procedures a different withholding rate is used pursuant to IRS tax regulations. In such cases, the applicable withholding rate shall be substituted for the 20 percent rate in the calculation shown in paragraph (d) of this section.

(d) *Calculation of the WTA.* The WTA is calculated by substituting the amounts determined in paragraphs (b) and (c) of this section, into the WTA gross-up formula shown below:

Formula:

$$Y = \frac{X}{1-X}(N)$$

Where:
Y=WTA
X=FWTR (generally, 20 percent)
N=nondeductible moving expenses/ covered taxable reimbursements

Example:

If:
X=20 percent
N=$21,800

Then:

$$Y = \frac{.20}{1.00-.20}(\$21{,}800)$$

Y=.25 ($21,800)
Y=$5,450

(e) *WTA payment and employee agreement for repayment.* (1) The WTA may be calculated several times within Year 1 if reimbursements for moving expenses are made on more than one travel voucher. Each time an employee is reimbursed for moving expenses which are subject to Federal tax

withholding in accordance with the IRS regulations, the WTA will be calculated and paid unless the employee fails to comply with the requirements in paragraph (e)(2) of this section.

(2) The employee shall be required to agree in writing to repay any excess amount paid to him/her in Year 1 (see §§ 302–11.8(f)(4) and 302–11.9(b)(3)), and submit the required certified tax information and claim for his/her RIT allowance within a reasonable length of time (as determined by the agency) after the close of Year 1. Failure of the employee to comply with this requirement will preclude the agency's payment of the WTA. The entire WTA will be considered an excess payment if the RIT allowance claim is not submitted in a timely manner to settle the RIT allowance account.

(f) *Determination of employee's withholding tax on WTA.* Since the amount of the WTA is considered income to the employee, it is subject to the same tax withholding requirements as all other moving expense reimbursements. (See Treasury Financial Manual, Section 4080, Moving Expense Reimbursements, for withholding requirements.)

(g) *End of year reporting.* At the end of the year, agencies generally are required to issue IRS Form(s) W–2 for each employee showing total gross compensation (including moving expense reimbursements) and the applicable amount of Federal taxes withheld. For tax reporting purposes, the WTA is to be treated as a moving expense reimbursement. The total amount of the employee's WTA's paid during the year as well as the amount of moving expense reimbursements should be included as income on the employee's Form W–2. The Federal tax withholding amount applicable to the moving expense reimbursements and the WTA should also be included on the employee's Form W–2. The amount of the WTA's also will be furnished to the employee along with the amount of moving expense reimbursements on IRS Form 4782 or another itemized listing provided for the employee's use in preparing his/her tax return (see IRS regulations for further guidance) and in claiming the RIT allowance as provided in § 302–11.8.

§ 302–11.8 Rules and procedures for determining the RIT allowance in Year 2.

(a) *Summary/overview of procedures.* The RIT allowance will be calculated and claimed in Year 2. This can be accomplished as soon as the employee can determine earned income (as defined herein), income tax filing status, covered taxable reimbursements for Year 1, and the applicable marginal tax rates. The RIT allowance is then calculated using the gross-up formula under procedures prescribed herein. Since the RIT allowance is considered income, appropriate withholding taxes on the RIT allowance are deducted and the balance constitutes the net payment to the employee. Rules, procedures, and the prescribed tax tables for these calculations are provided in paragraphs (b) through (g) of this section, and in Appendices A, B, and C of this Part 302–11.

(b) *General rules and assumptions.* (1) The procedures prescribed herein for calculations and payment of the RIT allowance are based on certain assumptions jointly developed by GSA and IRS, and tax tables developed by IRS. This approach avoids a potentially controversial and administratively burdensome procedure requiring the employee to furnish extensive documentation, such as certified copies of actual tax returns and reconstructed returns, in support of a claim for a RIT allowance payment. Specifically, the following assumptions have been made:

(i) The employee will claim allowable moving expense deductions for the same tax year in which the corresponding moving expense reimbursements are included in income;

(ii) Changes to the IRC, applicable to the 1987 and subsequent tax years, require that allowable moving expense deductions must be taken as an itemized deduction from gross income rather than as an adjustment to gross income as in previous tax years. It is assumed that employees will receive the benefit of allowable moving expense deductions to offset income either by itemizing their moving expense deductions or through the increased standard deductions.

(iii) Prior to the Tax Reform Act of 1986, it was assumed that the employee's (and spouse's, if a joint return is filed) earned income, filing status, and CMTR determined for Year 1 (and used in determining the RIT allowance in Year 2) would remain the same or would not be substantially different in the second and subsequent tax years. However, the Tax Reform Act of 1986 substantially changed the Federal tax rates. Until the transition to the new tax rates is completed, it is necessary to compute a separate CMTR for Year 1 and for Year 2. (See paragraph (e) of this section.) The formula for calculating any RIT allowances to be paid in 1988, which is unchanged from 1987, is shown in paragraph (f) of this section. It is assumed that within the accuracy of the calculation, the State and local tax rates for Year 1 and Year 2 will remain the same or will not be substantially different. Therefore, the State and local tax rates for Year 1 shall be used in calculating the CMTR for Year 2.

(2) The prescribed procedures, which yield an estimate of an employee's additional tax liability due to moving expense reimbursements, are to be used uniformly. They are not to be adjusted to accommodate an employee's unique circumstance which may differ from the assumed circumstances stated in paragraph (b)(1) of this section.

(3) An adjustment of the RIT allowance paid in Year 2 for the covered taxable reimbursements received in Year 1 is required if the tax information certified to on the RIT allowance claim is different than that shown on the actual Federal tax return filed with IRS for Year 1 or changed for any reason after filing of the tax return, so as to affect the CMTR's used in the RIT allowance calculation. (See § 302–11.10 for claims procedures.)

(c) *Determination of covered taxable reimbursements.* (1) Generally, the amount of the covered taxable reimbursements is the difference between (i) the amount of covered moving expense reimbursements for the allowances listed in § 302–11.3 that was included in the employee's income in Year 1, and (ii) the maximum amount of allowable moving expenses that may be claimed as a moving expense deduction by the employee on his/her Federal tax return under IRS tax regulations to offset the income resulting from moving expense reimbursements for Year 1. The covered taxable reimbursements will be determined as if the employee had itemized and deducted all allowable moving expense deductions. (See assumption made in paragraph (b)(1)(ii) of this section.) If the employee is precluded from claiming moving expense deductions because he/she does not meet IRS requirements for the distance test, then the amount of covered taxable reimbursements is the same as the amount of covered moving expense reimbursements. (See § 302–11.5(d).)

(2) For purposes of calculating the RIT allowance, the following special rules apply to the determination of moving expense deductions to offset moving expense reimbursements reported as income:

(i) The total amount of reimbursement (which was reported as income) for the expenses of en route travel for the employee and family (see § 302–11.3(a)) and transportation (including up to 30 days temporary storage) of household goods (see § 302–11.3(b)) to the new official station shall be used as a moving

expense deduction. (See also § 302–11.4 (e) and (f).)

(ii) The total amount of reimbursement for a househunting trip, temporary quarters (up to 30 days at new station) and real estate transaction expenses (see § 302–11.3 (e), (f), (g), and (i)), up to the maximum allowable deduction under IRS tax regulations, shall be used as a moving expense deduction. For example, an employee and spouse filing a joint return and residing in the same household at the end of the tax year may deduct up to $3,000 for these expenses. (No more than $1,500 of the $3,000 may be claimed for a househunting trip and temporary quarters expenses combined.) If the employee was reimbursed $1,350 for a househunting trip and temporary quarters expenses and $9,000 for real estate expenses, the moving expense deductions would be $1,350 for the househunting trip and temporary quarters expenses and $1,650 for real estate expenses. If the employee's reimbursement was $1,850 for the househunting trip and temporary quarters expenses and $9,000 for real estate expenses, the moving expense deductions would be $1,500 for the househunting trip and temporary quarters expenses and $1,500 for real estate expenses. If the employee had no reimbursement for a househunting trip and temporary quarters, the full $3,000 would be applied to the $9,000 reimbursement for real estate expenses. (See IRS Publication 521, "Moving Expenses," for these and other maximums which vary by situation and filing status.)

(3) Procedures and examples are provided herein as if all moving expense reimbursements are received in one year with all moving expense deductions applied in that same year to arrive at the covered taxable reimbursements. However, when reimbursements span more than one year, the amount of covered taxable reimbursements must be determined separately for each reimbursement year (Year 1). The maximum moving expense deductions apply to the entire move. Under IRS tax regulations, the employee has some discretion as to when he/she claims these deductions (e.g., in the year of the move when the expense was paid or in the year of reimbursement, if these actions do not occur in the same year). However, for purposes of the RIT allowance procedures, the moving expense deductions will be applied in the year that the corresponding reimbursement is made. For example, if an employee incurred and was reimbursed $1,000 for a househunting trip and temporary quarters in 1986 and an additional $1,000 for temporary quarters in 1987, this employee, according to his/her particular situation and tax filing status, may deduct $1,500 of these expenses in moving expense deductions. In calculating the RIT allowance for 1986, $1,000 of the $1,500 deduction is used to offset the $1,000 reimbursement in 1986 resulting in zero covered taxable reimbursements for the househunting trip and temporary quarters for 1986. The remaining $500 (balance of the $1,500 not used in determining covered taxable reimbursements for 1986) will be used to offset the $1,000 temporary quarters reimbursement in 1987 (second Year 1), leaving $500 of the temporary quarters reimbursement as a covered taxable reimbursement for 1987.

(4) Although the WTA amount is included in income (see § 302–11.7), it shall not be included in the amount of covered taxable reimbursements. Under the procedures and formulas established herein, the proper amount of the RIT allowance is calculated using the RIT gross-up formula with the WTA and any prior RIT allowance payments excluded from covered taxable reimbursements.

(5) Agencies are cautioned that there may be moving expenses reimbursed to the employee that are not covered by the RIT allowance. (See exclusions in § 302–11.4; also see discussion in § 302–11.7 regarding covered taxable reimbursements versus nondeductible expenses.)

(6) An example showing how to calculate covered taxable reimbursements is illustrated in Figure 302–11(a).

(d) *Determination of income level and filing status.* In order to determine the CMTR's needed to calculate the RIT allowance, the employee must determine the appropriate amount of earned income (as prescribed herein) that was or will be reported on his/her Federal tax return for the tax year in which the covered taxable reimbursements were received (Year 1). Such amount will also include the spouse's earned income if a joint filing status is claimed. For purposes of this regulation, appropriate earned income shall include only the amount of gross compensation reported on IRS Form(s) W–2, and, if applicable, the net earnings (or loss) from self-employment income as shown on Schedule SE of IRS Form 1040. (See § 302–11.5(h).) (Note that moving expense reimbursements including the WTA amounts and any RIT allowance paid for a prior Year 1 are to be included in earned income and should be shown as income on the Form W–2; if they are not, other appropriate documentation shall be furnished by the agency.) (See § 302–11.7(g).) The amount of earned income as determined under this paragraph (d) and the tax filing status (for example, from lines 1 through 5 on the 1987 IRS Form 1040) shall be contained in a certified statement on, or attached to, the voucher claiming the RIT allowance. (See § 302–11.10.) If a joint filing status is claimed and the spouse's earned income is included, the spouse must sign the certified statement. If the spouse does not sign the statement, earned income will include only the employee's earned income and the RIT allowance will be calculated on that basis. This condition will not apply if an employee is allowed, under IRS rules, to file a joint return as a surviving spouse.

(e) *Determination of the CMTR's.* The gross-up formula used to calculate the RIT allowance in paragraph (f) of this section, requires the use of two CMTR's—one for Year 1 in which reimbursements were received and the other for Year 2 in which the RIT allowance is paid. CMTR's are single tax rates calculated to represent the Federal, State, and/or local income tax rates applicable to the earned income determined for Year 1. (See paragraph (d) of this section.) The CMTR's will be determined as follows:

(1) *Federal marginal tax rates.* The Federal marginal tax rates for Year 1 and Year 2 are determined by using the income level and filing status determined under paragraph (d) of this section and contained in the certified statement by the employee (or employee and spouse) on the RIT allowance claim, and applying the prescribed Federal tax tables contained in Appendices A and C of this Part 302–11. For example, if the income level for the 1987 tax year (Year 1) was $65,000 for a married employee filing a Federal joint return, the Federal marginal tax rate would be 35 percent for Year 1 (1987) (see Appendix A of this Part 302–11) and 28 percent for Year 2 (1988) (see Appendix C of this Part 302–11). These rates would be used regardless of how much of the $65,000 was attributable to reimbursement for the employee's relocation expenses. (Note that these marginal rates are different from the withholding tax rate used for the WTA.) If the employee incurs only Federal income tax (i.e., there are no State or local taxes), the Federal marginal tax rates determined from Appendices A and C of this Part 302–11 are the CMTR's to be used in the RIT gross-up formula provided in § 302–11.8(f). In such cases, the provisions of

paragraphs (e) (2) and (3) of this section, do not apply.

(2) *State marginal tax rate.* (i) If the employee incurs an additional State income tax (see definition in § 302–11.5(a)) liability as a result of moving expense reimbursements, the appropriate State tax table in Appendix B of this Part 302–11 is to be used to determine the applicable State marginal tax rate that will be substituted into the formula for determining the CMTR for both Year 1 and Year 2. The appropriate State tax table will be the one that corresponds to the tax year in which the reimbursements are paid to the employee (Year 1). The income level determined in paragraph (d) of this section for Federal taxes shall be used to identify the appropriate income bracket in the State tax table. The applicable State marginal tax rate is obtained from the selected income bracket column for the State where the employee is required to pay State income tax on moving expense reimbursements. The tax rates shown in the table apply to all employees regardless of their filing status, except where a separate rate is shown for a single filing status.

(ii) The lowest income bracket shown in the State tax tables in Appendix B of this Part 302–11 is $20,000–$24,999. In cases where the employee's (employee's and spouse's, if filing jointly) earned income as determined under paragraph (d) of this section is less than this income bracket, an appropriate State marginal tax rate shall be established by the employing agency from the applicable State tax code or regulations issued pursuant thereto. Such State marginal tax rate shall be representative of the earned income level in question but in no case more than the marginal tax rate established in Appendix B of this Part 302–11 for the $20,000–$24,999 income bracket for the particular State in which an additional tax obligation has been incurred.

(iii) The prescribed State marginal tax rates generally are expressed as a percent of taxable income. However, if the applicable State marginal tax rate is stated as a percentage of the Federal income tax liability, the State tax rate must be converted to a percent of taxable income to be used in the CMTR formulas in paragraph (e)(4) of this section. This is accomplished by multiplying the applicable Federal tax rate for Year 1 by the applicable State tax rate. For example, if the Federal tax rate is 35 percent for Year 1 and the State tax rate is 25 percent of the Federal income tax liability, the State tax rate stated as a percent of taxable income would be 8.75 percent. The State tax rate thus determined for Year 1 will be used in determining the CMTR for both Year 1 and Year 2.

(iv) An employee may incur a State income tax liability on moving expense reimbursements in more than one State at the same or different marginal tax rates. Nevertheless, a single State marginal tax rate must be determined for use in the CMTR formulas in paragraph (e)(4) of this section. The following general rules shall apply in determining the applicable single rate:

(A) In the tax year during which the transfer actually takes place, the employee may incur a State income tax obligation at both the old and new location. However, most moving expense reimbursements will be taxed at the new location. Although the employee may receive some reimbursements (e.g., for a househunting trip) prior to the actual transfer which would be credited as income at the old location, these types of expenses generally are tax deductible and would not generate an additional State tax liability for the employee. In addition, procedures inherent in the travel voucher reimbursement system tend to cause most reimbursements which may be taxable to occur after the actual transfer. Therefore, the State marginal tax rate determined under paragraphs (e)(2) (i) through (iii) of this section for the new location will be used in the CMTR formulas.

(B) There may be other situations where the employee is subject to taxes on moving expense reimbursements in two States, for instance, in one State because of State residency and in another because a particular State taxes income earned within its jurisdiction irrespective of whether the employee is a resident. If the two States involved recognize such situations by allowing an adjustment or credit for taxes paid to the other State, the employee's State marginal tax rate for the State where income tax on moving expense reimbursements is actually paid will be determined and used in the CMTR formulas. However, in those situations where there is, in fact, double taxation on income from moving expense reimbursements and the taxes imposed by both States qualify as a State income tax (as defined in § 302–11.5(a)), the sum of the State marginal tax rates for the two States as determined under paragraphs (e)(2) (i) through (iii) of this section shall be used in the CMTR formulas.

(3) *Local marginal tax rate.* Because of the impracticality of establishing a single marginal tax rate table for local income taxes that could be applied uniformly on a nationwide basis, appropriate local marginal tax rates shall be determined as provided in paragraphs (e)(3) (i) through (iii) of this section.

(i) If the employee incurs an additional local income tax (see definition § 302–11.5(b)) liability as a result of moving expense reimbursements, he/she shall certify to such fact when claiming the RIT allowance (see certification statement in § 302–11.10) by specifying the name of the locality imposing the income tax and the applicable marginal tax rate determined from the actual marginal tax rate table or schedule prescribed by the taxing locality. The marginal tax rate shall be the one applicable to the taxable income portion of the amount of earned income determined under paragraph (d) of this section for the employee (and spouse, if filing jointly). The same tax rate shall be used in calculating the CMTR for both Year 1 and Year 2. The employing agency shall establish procedures to determine whether the employee-certified local marginal tax rate is appropriate for the employee's income level and filing status and approve its use in the CMTR formulas. (See also § 302–11.10(b)(2).)

(ii) If the local marginal tax rate is stated as a percentage of Federal or State income tax liability, such rate must be converted to a percent of taxable income for use in the CMTR formulas. This is accomplished by multiplying the applicable Federal or State tax rate for Year 1 as determined in paragraph (e) (1) or (2) of this section by the applicable local tax rate. For example, if the State tax rate for Year 1 is 6 percent and the local tax rate is 50 percent of State income tax liability, the local tax rate stated as a percentage of taxable income would be 3 percent. The local tax rate thus determined for Year 1 will be used in determining the CMTR for both Year 1 and Year 2.

(iii) The situations described in paragraph (e)(2)(iv) of this section with respect to State income taxes may also be encountered with local income taxes. If such situations do occur, the rules prescribed for determining the single State marginal tax rate shall also be applied to determine the single local marginal tax rate for use in the CMTR formulas.

(4) *Calculation of the CMTR's.* As stated above, the gross-up formula for calculating the RIT allowance requires the use of two CMTR's. However, the required CMTR's cannot be calculated by merely adding the Federal, State, and local marginal tax rates together

because of the deductibility of State and local income taxes from income for Federal income tax purposes. The State tax tables prescribed in Appendix B of this Part 302–11 are designed to use the same income amount as that determined for the Federal taxes, which reflects, among other things, State and local tax deductions. The formulas prescribed below for calculating the CMTR's are designed to adjust the State and local tax rates to compensate for their deductibility from income for Federal tax purposes.

(i) *Calculation of the CMTR for Year 1.* The following formula shall be used to calculate the CMTR for Year 1.

CMTR Formula: $X = F + (1 - F)S + (1 - F)L$

Where:
X = CMTR for Year 1
F = Federal tax rate for Year 1
S = State tax rate for Year 1
L = local tax rate for Year 1

(A) *Federal, State, and local taxes incurred.* If the employee incurs Federal, State, and local income taxes on moving expense reimbursements, the CMTR formula may be solved as follows:

Example:

If:
F = 35 percent of income
S = 6 percent of income
L = 2 percent of income

Then:
$X = .35 + (1.00 - .35).06 + (1.00 - .35).02$
$X = .4020$

(B) *Federal and State income taxes only.* If the employee incurs tax liability on moving expense reimbursements for Federal and State income taxes but none for local income tax, the value of "L" is zero and the CMTR formula may be solved as follows:

Example:

If:
F = 35 percent of income
S = 6 percent of income
L = Zero

Then:
$X = .35 + (1.00 - .35).06$
$X = .3890$

(C) *Federal and local income taxes only.* If the employee incurs a tax liability on moving expense reimbursements for Federal and local income taxes but none for State income tax, the value of "S" is zero and the CMTR formula may be solved as follows:

Example:

If:
F = 35 percent of income
S = Zero
L = 2 percent of income

Then:
$X = .35 + (1.00 - .35).02$
$X = .3630$

(ii) *Calculation of the CMTR for Year 2.* The calculation of the CMTR for Year 2 is the same as described for Year 1, except that the Federal tax rate for Year 2 is used in place of the Federal tax rate for Year 1. State and local tax rates remain the same as for Year 1. The following formula shall be used to determine the CMTR for Year 2:

CMTR Formula: $W = F + (1 - F)S + (1 - F)L$

Where:
W = CMTR for Year 2
F = Federal tax rate for Year 2
S = State tax rate for Year 1
L = local tax rate for Year 1

(f) *Determination of the RIT allowance.* The RIT allowance to cover the tax liability on additional income resulting from the covered taxable reimbursements received in Year 1 is calculated in Year 2 as provided below:

(1) The RIT allowance is calculated by substituting the amount of covered taxable reimbursements for Year 1, the CMTR's for Year 1 and Year 2, and the total amount of the WTA's paid in Year 1 into the gross-up formula as follows:

Formula:

$$Z = \frac{X}{1 - W}(R) - \frac{1 - X}{1 - W}(Y)$$

Where:
Z = RIT allowance payable in Year 2
X = CMTR for Year 1
W = CMTR for Year 2
R = covered taxable reimbursements
Y = total WTA's paid in Year 1

Example:

If:
X = .4020
W = .3376
R = $21,800
Y = $5,450

Then:

$$Z = \frac{.4020}{1.00 - .3376}(\$21{,}800) - \frac{1.00 - .4020}{1.00 - .3376}(\$5{,}450)$$

$Z = .6069(\$21{,}800) - .9028(\$5{,}450)$
$Z = \$13{,}230.42 - \$4{,}920.26$
$Z = \$8{,}310.16$

(2) There may be instances when a WTA was not paid in Year 1 at the time moving expense reimbursements were made. In cases where there is no WTA to be deducted, the value of "Y" is zero and the formula stated in paragraph (f)(1) of this section, for calculating the amount of the RIT allowance (Z) due the employee in Year 2 may be solved as shown in the following example:

Example:

If:
X = .4020
W = .3376
R = $21,800
Y = Zero

Then:

$$Z = \frac{.4020}{1.00 - .3376}(\$21{,}800)$$

$Z = .6069\ (\$21{,}800)$
$Z = \$13{,}230.42$

(3) If the amount of the RIT allowance is greater than zero, it is payable to the employee on the travel voucher as a relocation or moving expense allowance. The RIT allowance amount is included in the employee's gross income for Year 2 and, therefore, subject to appropriate withholding taxes. (See net payment to employee in paragraph (g) of this section.) The RIT allowance amount will be reported on IRS Form W–2 for Year 2 (including applicable income tax withholding amounts) and on IRS Form 4782 for the employee's information.

(4) If the calculation of the RIT allowance results in a negative amount, the employee is obligated to repay this amount as a debt due the Government. (See §§ 302–11.7(e)(2) and 302–11.9(b).)

(5) Any changes to the employee's income level or filing status for Year 1 that would affect the marginal tax rates (Federal, State, or local) used in calculating the RIT allowance must be reported to the agency by the employee as provided in § 302–11.9(b)(2). (See also § 302–11.10 for certified statement regarding these changes.)

(g) *Determination of the net payment due employee in Year 2.* Since the amount of the RIT allowance is income to the employee in Year 2, it is subject to the same tax withholding requirements as all other moving expense reimbursements. Agencies should determine the appropriate amounts for

withholding taxes under their internal tax withholding procedures. The amount of withholding taxes is deducted from the RIT allowance to arrive at the net payment to the employee.

(h) *Summary example.* The procedures provided in paragraphs (a) through (f) of this section for calculating the RIT allowance, and in § 302–11.7 for calculating the WTA, are summarized and illustrated for a hypothetical situation in Figure 302–11(b).

§ 302–11.9 Responsibilities.

(a) *Agency.* Finance offices will calculate the amount of the gross-up for the WTA in Year 1 in accordance with procedures outlined herein and credit this amount to the employee at the time of reimbursement as provided in § 302–11.7(e). The WTA will be reflected on the employee's Form W–2 for Year 1. The RIT allowance may be calculated in Year 2 either by the employee or by the agency finance office based on information provided by the employee on the voucher, as directed by the agency's implementing policies and procedures. In addition, agencies shall prescribe appropriate and necessary implementing procedures as provided elsewhere in this Part 302–11.

(b) *Employee.* (1) The employee is required to submit a claim for the RIT allowance and to file the tax information for Year 1 specified in § 302–11.10 with his/her agency in Year 2, regardless of whether any additional reimbursement for the RIT allowance is owed the employee. (See § 302–11.7(e) for employee agreement.)

(2) If any action occurs (i.e., amended tax return, tax audit, etc.) that would change the information provided in Year 2 by the employee to his/her agency for use in calculating the RIT allowance due the employee for Year 1 taxes, this information must be provided by the employee to his/her agency under procedures prescribed by the agency. (See § 302–11.10.)

(3) If the calculation of the RIT allowance results in a negative amount, the employee is obligated to repay this amount as a debt due the Government. (See §§ 302–11.7(e)(2) and 302–11.8(f)(4).)

§ 302–11.10 Claims for payment and supporting documentation and verification.

(a) *Claims forms.* Claims for payment of the RIT allowance shall be submitted by the employee in Year 2 on SF 1012 (Travel Voucher) or other authorized travel voucher form. When claiming payment for the RIT allowance, the employee shall furnish and certify to certain tax information that has been or will be shown on his/her actually prepared tax returns. The spouse must also sign statement if joint filing status is claimed and spouse's income is included on statement. This information shall be contained in a certified statement on, or attached to, the SF 1012 reading essentially as follows:

Certified Statement

I certify that the following information, which is to be used in calculating the RIT allowance to which I am entitled, has been (or will be) shown on the income tax returns filed (or to be filed) by me (or by my spouse and me) with the applicable Federal, State, and local (specify which) tax authorities for the 19____ tax year.

—Gross compensation as shown on attached IRS Form(s) W–2 and, if applicable, net earnings (or loss) from self-employment income shown on attached Schedule SE (Form 1040):

	Form(s) W–2	Schedule SE
Employee	$_____	$_____
Spouse (if filing jointly)[1]	$_____	$_____
Total (Both columns)		$_____

—Filing status: _____
(Specify one of the filing status items that was (or will be) claimed on IRS Form 1040.)

—Marginal tax rates from Appendices A, B, and C of 41 CFR Part 302–11 and local tax tables derived under procedures prescribed in 41 CFR Part 302–11:

Federal for Year 1 _____
Federal for Year 2 _____
State (specify which): _____
Local (specify which): _____

The above information is true and accurate to the best of my knowledge. I (we) agree to notify the appropriate agency official of any changes to the above (i.e., from amended tax returns, tax audit, etc.) so that appropriate adjustments to the RIT allowance can be made. The required supporting documents are attached. Additional documentation will be furnished if requested.

I (we) further agree that if the 12–month service agreement required by 41 CFR 302–1.5 is violated, the total amount of the RIT allowance will become a debt due the United States Government and will be repaid according to agency procedures.

_____
Employee's signature
Date _____

_____
Spouse's signature (if filing jointly)[1]
Date _____

[1] If a joint filing status is claimed and spouse's income is included, the spouse must sign the statement. If the spouse does not sign the document, earned income will include only the employee's earned income as provided in 41 CFR 302–11.8(d). This condition will not apply if an employee is allowed, under IRS rules, to file a joint return as a surviving spouse.

(b) *Supporting documentation/verification.* The claim for the RIT allowance shall be supported by documentation attached to the voucher and by verification of State and local tax obligations as provided below:

(1) Copies of the appropriate IRS Forms W–2 and, if applicable, the completed IRS Schedule SE (Form 1040) shall be attached to the voucher to substantiate the income amounts shown in the certified statement. Employee (and spouse, if filing jointly) must agree to provide additional documentation to verify income amounts, filing status, and State and local income tax obligations if requested by the agency.

(2) In order to determine or verify whether a particular State or local tax authority imposes a tax on moving expense reimbursements, it is incumbent upon the appropriate agency officials to become familiar with the State and local tax laws that affect their transferring employees. In cases where the taxability of moving expense reimbursements is not clear, an agency may pay a RIT allowance which reflects only those State and local tax obligations that are clearly imposed under State and local tax law. Once the questionable State or local tax obligations are resolved, agencies may recompute the RIT allowance and make appropriate payment adjustments.

(c) *Fraudulent claims.* A claim against the United States is forfeited if the claimant defrauds or attempts to defraud the Government in connection therewith (28 U.S.C. 2514). In addition, there are two criminal provisions under which severe penalties may be imposed on an employee who knowingly presents a false, fictitious, or fraudulent claim against the United States (18 U.S.C. 287 and 1001). The employee's claim for payment of the RIT allowance shall accurately reflect the facts involved in every instance so that any violation of these provisions will be avoided.

§ 302–11.11 Violation of service agreement.

In the event the employee violates the terms of the service agreement required under § 302–1.5, no part of the RIT allowance or the WTA will be paid, and any amounts paid prior to such violation shall be a debt due the United States until they are repaid by the employee.

§ 302–11.12 Advance of funds.

No advance of funds is authorized in connection with the allowance provided in this Part 302–11.

§ 302–11.13 Source references.

The following references or publications have been used as source material for this Part 302–11.

(a) Internal Revenue Code (IRC), section 164(a)(3) (26 U.S.C. 164(a)(3)) pertaining to the deductibility of State and local income taxes, and section 217 (26 U.S.C. 217), pertaining to moving expenses.

(b) Internal Revenue Service Publication 521, "Moving Expenses."

(c) Internal Revenue Service, Circular E, "Employer's Tax Guide."

(d) Department of the Treasury Financial Manual, TFM 3–5000.

(e) 31 CFR 215.2 (5 U.S.C. 5516, 5517, and 5520).

Figure 302–11(a)—Illustration of Calculation of Covered Taxable Reimbursements in Year 2

The following example shows how to calculate covered taxable reimbursements as provided in § 302–11.8. Column (a) shows hypothetical moving expense reimbursements. Column (b) shows Federal moving expense deductions for employee and spouse filing a joint return and residing together at the end of the tax year (see footnote [5]). Column (c) shows the balance of the covered reimbursements in column (a) which have not been offset by moving expense deductions in column (b). Amounts shown are for illustration purposes only and should not be construed in any way to represent actual, average, or typical moving costs.

Covered allowances (§ 302–11.3)		Amount paid/ reimbursed (a) [1]	Maximum moving expense deduction (b) [2]	Amount of covered taxable reimburse-ments (c) = (a) − (b) [3]
1. Travel and transporation expenses between duty stations		[4] $1,150	[4] $1,150	[4] $0
2. Transportation and 30 days temporary storage of household goods (HHG's)		[4] 5,100	[4] 5,100	[4] 0
3. Temporary storage of HHG's not included on line 2, and/or nontemporary storage (see § 302–11.3(c))		1,100	0	1,100
4. Mobile home movement instead of HHG's		0	0	0
5. Miscellaneous expense allowance		700	0	700
6. Househunting trip	$1,550			
7. Temporary quarters, 30 days, new station	2,550			
8. Total lines 6 and 7		4,100		
9. Enter lesser of line 8 or $1,500 as deductible amount in column (b) [5]			1,500	
10. Enter balance of line 8 minus line 9				2,600
11. Temporary quarters in excess of line 7		1,900	0	1,900
12. Real estate transactions resulting from:				
(a) Sale expenses	13,500			
(b) Purchase expenses	3,500			
(c) Unexpired lease	0			
(d) Relocation services [6]	0			
13. Total of items (a) through (d), line 12		17,000		
14. Enter lesser of line 13 or $3,000 less deductible amount used on line 9 [5]			1,500	
15. Balance of line 13 minus line 14				15,500
16. Relocation services not included on line 12(d) [6]		[6] 0	[6] 0	[6] 0
17. Total columns (a), (b), and (c)		31,050	[7] 9,250	[8] 21,800
18. Total amount of WTA's paid in Year 1		[9] 5,450		
19. Total lines 17 and 18, column (a)		[10] 36,500		

[1] Enter in column (a) the amounts of reimbursed expenses for the allowances listed in § 302–11.3.

[2] Enter in column (b) the maximum amounts of the reimbursed expenses in column (a) which are deductible moving expenses. (See § 302–11.8(c)(2); also see footnote [4].)

[3] Enter in column (c) the balance of column (a) minus column (b). (See § 302–11.8(c).)

[4] The amount entered in column (b) for lines 1 and 2 should be the same as that entered in column (a). (See § 302–11.8(c)(2)(i).) Column (c) will be zero.

[5] Limits may vary according to filing status, etc. (See page 5 of IRS Publication 521, Moving Expenses.)

[6] In this example, relocation services were not used—employee declined. (See Part 302–12 and employing agency policy.) However, if relocation services were used, any amounts paid to the relocation service company that are determined to be income to the employee (see §§ 302–11.3(i), 302–11.4(a) and 302–12.7) and covered by the RIT allowance would be entered on lines 12(d) and 16, column (a), as appropriate. In such cases, the amount shown in column (c) as a covered taxable reimbursement would depend on whether any part of the amount in column (a) is a moving expense deduction in column (b). All amounts included in column (a) may not be deductible, and there are limitations as to what can be included as a covered reimbursement under § 302–11.3(i).

[7] In an actual situation, the total moving expense deductions calculated for purposes of the RIT allowance may differ from the total moving expense deductions shown on the employee's IRS Form 3903 because of relocation expenses incurred which are not paid for or reimbursed by the Government but which may be claimed as a moving expense deduction for Federal tax purposes; e.g., extra valuation insurance for household goods shipments.

[8] The amount on line 17, column (c), is the amount of covered taxable reimbursements to be used in the gross-up formula for the RIT allowance.

[9] Enter total amount of all WTA's paid in Year 1 on line 18, column (a) only. This amount is an estimated partial payment of the RIT allowance. It is not included in the amount of covered taxable reimbursements determined for calculation of the RIT allowance. (See § 302–11.8(c)(4).)

[10] The total amount of moving expenses paid or reimbursed determined for the RIT allowance procedures may differ from the amount shown on the IRS Form 4782 because of moving expenses paid or reimbursed which are not covered by the RIT allowance. (See exclusions in § 302–11.4.)

Figure 302–11(b)—Summary of RIT Allowance Procedures

Year 1: In 1987, the employee received $31,050 in covered moving expense reimbursements. After subtracting $9,250 of deductible moving expenses, $21,800 of the reimbursements (nondeductible moving expenses) were subject to Federal tax withholding. This example assumes that all reimbursements were paid on one voucher. Apply WTA formula:

$$Y = \frac{X}{1-X}(N)$$

Where:

Y = WTA

X = Federal withholding tax rate (.20)

N = nondeductible moving expenses/ covered taxable reimbursements ($21,800)

Then:

$$Y = \frac{.20}{1.00-.20}(\$21,800)$$

Y = $5,450

Compute net payment to employee in Year 1:

Total covered moving expense reimbursement in Year 1	$31,050
Less deductible moving expenses	−9,250
Nondeductible covered moving expenses subject to withholding	[1] 21,800

Plus WTA on $21,800 ..... +5,450

Amount subject to withholding 27,250

Year 2: In 1988, the amount of the RIT allowance is determined on the basis of covered reimbursements in Year 1. Assume that $21,800 of nondeductible moving expenses is the same as the covered taxable reimbursements. Also, assume that employee and spouse (married, filing jointly) have combined earned income of $65,000. Thus, Federal marginal tax rates would be 35 percent for Year 1 (from Appendix A of this Part 302–11) and 28 percent for Year 2 (from Appendix C of this Part 302–11). Also assume the applicable State and local marginal tax rates are 6 percent and 2 percent, respectively, of taxable income.

Apply CMTR formula for Year 1:

$X=F+(1-F)S+(1-F)L$

Where:

X=CMTR for Year 1

F=Federal tax rate for Year 1 (.35)

S=State tax rate for Year 1 (.06)

L=local tax rate for Year 1 (.02)

Then:

$X=.35+(1.00-.35).06+(1.00-.35).02$

$X=.35+.0390+.0130$

$X=.4020$

Apply CMTR formula for Year 2:

$W=F+(1-F)S+(1-F)L$

Where:

W=CMTR for Year 2

F=Federal tax rate for Year 2 (.28)

S=State tax rate for Year 1 (.06)

L=local tax rate for Year 1 (.02)

Then:

$W=.28+(1.00-.28).06+(1.00-.28).02$

$W=.28+.0432+.0144$

$W=.3376$

Apply RIT gross-up formula:

$$Z=\frac{X}{1-W}(R)-\frac{1-X}{1-W}(Y)$$

Where:

Z=RIT allowance payable in Year 2

X=CMTR for Year 1 (.4020)

W=CMTR for Year 2 (.3376)

R=covered taxable reimbursements for Year 1 ($21,800)

Y=WTA paid in Year 1 ($5,450)

Then:

$$Z=\frac{.4020}{1.00-.3376}(\$21,800)-\frac{1.00-.4020}{1.00-.3376}(\$5,450)$$

$Z=.6069(\$21,800)-.9028(\$5,450)$

$Z=\$13,230.42-\$4,920.26$

$Z=\$8,310.16$ [2] [3]

[1] The WTA allowance is treated as a moving expense reimbursement for tax withholding purposes.

[2] See § 302–11.8(f)(2) if no WTA is involved.

[3] The RIT allowance is treated as a moving expense reimbursement for tax withholding purposes. After subtracting the applicable withholding amounts the balance is the net payment due the employee.

Appendix A to Part 302–11—Federal Tax Tables for RIT Allowance

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Years 1983/1984

The following table is to be used to determine the Federal marginal tax rate for computation of the RIT allowance as prescribed in § 302–11.8(e)(1).

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11	$3,519	$4,692	$5,742	$7,845	$8,265	$10,356	$4,017	$5,220
12	4,692	5,812	7,845	9,830	10,356	12,587	5,220	6,514
14	5,812	8,010	9,830	11,979	12,587	17,415	6,514	8,215
15	8,010	10,102	N/A	N/A	N/A	N/A	N/A	N/A
16	10,102	12,586	N/A	N/A	17,415	22,090	8,215	10,524
17	N/A	N/A	11,979	15,480	N/A	N/A	N/A	N/A
18	12,586	14,953	15,480	19,216	22,090	26,915	10,524	13,105
20	14,953	17,340	19,216	23,330	N/A	N/A	N/A	N/A
22	N/A	N/A	N/A	N/A	26,915	32,198	13,105	15,068
23	17,340	21,186	N/A	N/A	N/A	N/A	N/A	N/A
24	N/A	N/A	23,330	29,738	N/A	N/A	N/A	N/A
25	N/A	N/A	N/A	N/A	32,198	38,335	15,068	18,748
26	21,186	27,362	N/A	N/A	N/A	N/A	N/A	N/A
28	N/A	N/A	29,738	35,682	38,335	45,082	18,748	21,934
30	27,362	34,022	N/A	N/A	N/A	N/A	N/A	N/A
32	N/A	N/A	35,682	43,397	N/A	N/A	N/A	N/A
33	N/A	N/A	N/A	N/A	45,082	58,888	21,934	27,415
34	34,022	41,150	N/A	N/A	N/A	N/A	N/A	N/A
35	N/A	N/A	43,397	59,143	N/A	N/A	N/A	N/A
38	41,150	49,875	N/A	N/A	58,888	78,203	27,415	35,991
42	49,875	64,832	59,143	78,622	78,203	107,463	35,991	49,858
45	N/A	N/A	78,622	101,019	107,463	132,836	49,858	62,195
48	64,832	92,257	101,019	128,517	N/A	N/A	N/A	N/A
49	N/A	N/A	N/A	N/A	132,836	186,961	62,195	89,006
50	92,257	.....	128,517	.....	186,961	.....	89,006	.....

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1985

The following table is to be used to determine the Federal marginal tax rate for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1985.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11	$3,455	$4,668	$4,834	$7,245	$7,770	$9,566	$3,329	$4,460
12	4,668	5,865	7,245	9,726	9,566	12,134	4,460	5,767

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
14	5,865	8,209	9,726	12,174	12,134	17,001	5,767	8,384
15	8,209	10,420	N/A	N/A	N/A	N/A	N/A	N/A
16	10,420	12,957	N/A	N/A	17,001	21,757	8,384	10,689
17	N/A	N/A	12,174	15,623	N/A	N/A	N/A	N/A
18	12,957	15,242	15,623	19,303	21,757	26,795	10,689	13,161
20	15,242	17,601	19,303	23,250	N/A	N/A	N/A	N/A
22	N/A	N/A	N/A	N/A	26,795	32,275	13,161	15,569
23	17,601	21,513	N/A	N/A	N/A	N/A	N/A	N/A
24	N/A	N/A	23,250	29,995	N/A	N/A	N/A	N/A
25	N/A	N/A	N/A	N/A	32,275	39,016	15,569	18,966
26	21,513	28,102	N/A	N/A	N/A	N/A	N/A	N/A
28	N/A	N/A	29,995	37,075	39,016	46,428	18,966	22,953
30	28,102	35,112	N/A	N/A	N/A	N/A	N/A	N/A
32	N/A	N/A	37,075	44,145	N/A	N/A	N/A	N/A
33	N/A	N/A	N/A	N/A	46,428	60,694	22,953	29,565
34	35,112	42,507	N/A	N/A	N/A	N/A	N/A	N/A
35	N/A	N/A	44,145	59,644	N/A	N/A	N/A	N/A
38	42,507	53,394	N/A	N/A	60,694	80,537	29,565	39,359
42	53,394	72,157	59,644	83,982	80,537	114,119	39,359	54,702
45	N/A	N/A	83,982	113,966	114,119	147,522	54,702	75,409
48	72,157	101,995	113,966	145,359	N/A	N/A	N/A	N/A
49	N/A	N/A	N/A	N/A	147,522	207,441	75,409	110,906
50	101,995	.....	145,359	.....	207,441	.....	110,906	.....

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1986

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1986.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11	$6,180	$7,370	$6,782	$9,533	$9,670	$11,795	$5,840	$7,879
12	7,370	8,450	9,533	10,523	11,795	13,739	7,879	9,665
14	8,450	10,710	10,523	12,705	13,739	18,356	9,665	11,000
15	10,710	11,775	N/A	N/A	N/A	N/A	N/A	N/A
16	11,775	13,197	N/A	N/A	18,356	23,068	11,000	11,600
17	N/A	N/A	12,705	16,050	N/A	N/A	N/A	N/A
18	13,197	15,648	16,050	19,764	23,068	27,963	11,600	13,947
20	15,648	18,108	19,764	23,841	N/A	N/A	N/A	N/A
22	N/A	N/A	N/A	N/A	27,963	33,533	13,947	16,843
23	18,108	22,040	N/A	N/A	N/A	N/A	N/A	N/A
24	N/A	N/A	23,841	29,849	N/A	N/A	N/A	N/A
25	N/A	N/A	N/A	N/A	33,533	40,202	16,843	20,297
26	22,040	28,198	N/A	N/A	N/A	N/A	N/A	N/A
28	N/A	N/A	29,849	35,320	40,202	46,870	20,297	22,659
30	28,198	33,918	N/A	N/A	N/A	N/A	N/A	N/A
32	N/A	N/A	35,320	41,715	N/A	N/A	N/A	N/A
33	N/A	N/A	N/A	N/A	46,870	59,477	22,659	30,364
34	33,918	40,741	N/A	N/A	N/A	N/A	N/A	N/A
35	N/A	N/A	41,715	54,643	N/A	N/A	N/A	N/A
38	40,741	47,419	N/A	N/A	59,477	76,132	30,364	44,795
42	47,419	64,468	54,643	74,430	76,132	104,120	44,795	55,653
45	N/A	N/A	74,430	112,442	104,120	128,224	55,653	69,383
48	64,468	96,172	112,442	129,934	N/A	N/A	N/A	N/A
49	N/A	N/A	N/A	N/A	128,224	183,988	69,383	106,160
50	96,172	.....	129,934	.....	183,988	.....	106,160	.....

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1987

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1987.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11	$4,650	$6,481	$7,763	$10,309	$10,400	$13,719	$5,811	$7,081
15	6,481	21,979	10,309	31,379	13,719	40,020	7,081	19,602
28	21,979	33,433	31,379	47,903	40,020	58,705	19,602	31,572
35	33,433	58,810	47,903	88,015	58,705	101,432	31,572	54,120
38.5	58,810		88,015		101,432		54,120	

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1988

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1988.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$5,260	$23,920	$9,440	$34,215	$12,500	$43,410	$6,200	$21,880
28	23,920	52,310	34,215	77,300	43,410	88,740	21,880	47,475
33	52,310	113,370	77,300	166,910	88,740	197,820	47,475	133,415
28	113,370		166,910		197,820		133,415	

Appendix B to Part 302–11—State Tax Tables for RIT Allowance

State Marginal Tax Rates by Earned Income Level—Tax Years 1983/1984

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(1).

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	8	8	8	8
4. Arkansas	6	7	7	7
5. California	3	7	11	11
If single status [3]	8	11	11	11
6. Colorado	8	8	8	8
7. Connecticut	0	0	0	0
8. Delaware	8.4	11	13.5	13.5
If single status [3]	8.8	12.2	13.5	13.5
9. District of Columbia	10	11	11	11
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.5	10	10.5	11
If single status [3]	10.5	11	11	11
13. Idaho	7.5	7.5	7.5	7.5
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3	3	3	3
16. Iowa	8	11	12	13
17. Kansas	7.5	9	9	9
18. Kentucky	6	6	6	6
19. Louisiana	4	4	6	6
20. Maine	8	9.2	10	10
If single status [3]	9.2	10	10	10
21. Maryland	5	5	5	5
22. Massachusetts	5.375	5.375	5.375	5.375
23. Michigan	5.35	5.35	5.35	5.35
24. Minnesota	14	16	16	16
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	9	10	11	11
28. Nebraska	* 19 percent of Federal income tax liability [4]			
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.9	5.6	6.5	7.8
If single status [3]	6.1	6.9	7.4	7.8
33. New York	11	14	14	14
If single status [3]	13	14	14	14

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & over
34. North Carolina	7	7	7	7
35. North Dakota	6	8	9	9
36. Ohio	4.75	5.7	6.65	9.5
37. Oklahoma	6	6	6	6
38. Oregon	10.8	10.8	10.8	10.8
39. Pennsylvania	2.35	2.35	2.35	2.35
40. Rhode Island	* 25.5 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 26 percent of Federal income tax liability [4]			
47. Virginia	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	3.5	7.4	10.5	13
If single status [3]	8.2	12.6	13	13
50. Wisconsin	8.7	9.5	10	10
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2).

State Marginal Tax Rates by Earned Income Level—Tax Year 1985

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in FTR § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1985.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	8	8	8	8
4. Arkansas	6	7	7	7
5. California	3	7	11	11
If single status [3]	8	11	11	11
6. Colorado	8	8	8	8
7. Connecticut	0	0	0	0
8. Delaware	7.6	9.9	10.7	10.7
9. District of Columbia	10	11	11	11
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.5	10	10.5	11
If single status [3]	10.5	11	11	11
13. Idaho	7.5	7.5	7.5	7.5
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3	3	3	3
16. Iowa	8	11	12	13
17. Kansas	7.5	9	9	9
18. Kentucky	6	6	6	6
19. Louisiana	4	4	6	6
20. Maine	7	9.2	10	10
If single status [3]	9.2	10	10	10
21. Maryland	5	5	5	5
22. Massachusetts	5.375	5.375	5.375	5.375
23. Michigan	5.35	5.35	5.35	5.35
24. Minnesota	14	16	16	16
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	9	10	11	11
28. Nebraska	* 19 percent of Federal income tax liability [4]			
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.5	5.6	6.5	7.8
If single status [3]	6.1	6.9	7.4	7.8
33. New York	11	14	14	14
If single status [3]	13	14	14	14
34. North Carolina	7	7	7	7
35. North Dakota	6	8	9	9

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
36. Ohio	4.75	5.7	6.65	9.5
37. Oklahoma	6	6	6	6
38. Oregon	10.8	10.8	10.8	10.8
39. Pennsylvania	2.35	2.35	2.35	2.35
40. Rhode Island	* 23.15 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 26.5 percent of Federal income tax liability [4]			
47. Virginia	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	3.5	7.4	10.5	13
If single status [3]	8.2	12.6	13	13
50. Wisconsin	8.7	9.5	10	10
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2).

State Marginal Tax Rates by Earned Income Level—Tax Year 1986

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1986.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	8	8	8	8
4. Arkansas	6	7	7	7
5. California	3	7	11	11
If single status [3]	8	11	11	11
6. Colorado	8	8	8	8
7. Connecticut	0	0	0	0
8. Delaware	6.9	9.0	9.7	9.7
9. District of Columbia	10	11	11	11
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.5	10.0	10.5	11
If single status [3]	10.5	11	11	11
13. Idaho	7.5	7.5	7.5	7.5
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3	3	3	3
16. Iowa	8	11	12	13
17. Kansas	7.5	9	9	9
18. Kentucky	6	6	6	6
19. Louisiana	4	4	6	6
20. Maine	7	9.2	10	10
If single status [3]	9.2	10	10	10
21. Maryland	5	5	5	5
22. Massachusetts	5.19	5.19	5.19	5.19
23. Michigan	4.725	4.725	4.725	4.725
24. Minnesota	11	14	14	14
If single status [3]	14	14	14	14
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	9	10	11	11
28. Nebraska	* 19 percent of Federal income tax liability [4]			
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	4.8	6.9	7.7	8.5
33. New York	11	13.5	13.5	13.5
34. North Carolina	7	7	7	7
35. North Dakota	6	8	9	9
36. Ohio	4.513	5.415	6.318	9.025
37. Oklahoma	6	6	6	6

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
38. Oregon	9.75	9.75	9.75	9.75
39. Pennsylvania	2.167	2.167	2.167	2.167
40. Rhode Island	* 22.21 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 26.5 percent of Federal income tax liability [4]			
47. Virginia	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	3.5	7.4	10.5	13
If single status [3]	8.2	12.6	12.9	13
50. Wisconsin	9.1	9.5	10	10
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2).

State Marginal Tax Rates by Earned Income Level—Tax Year 1987

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1987.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	7	8	8	8
4. Arkansas	4.5	7	7	7
If single status [3]	6	7	7	7
5. California	2	9.3	9.3	9.3
If single status [3]	8	9.3	9.3	9.3
6. Colorado	5	5	5	5
7. Connecticut	0	0	0	0
8. Delaware	6.1	8.2	8.8	8.8
9. District of Columbia	8	10	10	10
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.25	9.75	10	10
If single status [3]	9.75	10	10	10
13. Idaho	7.8	8.2	8.2	8.2
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3.2	3.2	3.2	3.2
16. Iowa	7	11	12	13
17. Kansas	7.5	9	9	9
18. Kentucky	6	6	6	6
19. Louisiana	4	4	6	6
20. Maine	3	9.2	10	10
If single status [3]	9.2	10	10	10
21. Maryland	5	5	5	5
22. Massachusetts	5	5	5	5
23. Michigan	4.6	4.6	4.6	4.6
24. Minnesota	8	9	9	9
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	7	10	11	11
If single status [3]	9	10	11	11
28. Nebraska	3.2	5	5.9	5.9
If single status [3]	5	5.9	5.9	5.9
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.8	5.9	7.7	8.5
If single status [3]	5.8	7.7	8.5	8.5
33. New York	7	8.75	8.75	8.75
If single status [3]	8.75	8.75	8.75	8.75
34. North Carolina	7	7	7	7
35. North Dakota	6.67	9.33	12	12
If single status [3]	8	10.67	12	12

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & over
36. Ohio	3.004	4.506	5.257	6.008
37. Oklahoma	4	6	6	6
If single status [3]	6	6	6	6
38. Oregon	9	9	9	9
39. Pennsylvania	2.1	2.1	2.1	2.1
40. Rhode Island	* 23.46 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 25.8 percent of Federal income tax liability [4]			
47. Virginia	5	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	4	4.5	6	6.5
If single status [3]	4	6	6.5	6.5
50. Wisconsin	6.55	6.93	6.93	6.93
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2).

State Marginal Tax Rates by Earned Income Level—Tax Year 1988

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1988.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	6	8	8	8
If single status [3]	8	8	8	8
4. Arkansas	4.5	7	7	7
If single status [3]	6	7	7	7
5. California	2	6	9.3	9.3
If single status [3]	6	9.3	9.3	9.3
6. Colorado	5	5	5	5
7. Connecticut	0	0	0	0
8. Delaware	6	7.6	7.7	7.7
If single status [3]	6	7.7	7.7	7.7
9. District of Columbia	8	9.5	9.5	9.5
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8.25	9.75	10	10
If single status [3]	9.75	10	10	10
13. Idaho	7.5	7.8	8.2	8.2
If single status [3]	7.8	8.2	8.2	8.2
14. Illinois	2.5	2.5	2.5	2.5
15. Indiana	3.4	3.4	3.4	3.4
16. Iowa	6.8	8.8	9.98	9.98
If single status [3]	7.2	8.8	9.98	9.98
17. Kansas	4.05	5.3	5.3	5.3
If single status [3]	4.8	6.1	6.1	6.1
18. Kentucky	6	6	6	6
19. Louisiana	2	4	4	6
If single status [3]	4	4	6	6
20. Maine	2	8	8	8
If single status [3]	8	8	8	8
21. Maryland	5	5	5	5
22. Massachusetts	5	5	5	5
23. Michigan	4.6	4.6	4.6	4.6
24. Minnesota	6	8	8	8.5
If single status [3]	8	8.5	8.5	8.5
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	7.7	11	12.1	12.1
If single status [3]	8.8	11	12.1	12.1
28. Nebraska	3.15	5	5.9	5.9
If single status [3]	5	5.9	5.9	5.9

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.8	6.9	7.7	8.5
If single status [3]	5.8	8.5	8.5	8.5
33. New York	5	8.375	8.375	8.375
If single status [3]	8.375	8.375	8.375	8.375
34. North Carolina	7	7	7	7
35. North Dakota	* 14 percent of Federal income tax liability [4]			
36. Ohio	2.972	4.457	5.201	6.9
If single status [3]	3.715	5.201	5.201	6.9
37. Oklahoma	4	6	6	6
If single status [3]	6	6	6	6
38. Oregon	9	9	9	9
39. Pennsylvania	2.1	2.1	2.1	2.1
40. Rhode Island	* 22.96 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.75	7.75	7.75	7.75
46. Vermont	* 23 percent of Federal income tax liability [4]			
47. Virginia	5	5.75	5.75	5.75
If single status [3]	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	4	4.5	6.5	6.5
If single status [3]	4	6	6.5	6.5
50. Wisconsin	6.55	6.93	6.93	6.93
If single status [3]	6.93	6.93	6.93	6.93
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2).

Appendix C to Part 302–11—Federal Tax Tables for RIT Allowance—Year 2

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1987

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1983, 1984, 1985, and 1986.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
11	$4,650	$6,481	$7,763	$10,309	$10,400	$13,719	$5,811	$7,081
15	6,481	21,979	10,309	31,379	13,719	40,020	7,081	19,602
28	21,979	33,433	31,379	47,903	40,020	58,705	19,602	31,572
35	33,433	58,810	47,903	88,015	58,705	101,432	31,572	54,120
38.5	58,810		88,015		101,432		54,120	

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1988

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1983, 1984, 1985, 1986, and 1987.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$5,260	$23,920	$9,440	$34,215	$12,500	$43,410	$6,200	$21,880
28	23,920	52,310	34,215	77,300	43,410	88,740	21,880	47,475

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
33	52,310	113,370	77,300	166,910	88,740	197,820	47,475	133,415
28	113,370		166,910		197,820		133,415	

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1989

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1983, 1984, 1985, 1986, 1987, 1988.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$5,320	$24,111	$9,061	$33,963	$12,940	$43,397	$6,723	$23,089
28	24,111	50,311	33,963	71,688	43,397	84,030	23,089	54,177
33	50,311	110,883	71,688	164,538	84,030	198,284	54,177	145,523
28	110,883		164,538		198,284		145,523	

PART 302–12—USE OF RELOCATION SERVICE COMPANIES

Sec.
302–12.1 Authority.
302–12.2 Policy.
302–12.3 Agency responsibilities.
302–12.4 General conditions and limitations for eligibility.
302–12.5 Procedural requirements and controls.
302–12.6 Form and scope of relocation service contracts.
302–12.7 Income tax consequences of using relocation companies.

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747); E.O. 12466, February 27, 1984 (49 FR 7349); E.O. 12522, June 24, 1985 (50 FR 26337).

§ 302–12.1 Authority.

The law (5 U.S.C. 5724c) specifically provides each agency (as defined in 5 U.S.C. 5721 and § 302–1.4(d)) with discretionary authority to enter into contracts with private firms to provide relocation services to agencies and employees. Such services include, but need not be limited to, arranging for the purchase of a transferred employee's residence. Agencies exercising this discretionary authority shall carry out their responsibilities under 5 U.S.C. 5724c within the guidelines of this directive. These guidelines are issued under the authority delegated to the Administrator of General Services by Executive Order 12466 dated February 27, 1984.

§ 302–12.2 Policy.

The Government recognizes every dollar spent on the relocation of civilian employees as a cost of doing business that should specifically be directed towards meeting the highest priority needs of the agency's mission and its programs. Use of authorized relocation services may provide agencies with a vehicle to improve the treatment of employees who are directed to relocate and thereby facilitate retention of well-qualified employees. To the extent that these services and the increased relocation entitlements and allowance maximums increase the overall cost of relocations, agencies may find it necessary to reassess their relocation policies and practices because increased costs may further limit the number of employees that can be relocated.

§ 302–12.3 Agency responsibilities.

It is the responsibility of each agency head, or his/her designee, to determine whether, to what extent, and under what conditions relocation services will be made available to employees transferring within the agency and those transferred between agencies. This determination will be made based on an analysis of the agency's relocation needs, availability of funds, and in accordance with these guidelines.

§ 302–12.4 General conditions and limitations for eligibility.

(a) *Employees covered.* Relocation services may be made available to employees only when both of the following conditions are met:

(1) The employee's transfer from one official station to another is determined to be in the interest of the Government and is not primarily for the convenience or benefit of the employee or at his/her request; and

(2) The effective date of the employee's transfer is on or after November 14, 1983 (the effective date of transfer is the date the employee reports for duty at the new official station as provided in § 302–1.4(k)).

(b) *Persons excluded from coverage.* The provisions of this Part 302–12 are not applicable to the following individuals/employees:

(1) New appointees, including those covered under § 302–1.11 (i.e., new appointees to shortage category and Senior Executive Service positions and Presidential appointees);

(2) Employees assigned under the Government Employees Training Act (5 U.S.C. 4109); or

(3) Employees assigned or transferred to or from a post of duty in a foreign area.

§ 302–12.5 Procedural requirements and controls.

(a) *Employee option.* Employees offered use of relocation services by their agencies should be given the option to accept or reject the offer.

(b) *Dual benefit prohibited.* Once an employee is offered, and decides to use, the services of a relocation company, reimbursement to the employee shall not be allowed for expenses authorized under this Chapter 302, Parts 302–1 through 302–10, that are analogous or similar to expenses or the cost for services that the agency will pay for under the relocation service contract.

(c) *Service agreements.* The employee must have signed a service agreement as required in § 302–1.5. In the event the employee violates the terms of the agreement, the Government reserves the right to recover from the employee any and all payments made to the relocation company on the employee's behalf.

(d) *Ineligible individuals.* Agencies should not make payments to relocation companies that will benefit ineligible individuals. For example, where joint ownership of a residence exists between an eligible transferring employee and a non-government employee, the benefits derived from relocation services could accrue equally to the ineligible party. This type of situation is addressed for direct reimbursements of real estate expenses under § 302–6.1(f); similar provisions should be made for relocation service contracts.

§ 302–12.6 Form and scope of relocation service contracts.

Once a decision has been made by the agency to enter into contracts to provide relocation services to its employees (see §§ 302–12.3 and 302–12.4), the agency shall recognize the following:

(a) *General considerations.* (1) Contracts for relocation services shall be awarded through a competitive process to ensure compliance with procurement law and attain the best possible service to meet a particular agency's relocation needs at the least cost to the agency. Agencies should attempt to assure that adequate geographic coverage exists.

(2) Relocation companies offer a wide variety of services to assist the relocating employee. Subject to these regulatory guidelines, each agency will determine through its contracts with the relocation companies the exact nature of the services to be offered its employees. Since the use of relocation companies could entail costs substantially in excess of those authorized in this Chapter 302, Parts 302–1 through 302–10, agencies should exercise prudent management discretion when deciding which relocation services should be included in the contracts.

(b) *Requirement that contracts not violate other regulatory or statutory provisions.* (1) GSA has established certain travel and transportation programs that agencies are required to use. Examples are the centralized household goods traffic management program, the airline services contracts, and travel management center contracts. While similar services may be offered by relocation companies, agencies cannot use them. However, this restriction does not prohibit agencies from incorporating the GSA centralized household goods traffic management program, as a mandatory services source, into contracts with relocation service companies. Thus, relocation companies may act as third-party service firms to administer GSA's centralized household goods traffic management program on behalf of the contracting agency.

(2) Federal agencies should ensure that contracts with relocation companies that are on a cost reimbursable basis include only those services that are analogous to the allowable expenses authorized in this Chapter 302, and that the payments for such services are limited to the maximum amounts specified in this Chapter 302. Agencies must recognize that the statute and the provisions of this Chapter 302 contain certain limitations and restrictions which are not overridden by the new authority for relocation services. For example, the law:

(i) Prohibits payment for market losses. The provisions of 5 U.S.C. 5724a(a)(4), which authorize reimbursement for the expenses of the sale and purchase of employee's residence also provide that "reimbursement may not be made for losses on the sale of the residence." As implemented in § 302–6.2(e), losses due to failure to sell a residence at the old official station at the price asked, at its current appraised value, or at its original cost, or due to failure to buy a dwelling at the new official station at a price comparable to the selling price at the old official station, and any similar losses, are not reimbursable.

(ii) Does not provide for payment of mortgage interest differentials. A mortgage interest differential is the difference between the interest rate of the mortgage on the residence at the old official station and the interest rate of the mortgage on the residence being purchased at the new official station.

(iii) Does not authorize purchase of an employee's home. The law (5 U.S.C. 5724c) authorizes agencies to enter into contracts for relocation services and provides that such services may include "arranging for the purchase of a transferred employee's residence." However, it does not authorize the Government to become a homeowner either by direct purchase of the home from the employee or by taking title to the employee's home through the relocation company.

(c) *Advantages of flat-fee contracts.* If a relocation company agrees to accept the responsibilities of ownership for the transferred employee's residence after payment of a one-time flat fee by an agency, it would be offering a service clearly distinguishable from those discussed in paragraph (b)(2) of this section. Once the flat fee is established, it is paid instead of the actual expenses that normally would be paid by an agency under a cost reimbursable contract. This type of arrangement is advantageous in that it limits the Government's financial obligation and simplifies administrative procedures in accounting for costs.

§ 302–12.7 Income tax consequences of using relocation companies.

In entering into contracts with relocation companies, agencies should consider the income tax consequences for the employee. Certain payments on behalf of the employee to a relocation company may constitute taxable income to the employee, depending on the specific terms of the contract. Under the provisions of 5 U.S.C. 5724b, additional taxes resulting from such income would be covered by the relocation income tax allowance as provided in Part 302–11. For further information relating to the income tax consequences of payments to relocation companies, agencies should contact the Internal Revenue Service, 111 Constitution Avenue, NW., (CC:IND:I) Room 5019, Washington, DC 20224.

CHAPTER 303—PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES

Part 303–1 General.
Part 303–2 Allowances.

CHAPTER 303—PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES

PART 303–1—GENERAL

Sec.
303–1.1 Authority.
303–1.2 Responsibility.
303–1.3 Death related to performance of official duty.
303–1.4 Method of payment.
303–1.5 Death during period of absence from duty.
303–1.6 Escort for remains.

Authority: 5 U.S.C. 5721–5734, 5741–5742; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 303–1.1 Authority.

This Chapter 303 sets forth the allowable expenses, not otherwise provided for by law, authorized by 5 U.S.C. 5742(b) for the preparation and transportation of the remains of a deceased employee, and by 5 U.S.C. 5722 (see § 303–2.6) for the transportation of the immediate family and household goods of a deceased employee. These provisions apply to employees while they are on official travel and temporary duty, absent from duty at temporary duty stations, and at official duty stations outside the continental United States. These provisions are applicable whether the employees' deaths were or were not work-related.

§ 303–1.2 Responsibility.

It is the responsibility of the head of an agency or his/her designated representative upon being informed of an employee's death which occurred while in any status subject to the provisions of this regulation, immediately to inform the decedent's next of kin or legal representative of the provisions of this Chapter 303. The agency head or his/her designated representative shall render every reasonable assistance in arranging for preparation and transportation of the remains of the decedent when death occurs during a travel status or at the official station outside the United States. Also, the agency head or his/her designated representative shall provide necessary assistance for the return of the decedent's immediate family and household goods to the official residence when the decedent's official station was outside the continental United States.

§ 303–1.3 Death related to performance of official duty.

When an employee's death results from injuries sustained while he/she was actually performing official duty, the expenses for preparation and transportation of the remains will be properly payable under the provisions of 5 U.S.C. 8134. The authorized allowances may not be denied because of the deceased employee's entitlement to burial benefits as a veteran of the Armed Forces of the United States.

§ 303–1.4 Method of payment.

Payment of allowable expenses may be made direct to the person performing the services or by reimbursement to any person making the original payment. Claims for reimbursement shall be supported by receipts. When the remains are transported by common carrier via express service through the use of a Standard Form 1103, U.S. Government Bill of Lading, or through the use of a Standard Form 1169, U.S. Government Transportation Request, payment shall be made on the appropriate voucher forms.

§ 303–1.5 Death during period of absence from duty.

The provisions of this Chapter 303 apply when an employee dies while temporarily away from his/her temporary duty station or official station outside the United States (during a period of travel within or outside the United States or while stationed outside the United States). If the temporary absence is for the purpose of taking leave or occurs during nonworkdays, the allowable cost for the transportation of remains shall not exceed the amount which would have been allowed if death had occurred at the temporary duty station or at the official station outside the United States.

§ 303–1.6 Escort for remains.

Travel expenses of an escort for the decedent are not allowable.

PART 303–2—ALLOWANCES

Sec.

303–2.1 Preparation of employee remains.
303–2.2 Allowable costs for preparation of remains.
303–2.3 Transportation of employee remains.
303–2.4 Transportation of remains of a member of an employee's immediate family.
303–2.5 Allowable costs for transportation of employee remains.
303–2.6 Transportation of the immediate family and household goods.
303–2.7 Transportation of baggage.
303–2.8 Prohibition of payment when other laws apply.

Authority: 5 U.S.C. 5721–5734, 5741–5742; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 303–2.1 Preparation of employee remains.

The amount allowed for preparing the remains of an employee who dies while traveling on official business within the continental United States is limited to $250. When death occurs during a travel status outside the continental United States or at the official station outside the United States, the head of the agency concerned or his/her designated representative shall allow actual costs for preparation of the remains of an employee.

§ 303–2.2 Allowable costs for preparation of remains.

Allowable costs for preparation of remains are as follows:

(a) Costs of embalming or cremation;

(b) Necessary clothing;

(c) Casket or container suitable for shipment to place of interment; and

(d) Expenses necessarily incurred in complying with local laws and laws at the port of entry in the United States applicable to the preparation of remains for transportation and burial.

§ 303–2.3 Transportation of employee remains.

(a) *Death during travel status within the United States.* Transportation of remains is authorized to the decedent's place of actual residence, official station, or place of interment. The cost of transportation shall not exceed the cost to the place of actual residence or official station, whichever is more distant.

(b) *Death during travel status or while stationed outside the United States.* Transportation of remains is authorized to the decedent's actual place of residence, official station, or place of interment in the United States. The cost of transportation shall not exceed the cost to the official station or place of actual residence, whichever is more distant.

§ 303–2.4 Transportation of remains of a member of an employee's immediate family.

Under the authority of 5 U.S.C. 5742(c), the head of an agency may authorize payment for transportation of remains of a member of an employee's immediate family who dies while residing with an employee stationed outside the continental United States.

§ 303–2.5 Allowable costs for transportation of employee remains.

(a) *By common carrier.* The allowable costs for transportation of remains by common carrier include the costs of:

(1) Movement from place of death to a mortuary;

(2) Shipping permits;

(3) Outside case for shipment of remains (including the sealing of the shipping case when necessary);

(4) Removal to common carrier;

(5) Transportation of the remains by common carrier; and

(6) One removal from the common carrier.

(b) *By hearse or means other than common carrier.* Charges for transportation of remains overland by hearse or means other than common carrier shall not exceed the cost of common carrier transportation. Reimbursable costs include the cost of hearse or means other than common carrier plus ferry fares, bridge tolls, and similar charges. An allowance for an outside shipping case is not authorized for this conveyance.

§ 303–2.6 Transportation of the immediate family and household goods.

(a) *While stationed outside the continental United States*—(1) *General.* The cost of return transportation of the immediate family and the baggage and household goods of the decedent and his/her immediate family shall be allowed when an employee dies while he/she is stationed at a post outside the continental United States or while he/she is in transit to or from such post. Allowable transportation costs shall not exceed the costs of returning the immediate family and the baggage and household goods from the post of duty by the most direct route to the decedent's place of actual residence or to any other place in the United States not more distant than the actual place of

residence, as the head of the agency concerned or his/her designated representative may designate.

(2) *Time limitations.* Travel of the immediate family and shipment of household goods must be undertaken within 1 year from the date of death of the employee, except that an extension of the time for shipment of household goods may be granted by the head of the agency or his/her designated representative if requested prior to the expiration of the 1-year limit.

(3) *Transportation of immediate family.* The transportation of the immediate family is subject to the provisions of Part 302–2 of this title.

(4) *Transportation of household goods.* The costs allowed for the transportation of household goods are limited to those prescribed in §§ 302–8.2 and 302–8.4 of this title. Reference to "employee" in § 302–8.4(e) of this title shall mean the deceased employee's legal representative or a member of his/her immediate family when the term is used in connection with the transportation of the household goods of a deceased employee.

(b) *While stationed in Alaska and Hawaii.* When an employee stationed in Alaska or Hawaii dies, his/her immediate family and household goods may be returned to his/her actual place of residence in the continental United States. (See 40 Comp. Gen. 196.) There is no authority for paying the costs of preparing and transporting the remains of a deceased employee who dies while stationed in Alaska or Hawaii (who was not in travel status at time of death) to his/her place of actual residence or place of interment in the continental United States.

(c) *While stationed in the continental United States.* When an employee stationed in the continental United States dies while on temporary duty, transportation expenses shall not be authorized for his/her immediate family or his/her household goods. The deceased employee's baggage at the temporary duty point shall be transported at Government expense to his/her official station or place of actual residence.

§ 303–2.7 Transportation of baggage.

The allowable cost for transportation of personal baggage other than household goods shall include the expenses actually and necessarily incurred in transporting personal baggage as prescribed in Part 301–5 of this title. Expenses in connection with the transportation of baggage by a privately owned conveyance which would not have been incurred if the baggage had been transported by common carrier shall not be allowed. Reimbursement for loss or damage to baggage during transit shall not be allowed, nor shall charges for marine and other insurance be allowed.

§ 303–2.8 Prohibition of payment when other laws apply.

Payment of allowances provided by this Chapter 303 shall not be made if payment is authorized by any other law of the United States. However, the allowances provided by this Chapter 303 shall not be denied because the deceased employee is eligible for burial benefits as a veteran of the Armed Forces of the United States.

CHAPTER 304—REDUCTIONS IN MEETING AND TRAINING ALLOWANCE PAYMENTS

Part 304–1 General.
Part 304–2 Approval of contributions or payments.

PART 304–1—GENERAL

Sec.

304–1.1 Authority.
304–1.2 Applicability.

Authority: 5 U.S.C. 4111(b); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 304–1.1 Authority.

This chapter is issued under the authority of 5 U.S.C. 4111(b).

§ 304–1.2 Applicability.

Subject to the exceptions in 5 U.S.C. 4102, this Chapter 304 applies to civilian officers and employees of executive agencies, including the Department of Defense; independent establishments, as defined in 5 U.S.C. 104; Government corporations, subject to 31 U.S.C. 9101 *et seq.*; the Library of Congress; the Government Printing Office; the Government of the District of Columbia; and commissioned officers of the National Oceanic and Atmospheric Administration. All such officers and employees and all such agencies, independent establishments, and departments are hereinafter referred to in this Chapter 304 as "employees" or "agencies," as appropriate.

PART 304–2—APPROVAL OF CONTRIBUTIONS OR PAYMENTS

Sec.

304–2.1 Conditions for approval.
304–2.2 Agency responsibilities.

Authority: 5 U.S.C. 4111(b); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 304–2.1 Conditions for approval.

Section 303(j) of Executive Order 11348 of April 20, 1967, and the regulations issued by the Office of Personnel Management under section 401(b) of that Order, prescribe the conditions under which agency heads may approve the acceptance by employees of contributions and awards incident to training and payments incident to attendance at meetings, under 5 U.S.C. 4111(a), from the organizations described therein. These organizations are hereinafter referred to as "donors."

§ 304–2.2 Agency responsibilities.

Agency heads shall provide adequate safeguards to ensure that the following regulations are carried out:

(a) Where an approved payment by a donor fully covers expenses incident to training in a non-Government facility, or travel, subsistence, or other expenses incident to attendance at a meeting, the agency shall not pay for such expenses or shall recover payments previously made in the manner described in paragraph (c) of this section.

(b) If an approved payment by a donor does not fully cover expenses described above, the agency may pay an amount considered sufficient to cover the balance of the expenses to the extent authorized by law and regulation, including 5 U.S.C. 4109 and 4110. If an amount in excess of such balance has been previously paid by the agency, such amount shall be recovered from the employee in the manner described below.

(c) Recoveries of payments, as provided above, shall be made in the manner prescribed by regulations of the agency concerned and shall be issued according to 5 U.S.C. 5514.

(d) No reduction in payment by an agency is required where an approved contribution or award to an employee covers types of expenses which the agency is not authorized to pay. For example, where an agency authorizes travel expenses of an employee, including per diem and transportation expenses of his/her immediate family and household goods and personal effects to a training location, no reduction in payment by the agency is required if an approved contribution or award covers subsistence expenses of the family en route and expenses incurred by the employee in establishing himself/herself and the family at the training location.

(e) Expense data shall be obtained from employees or donors in such detail as the agency head deems necessary to carry out this regulation.

Appendix to Subtitle F—Temporary Regulations

[FR Doc. 89–7115 Filed 5–9–89; 8:45 am]
BILLING CODE 6820–24–M

41 CFR Chapter 101

Use of Travel Agents and Travel Management Centers (TMC'S) by Federal Executive Agencies

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temp. Reg. A–24, Revision 1, and supplement 1 thereto governed the use of commercial travel agents and also provided for the establishment, control, and administration of travel management centers in procuring passenger and travel services for official travel. Since this regulation was travel-related, and because the Federal Travel Regulations (41 CFR Part 101–7) have been removed from the Federal Property Management Regulations (FPMR), this regulation is removed. The same policies and procedures contained in this regulation have been reissued under FTR Temporary Regulation 1 and added to the appendix at the end of Subtitle F in Title 41 of the Code of Federal Regulations.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1264 or commercial 703–557–1264.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), the appendix at the end of Subchapter A in 41 CFR Chapter 101 is amended by removing FPMR Temporary Regulation A–24, Revision 1, and supplement 1 thereto.

Richard G. Austin,

Acting Administrator of General Services.

April 6, 1989.

[FR Doc. 89–10878 Filed 5–9–89; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Chapter 101

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

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temporary Regulation A–30 and supplements 3 and 4 thereto governed the use of special fares as prescribed in the Federal Travel Regulations. Since this regulation was travel-related, and because the Federal Travel Regulations (41 CFR Part 101–7) have been removed from the Federal Property Management Regulations (FPMR), this regulation is removed. The policies and procedures contained in this regulation have been reissued under FTR Temporary Regulation 2 and added to the appendix at the end of Subtitle F in Title 41 of the Code of Federal Regulations.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1264 or commercial 703–557–1264.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), the appendix at the end of Subchapter A in 41 CFR Chapter 101 is amended by removing FPMR Temporary Regulation A–30 and supplements 3 and 4 thereto.

Richard G. Austin,

Acting Administrator of General Services.

April 5, 1989.

[FR Doc. 89–10879 Filed 5–9–89; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Chapter 101

Travel and Transportation Expense Payment System Using Contractor-Issued Charge Cards, Centrally-Billed Accounts, and Travelers Checks

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: FPMR Temporary Regulation A–31 governed the travel and transportation expense payment system using contractor-issued charge cards, centrally-billed accounts, and travelers checks. Since this regulation was travel-related, and because the Federal Travel Regulations have been removed from the Federal Property Management Regulations (FPMR), this regulation is removed. The same policies and procedures contained in this regulation have been reissued under FTR Temporary Regulation 3 and added to the appendix at the end of Subtitle F in Title 41 of the Code of Federal Regulations.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1264 or commercial 703–557–1264.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual affect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), the appendix at the end of Subchapter A in 41 CFR Chapter 101 is amended by

removing FPMR Temporary Regulation A-31.

Richard G. Austin,

Acting Administrator of General Services.

April 5, 1989.

[FR Doc. 89-10880 Filed 5-9-89; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Part 101-7

[FPMR Amendment A-45]

Removal of the Federal Travel Regulations From the Federal Property Management Regulations

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation removes the Federal Travel Regulations (FTR) from the Federal Property Management Regulations (FPMR). The change will provide for a more appropriate means of promulgating travel and relocation policies and procedures affecting Federal employees.

EFFECTIVE DATE: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Doris Jones or Mr. Joseph Napoli, Travel and Transportation Regulations Staff, FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: This regulation removes Part 101-7 of the FPMR (41 CFR Part 101-7) which previously provided for the FTR to be incorporated by reference into the FPMR. This action separates those policies and procedures dealing exclusively with Federal employees' travel and relocation from the overall "property management" regulations.

The General Services Administration (GSA) will promulgate the FTR and any related directives as a separate regulation system under Subtitle F of Title 41 of the CFR (41 CFR Chapters 301 through 304).

The change in the method of promulgating the FTR will be enhanced by expanding its availability to users of the CFR system.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-7

Government employees, Travel, Travel allowances, Travel and transportation expenses.

PART 101-7 [REMOVED]

By the Administrator's authority (5 U.S.C. 4111, 5701-5709, 5741-5742; 20 U.S.C. 905(a); E.O. 11012, March 27, 1962 (27 FR 2983); E.O. 11609, July 22, 1971 (36 FR 13747)), 41 CFR Chapter 101 is amended by removing Part 101-7.

Dated: March 9, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-10881 Filed 5-9-89; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Subtitle F

[FTR Temporary Reg. 1]

Use of Travel Agents and Travel Management Centers (TMC's) by Federal Executive Agencies

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes policies and procedures governing the use of commercial travel agents to supply transportation and travel services for Federal employees or officers on official travel. Since the Federal Travel Regulations (41 CFR Part 101-7) and related regulations have been removed from the Federal Property Management Regulations (FPMR), this regulation promulgates, under the Federal Travel Regulation (FTR) system, those provisions formerly contained in FPMR Temporary Regulation A-24, Revision 1, and supplement 1 thereto.

DATES: Effective date: May 10, 1989.

Expiration date: FTR Temporary Regulation 1 expires December 31, 1989, unless sooner canceled or revised.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557-1264 or commercial 703-557-1264.

SUPPLEMENTARY INFORMATION: FPMR Temp. Reg. A-24, Revision 1 (52 FR 45825, December 2, 1987) and supplement 1 (53 FR 41165, October 20, 1988) are canceled and deleted from the appendix at the end of Subchapter A in 41 CFR Chapter 101.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), FTR Temporary Regulation 1 is added to the appendix at the end of Subtitle F of Title 41 of the Code of Federal Regulations to read as follows:

Federal Travel Regulation Temporary Regulation 1

April 6, 1989.

To: Heads of Federal agencies.

Subject: Use of travel agents and travel management centers (TMC's) by Federal executive agencies.

1. *Purpose.* This regulation provides Governmentwide policies and procedures for the use of commercial travel agents to supply transportation and travel services for Federal employees or officers on official travel. It also provides for the establishment, control, and administration of TMC's supplying these services to Federal agencies.

2. *Effective date.* This regulation is effective May 10, 1989.

3. *Expiration date.* This regulation expires on December 31, 1989, unless sooner revised or canceled.

4. *Applicability.* This regulation applies to all executive agencies as defined under section 3 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 472).

5. *Background.*

a. Since the Federal Travel Regulations (41 CFR Part 101-7) have been removed from the Federal Property Management Regulations (FPMR), this regulation promulgates under the Federal Travel Regulation (FTR) system those provisions formerly contained in FPMR Temporary Regulation A-24, Revision 1, and supplement 1 thereto.

b. Under subsection 201(a) of the Federal Property and Administrative

Services Act of 1949, as amended (40 U.S.C. 481(a)), the Administrator of General Services "shall, in respect of executive agencies, and to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, and with due regard to the program activities of the agencies concerned . . . procure and supply personal property and nonpersonal services for the use of executive agencies in the proper discharge of their responsibilities," among other things. Accordingly, the General Services Administration (GSA) has entered into contracts with commercial travel agents to serve executive agencies.

c. On May 25, 1984, the General Accounting Office removed the previous restrictions on the use of travel agents by Federal agencies. (See 49 FR 17721, April 25, 1984.)

6. *General use of travel agents prohibited.* The services of a travel agent may not be used by executive agencies except:

a. Through a TMC under contract to GSA;

b. Through delegation of authority, obtained from GSA where warranted; or

c. By exception provided in 41 CFR 301–3.4(b).

7. *Definitions.* In this regulation, the term "travel management center" or "TMC" means a commercial travel office operated by a travel agent under contract with GSA.

8. *Establishment of TMC's.*

a. At the request of Federal agencies, GSA will contract for TMC's in any location where the volume of travel justifies the need for such services and acceptable offerors are available. Generally, GSA will secure services through local travel agents; however, areas with dispersed Federal employees or with a limited number of travel agents may need to be served by more distant firms.

b. Employees are not authorized to use a TMC unless their agency has initially made the decision to use a TMC and established internal procedures (subject to this regulation) for their use. (See subpar. 12d.)

9. *TMC responsibilities.* Under the terms of the contracts, the TMC is required to:

a. Comply with the Federal Travel Regulation (FTR) (see 41 CFR Chapters 301 through 304) and similar regulations as applicable, such as the Joint Travel Regulations (JTR) and the State Department Travel Regulations (6 FAM 100);

b. Comply with all appropriate Federal travel programs, such as the GSA scheduled passenger transportation services contracts, GSA contractor-issued charge cards (both individual and agency travel accounts), and the "Fly-America Act");

c. Provide a full range of services to assist the traveler or Federal agency (including airline, bus, steamship, or train reservations and ticketing; hotel and motel reservations; commercial auto rentals; assistance with visas and passports; and arranging conferences and seminars);

d. Deliver travel documents to designated "control points" for agencies' convenience;

e. Respond quickly when problems arise regarding changes in a traveler's itinerary; and

f. Provide appropriate management information reports which include all billing activity, summarize travel data, and confirm adherence to Federal travel policies.

10. *Agency requests for establishment of TMC's.* The following information is required by GSA to properly evaluate a request to establish a TMC. Requests should be directed to the appropriate GSA Zonal Federal Supply Service Bureau office, listed in attachment A, that has jurisdiction over the State where travel management services are required. For each location to be served, agencies should provide:

a. The name and address of the agency or agencies desiring to use the proposed TMC, including the name and telephone number of an agency representative designated to act as liaison;

b. An estimate of official airline travel (number of tickets and total dollar cost) based on the prior year's travel records, and an estimate of the percentage of international travel, if any;

c. Number of Federal agency employees; and

d. Any special travel requirements that should be included in GSA's solicitation, such as a high percentage of complex international travel.

11. *GSA responsibilities.*

a. GSA, through the appropriate GSA Traffic and Travel Services Zone Office listed in attachment. A, will immediately acknowledge receipt of agency requests and provide an estimated date of evaluation. If further details are needed, subsequent meetings between GSA and agency liaison personnel will be arranged.

b. GSA will handle all required procurement processes, including solicitation development, selection of the successful bidder, and award and administration of the contract.

c. A GSA project coordinator will be appointed to act as the primary liaison person between the requesting agency and the TMC contractor.

12. *Agency responsibilities.*

a. Agencies may be requested to participate with GSA on a technical review panel to evaluate proposals from travel agents in the selection and evaluation process.

b. Agencies will be requested to participate on a local oversight committee to review TMC performance, coordinate agency and TMC procedures, and provide GSA with requested information. Local oversight committee participation may be on a rotating or permanent basis.

c. Agencies are required to comply with the terms of the GSA contract and may not make separate contractual agreements with TMC's.

d. Before a TMC begins service, requesting agencies must establish, as a minimum, certain internal procedures. Since many agencies have numerous field offices participating in the program, it is recommended that they standardize the following:

(1) Requirements for certification of official travel (for example, some agencies require that a copy of the travel authorization be exchanged for each ticket received at the point of delivery, while other agencies provide travelers with an accounting code to use when ordering tickets);

(2) Billing and payment procedures, including ticket refunds (for example, an agency with a national or centralized finance office may require field offices to return unused tickets to that office which will, in turn, make a request to the TMC for ticket refunds, rather than have field offices return tickets directly); and

(3) Advice to subordinate offices of appropriate TMC billing and payment procedures.

e. Agencies shall provide the TMC with the following information for each location where the service will be performed:

(1) The names and telephone numbers of agency liaison personnel designated to work locally with the TMC contractor and GSA project coordinator;

(2) Specific ticket delivery locations or "control points," including names and telephone numbers of personnel authorized to accept tickets; and

(3) Any special or unusual agency travel policies or travel-related requirements.

f. Transactions with a TMC are comparable to those made directly with a carrier. Therefore, transactions between the agency and the TMC are governed by applicable audit regulations. (For example, when an

agency uses Government Transportation Requests (GTR's), they shall be made out in the name of the TMC, not the carrier. Similarly, unused tickets purchased from the TMC shall be returned directly to the TMC for refunds.)

g. Agencies shall remain responsible for employee compliance with the Federal Travel Regulation, including mandatory use of the contract air/rail carriers program and restrictions on first class air travel.

h. Agencies shall comply with the Prompt Payment Act, as amended, and make timely payments to the TMC in accordance with the Act and any Office of Management and Budget guidelines.

13. *Listing of travel agents and travel management centers.*

The Federal Travel Directory (FTD), published monthly by GSA and the Department of Defense, contains an up-to-date listing of TMC's. The FTD is available to agencies through the usual administrative channels, or may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. For ordering information, telephone the central order desk on (202) 783–3238 and request the Federal Travel Directory, GPO stock number 722–006–00000–3.

ATTACHMENT A.—GSA FEDERAL SUPPLY SERVICE BUREAU TRAFFIC AND TRAVEL SERVICES ZONE OFFICES

Zone	Address	Telephone
Eastern: AL, CT, DE, FL, GA, KY, MA, MD [1], ME, MS, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, TN, VT, VA [2], Virgin Islands, WV.	GSA (4FBT), 75 Spring Street SW., Atlanta, GA 30303.	FTS: 242–5121; COML: 404–331–5121.
Central: IA, IL, KS, MI, MN, MO, NE, OH, WI	GSA (6FBT), 4400 College Blvd., Suite 175, Overland Park, KS 66211.	FTS: 757–2510; COML: 913–236–2510.
Southwestern: AR, CO, LA, MT, NM, ND, OK, SD, TX, UT, WY	GSA (7FBT), 819 Taylor Street, Fort Worth, TX 76102.	FTS: 334–2737; COML: 817–334–2737.
Western: AK, American Samoa, AZ, CA, GU, HI, ID, NV, Northern Mariana Islands, OR, Pacific Trust Territories, WA.	GSA (9FBT), 525 Market Street, San Francisco, CA 94105.	FTS: 454–9288; COML: 415–974–9288.
National Capital Region (NCR): DC, MD [3], VA [4]	GSA (WFBT), 7th & D Streets SW., Washington, DC 20407.	FTS: 472–1626; COML: 202–472–1626.

[1] Except for those counties under NCR jurisdiction named in footnote [3].
[2] Except for those cities and counties under NCR jurisdiction named in footnote [4].
[3] Counties of Prince Georges and Montgomery only.
[4] Cities of Alexandria, Fairfax, Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Prince William only.

Richard G. Austin,

Acting Administrator of General Services.

April 6, 1989.

[FR Doc. 89–10882 Filed 5–9–89; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Subtitle F

[FTR Temporary Reg. 2]

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

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes policies and procedures governing the use of U.S. certificated air carriers and rail carriers in furnishing Government employees and other persons authorized to travel at Government expense with scheduled airline/rail passenger service between selected U.S. and international cities/airports at reduced fares. Since the Federal Travel Regulations (41 CFR Part 101–7) and related regulations have been removed from the Federal Property Management Regulations (FPMR), this regulation promulgates, under the Federal Travel Regulation (FTR) system, those provisions formerly contained in FPMR Temporary Regulation A–30 and supplements 3 and 4 thereto.

DATES: *Effective date:* May 10, 1989.

Expiration date: FTR Temporary Regulation 2 expires January 31, 1990, unless sooner canceled or revised.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1264 or commercial 703–557–1264.

SUPPLEMENTARY INFORMATION: FPMR Temp. Reg. A–30 and supplements 3 and 4 thereto are canceled and deleted from the appendix at the end of Subchapter A in 41 CFR Chapter 101.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), FTR Temporary Regulation 2 is added to the appendix at the end of Subtitle F of Title 41 of the Code of Federal Regulations to read as follows:

Federal Travel Regulation Temporary Regulation 2

April 6, 1989.

TO: Heads of Federal agencies

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

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

2. *Effective date.* This regulation is effective May 10, 1989.

3. *Expiration date.* This regulation expires January 31, 1990, unless sooner canceled or revised.

4. *Background.*

a. Since the Federal Travel Regulations (41 CFR Part 101–7) have been removed from the Federal Property Management Regulations (FPMR), this regulation promulgates, under the Federal Travel Regulation (FTR) system, those provisions formerly contained in FPMR Temporary Regulation A–30 and supplements 3 and 4 thereto.

b. Certain U.S. certificated air carriers and rail carriers are under contract with the General Services Administration to furnish airline/rail passenger transportation service at reduced fares to Government travelers between selected U.S. and international cities/airports. In some cases, the contracts apply to individual airports in cities served by more than one airport. Public Law 99–272 amended section 306(f) of the Rail Passenger Services Act (45 U.S.C. 546(f)) to allow the National Railroad Passenger Corporation (AMTRAK) to "participate in the contract air program . . . where service provided by the Corporation is competitive as to rates and total trip times."

c. Policies and procedures concerning contract use, which are subject to change with each contract cycle, have been set out as attachment A to this regulation.

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

6. *Comments.* Comments or recommendations concerning this regulation may be submitted to the General Services Administration (FBR), Washington, DC 20406.

Richard G. Austin,

Acting Administrator of General Services.

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

2. *Federal Travel Directory.* The Federal Travel Directory (FTD) is published monthly by GSA and the Department of Defense (DOD) to provide up-to-date information to Federal travelers on fares, schedules, and coverage of individual cities/airports. The FTD also contains motel/hotel information, among other things. Government employees should order copies of the FTD through their appropriate headquarters administrative offices. The FTD is also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; for ordering information, telephone the central order desk on (202) 783–3238 and request the Federal Travel Directory, GPO stock number 722–006–00000–3.

3. *Applicability.*

a. This regulation is mandatory for all executive agencies (except DOD) and other Federal agencies subject to the authority of the Administrator of General Services under section 201 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481) and 5 U.S.C. 5701 *et seq.* and 5721 *et seq.* (Uniformed members and civilian employees of DOD are subject to the procedures established in the Defense Traffic Management Regulation AR 55–355/NAVSUPINST 4600.70/AFR 75–21MCO P4600.14B/DLAR 4500.3.)

b. The following persons are exempt from mandatory use of this regulation; however, they are authorized to obtain services under this regulation at the option of the awardees when seating space is available.

(1) Uniformed members of the U.S. Coast Guard;

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

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

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

(5) Foreign service officers;

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

(7) Contractors performing work under cost-reimbursable contracts or other eligible contracts as defined in 48 CFR Part 51, including (but not limited to):

(i) Contractors working under cost reimbursable contracts or other types of contracts involving direct travel costs to the Government; or

(ii) Contractors working for the Government at specific sites under nonprofit arrangements with the applicable contracting agency, and which are funded at such sites through Congressional appropriations (e.g., Government-owned, contractor operated (GOCO), federally funded research and development (FFRDC), or management and operating (M&O) contracts).

Note. Each contracting agency is responsible for identifying contractor eligibility and authorization for GSA contract fares.

4. *Alternate use of noncontract rail or bus service.* Notwithstanding the provisions of this regulation, noncontract rail or bus service may be used when the agency determines that these modes are advantageous to the Government (cost, energy, and other factors considered) and compatible with the requirements of the travel mission. (See 41 CFR 301–2.2(d)(ii)(C).)

5. *Responsibility of awardees.*

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

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

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

6. *Procedures for obtaining service.*

a. Except as provided in subpars. b, c, and h of this paragraph, contract airline/rail passenger service shall be ordered by the issuance of a U.S. Government

Transportation Request (GTR) (Standard Form 1169), either directly to awardees or indirectly to Travel Management Centers (TMC's) established by GSA as provided in FTR Temp. Reg. 1. (See par. 7 on the use of TMC's.)

b. Agencies and departments participating in GSA's travel and transportation expense payment system are authorized to use GSA contractor-issued charge cards to the extent provided in FTR Temp. Reg. 3 and supplements thereto. The charge cards may be presented to awardees, TMC's, airline and AMTRAK ticket counters, or agency travel officers, as appropriate and in accordance with agency policies and procedures implementing the charge card program.

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

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

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

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

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

h. Eligible contractor employees (as defined in subpar. 3b(7)), traveling in performance of a Government contract and with proper identification from the contracting agency, are authorized to obtain contract fares if the awardee agrees to the arrangement. Awardees may, at their option, require Government contractor employees to furnish a GTR or contract number for endorsement purposes, in conjunction with payment by GTR, cash, or personal credit card. The FTD identifies those awardees which have agreed to furnish transportation services at the GSA contract fare to eligible Government contractors.

7. *Use of Travel Management Centers (TMC's).* TMC's are commercial offices operated by travel agents under contract with GSA. These TMC's are responsible for providing and arranging all travel services required by the participating agencies.

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

b. When GSA contractor-issued charge cards or centrally-billed accounts are used, travel management services will be furnished as provided in FTR Temp. Reg. 3. (See the FTD for the location of TMC's.)

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

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

b. The secondary awardee may be used when:

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

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

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

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

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

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

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

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

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

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

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

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

Note: When making cost comparisons,

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

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

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

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

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

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

10. *Traveler liability.* In the absence of specific authorization or approval stated on or attached to the travel authorization or travel voucher, a civilian traveler shall be responsible for any difference in the cost that may result from the traveler's unauthorized use of noncontract service or the failure to observe the order of awardee succession. The traveler's indebtedness to the Government shall be the difference between the price of the service used and the lowest contract fare applicable to the travel involved. The entitlement of a uniformed services traveler who fails to use directed Government-procured transportation shall be as specified in the Joint Federal Travel Regulations, Volume 1.

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41 CFR Subtitle F

[FTR Temporary Reg. 3]

Travel and Transportation Expense Payment System Using Contractor-Issued Charge Cards, Centrally-Billed Accounts, and Travelers Checks

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes policies and procedures governing the travel and transportation expense payment system which provides for the use of General Services Administration (GSA) contractor-issued charge cards, centrally-billed accounts, and travelers checks by Federal agencies and their travelers to procure passenger transportation services, car rentals, and subsistence (lodging, meals, etc.) from commercial facilities, and to pay for miscellaneous travel and transportation expenses incurred during official travel. Since the Federal Travel Regulations (41 CFR Part 101-7) and related regulations have been removed from the Federal Property Management Regulations (FPMR), this regulation promulgates, under the Federal Travel Regulation (FTR) system, those provisions formerly contained in FPMR Temporary Regulation A-31.

EFFECTIVE DATE: May 10, 1989.

Expiration date: FTR Temporary Regulation 3 expires November 29, 1989, unless sooner canceled or revised.

FOR FURTHER INFORMATION CONTACT: Phyllis Hickman, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557-1264 or commercial 703-557-1264.

SUPPLEMENTARY INFORMATION: FPMR Temp. Reg. A-31 (54 FR 28, January 3, 1989) is canceled and deleted from the appendix at the end of Subchapter A in 41 CFR Chapter 101.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

By the Administrator's authority (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)), FTR Temporary Regulation 3 is added to the appendix at the end of Subtitle F of Title 41 of the Code of Federal Regulations to read as follows:

Federal Travel Regulation Temporary Regulation 3

April 5, 1989.

To: Heads of Federal agencies.

Subject: Travel and transportation expense payment system using contractor-issued charge cards, centrally-billed accounts, and travelers checks.

1. *Purpose.* This regulation prescribes policies and procedures for a travel and transportation expense payment system which provides for the use of General Services Administration (GSA) contractor-issued charge cards, centrally-billed accounts, and travelers checks by Federal agencies and their travelers to procure passenger transportation services, car rentals, and

subsistence (lodging, meals, etc.) from commercial facilities, and to pay for miscellaneous travel and transportation expenses incurred during official travel.

2. *Effective date.* This regulation is effective May 10, 1989.

3. *Expiration date.* This regulation expires November 29, 1989, unless sooner canceled or revised.

4. *Scope.* This regulation shall be used in conjunction with the Federal Travel Regulation (FTR) (see 41 CFR Chapters 301 through 304) and 41 CFR Part 101–41. Except as provided in this temporary regulation, all provisions of the FTR, 41 CFR Part 101–41, and related regulations (e.g., FTR Temp. Reg. 2, governing use of airline/rail contract fares) continue in effect.

5. *Applicability.*

a. This regulation applies to Federal agencies and departments that participate in GSA's travel and transportation expense payment system using contractor-issued charge cards, centrally-billed accounts, and travelers checks.

b. Except for the use of contractor-issued charge cards, this regulation permits eligible cost-reimbursable contractors working for the Government to participate in GSA's travel and transportation expense payment system.

6. *Background.*

a. Under 41 CFR 101–41.203, Federal agencies normally use a U.S. Government Transportation Request (GTR), SF 1169, to purchase passenger transportation services directly from a common carrier or through a commercial travel agent under contract to GSA. (See FTR Temporary Regulation 1.) Also, under the FTR, travelers are eligible for advances to pay for allowable travel expenses. Upon completion of official travel, the employee submits a travel voucher to the agency finance office, which reimburses the employee for authorized and allowable travel expenses.

b. Authority to deviate from 41 CFR 101–41.203 was granted by the Administrator of General Services on August 4, 1983, thus allowing eligible individuals to participate in the charge card program. (See 48 FR 36893, dated August 15, 1983.)

c. GSA has entered into a new contract with Citibank/Diners Club, Inc., to issue and maintain charge cards and establish centrally-billed accounts. GSA has also contracted with Citicorp for the issuance of travelers checks to be used by Federal employees to cover subsistence and other allowable travel and minor transportation expenses.

d. For more effective cash management, Office of Management and Budget (OMB) Bulletin 88–17, dated July 22, 1988, prescribes that agencies should advance travel funds in the form of travelers checks when determined to be in the best interest of the Government.

7. *Definitions.* For the purposes of this regulation, certain terms used herein are defined as follows:

a. "Centrally-billed" means a Government Travel System account established by the contractor at the request of a participating agency.

b. A "charge card" means a Citibank/Diners Club charge card to be used by travelers of a participating agency to pay for passenger transportation services, subsistence expenses, and other allowable travel and transportation expenses incurred in connection with official travel.

c. "Contractor" means Citibank/Diners Club, Inc.

d. "Cost-reimbursable contractor" means contractors performing work under cost-reimbursable contracts or other eligible contracts as defined in 48 CFR Part 51, including (but not limited to):

(1) Contractors working under cost-reimbursable contracts or other types of contracts involving direct travel costs to the Government; and

(2) Contractors working for the Government at specific sites under special arrangements with the applicable contracting agency, and which are funded at such sites through Congressional appropriations (e.g., Government-owned, contractor operated (GOCO), federally funded research and development (FFRDC), or management and operating (M&O) contracts).

e. "FTD" means the Federal Travel Directory, a monthly publication issued by GSA and the Department of Defense to provide up-to-date information on charge cards, contract fares, lodging rates, car rental, per diem rates, travel management centers, and other travel and transportation matters. Government employees should order copies of the FTD through their appropriate headquarters administrative offices. The FTD is also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. For ordering information, telephone the central order desk on (202) 783–3238 and request the Federal Travel Directory, GPO stock number 722–006–00000–3.

f. "Participating agency" means agencies and departments that participate in GSA's travel and transportation expense payment system.

g. "Travelers checks" are Citicorp travelers checks.

h. "TMC" means a Travel Management Center. A TMC is a commercial travel firm under contract to GSA that provides reservations, ticketing, and related travel management services for official travelers.

8. *Travel and transportation expense program.* This GSA travel management program incorporates provisions for the following:

a. Individual employee charge cards used to pay for major travel and transportation expenses; i.e., passenger transportation tickets, vehicle rental charges, lodgings, meals, etc. (see par. 9);

b. Centrally-billed accounts used by designated agency offices primarily for the purchase of passenger transportation services (see par. 12); and

c. Travelers checks (or cash) used for other expenses; i.e., laundry, parking, local transportation, or tips (see par. 14).

9. *Individual employee charge cards.*

a. *Issuing charge cards.* Participating agencies shall determine and name employees who may be issued an individual employee charge card. The employees will be requested to complete an employee card account application for agency approval and submission to the contractor. The charge card is issued directly to the employee in his or her name. Cost-reimbursable contractors are not eligible to use the charge card.

b. *Use of charge cards.*

(1) The employee shall use charge cards issued under this program only for expenses incurred in conjunction with official travel. The employee shall use the charge card to pay for official travel expenses to the maximum extent possible. There is no preset expense limit on the charge cards. Although the employee is liable for payment of all charges incurred, the employee shall be reimbursed by his/her agency for all authorized and allowable travel and transportation expenses. However, employees are cautioned that charges in excess of authorized and allowable travel and transportation expenses (i.e., lodging and meal costs which exceed authorized amounts) are the financial responsibility of the employee and are not reimbursable. Use of the charge card does not relieve the employee of the responsibility to employ prudent travel practices and to observe rules and regulations governing official travel as set forth in the FTR and implementing agency regulations.

(2) The charge card may be used to pay for passenger transportation services (including services under contract fares offered by carriers under contract to GSA) at the transportation carrier's ticket counter, TMC, or agency travel office, as appropriate, under the

participating agency's policies and procedures. Agencies may elect to prohibit employees from using the charge card to purchase services directly from a carrier. The charge card shall not be used to procure travel and transportation services from commercial travel agencies that are not under contract to the Government to provide such services to the Government traveler.

c. *Monthly contractor bills and payments.* The terms of the contract with Citibank/Diners Club, Inc., require billing and payment to be performed in the following manner. The contractor bills charges directly to the individual employee each month. Charges billed to the individual employee are due and must be paid in full within 25 calendar days of the billing date. There are no interest or late charges, and extended or partial payment is not permitted. Questions concerning billings and payments should be directed to the contractor at: 1–800–525–5289 or 303–799–9000.

d. *Travel voucher claims.*

(1) *Preparing and submitting travel vouchers.* Upon completing official travel, the employee must prepare and submit a travel voucher in the usual manner to be reimbursed under the FTR and agency policies and procedures, together with any required receipts, to the appropriate finance or paying office. The employee is reimbursed for authorized and allowable travel and transportation expenses. Participating agencies shall process travel vouchers within the time limits prescribed in OMB Bulletin 88–17 of July 22, 1988.

(2) *Unused transportation tickets.* Unused or partially unused tickets purchased with individual cards shall be returned to a TMC or carrier and a refund credit receipt obtained. Unused tickets that have been prepaid for pickup at the airport must be refunded by the airline upon whose ticket stock the ticket was issued. The employee may claim reimbursement on the travel voucher only for the cost of the tickets actually used. Refunds for unused tickets will be credited to the employees's account. The unused tickets shall not be submitted with the travel voucher.

(3) *Transportation charges and assignment of rights.* Use of charge cards for purchase of passenger transportation services is considered to be a cash purchase. Travel vouchers submitted for reimbursement of transportation purchased with charge cards must include a statement which assigns to the United States all rights which the traveler has in connection with recovery of overcharges from the carrier(s). This statement is preprinted on the SF 1012, Travel Voucher, and must be initialed by the employee when claiming reimbursement for transportation expenses. Employees using agency travel vouchers under approved exceptions to the SF 1012 must add this statement if it is not preprinted on the voucher.

10. *Charge card cancellation and suspension.* Charge cards may be canceled by the employee, the participating agency, or the contractor. Cancellations may be accomplished by telephone notification with subsequent written confirmation to the contractor. The contractor may cancel an employee's card when the contractor's statement has not be paid in full 120 calendar days after the date the statement was issued. The contractor may suspend an employee's card when the contractor's statement has not been paid in full 60 calendar days after the date the statement was issued. In either event, the contractor will cancel or suspend an employee's card only on notification to and with the concurrence of the participating agency.

11. *Lost or stolen charge cards.* An employee is not responsible for any charges incurred against a lost or stolen card provided the employee promptly reports loss of the card to the contractor under the terms of the cardmember agreement signed by the employee when the charge card was issued. Employees may call the following telephone numbers 24 hours a day to report lost or stolen charge cards:

In the continental U.S., Alaska, Hawaii, and Virgin Islands (toll free), 1–800–525–9040
In Canada (call collect), 0–303–779–8235
In Puerto Rico (call collect), 37–800–525–9040
In the Caribbean, 0–809–295–7181
In Colorado (except Denver) (toll free), 1–800–332–9340
In metropolitan Denver (dial direct), 779–8235/779–1504

These telephone numbers are also published in the FTD.

12. *Participating agency centrally-billed accounts.*

a. *Establishment.*

(1) Participating agencies may establish centrally-billed accounts with the contractor for one or more designated offices within the agency to primarily purchase transportation services, principally for groups or for infrequent travelers; i.e., employees not designated to receive individual cards. Agencies shall ensure that only authorized personnel use the accounts and that all tickets purchased are authorized. Charge cards are not issued for centrally-billed accounts.

(2) The Federal agency may also allow centrally-billed accounts to be established for use by eligible cost-reimbursable Government contractors. These accounts must be established at the specific request of the agency and are subject to approval by GSA's contracting officer.

b. *Use of centrally-billed accounts.* Centrally-billed accounts may be used only if agencies use a TMC or agency travel office. They are intended principally to supplement the individual card, rather than as the sole means of purchasing airline tickets for all agency employees.

c. *Contractor billing and payment.* Consolidated contractor airline ticket charges accrued through use of centrally-billed accounts shall be billed monthly to the agency's finance and paying office. Expenses billed monthly against centrally-billed accounts are paid to the contractor. Monthly payment of charges incurred through the use of centrally-billed accounts is subject to the provisions of the Prompt Payment Act, as amended, and charges billed to agency offices are due in full within 30 calendar days of the billing date.

d. *Travel voucher claims.*

(1) *Preparation and submission of travel vouchers.* On completing official travel, the employee shall prepare and submit a travel voucher in the usual manner, together with any required receipts, to the finance and paying office, to be reimbursed.

(2) *Unused transportation tickets.* The employee shall submit to the appropriate agency office all unused transportation tickets (wholly or partially unused) purchased under a centrally-billed account. In turn, the agency shall return the unused tickets to the TMC through use of the SF 1170, Redemption of Unused Tickets, and maintain a copy of the SF 1170 on file until the credit appears as an adjustment to the agency's bill from the TMC. Policies and procedures regarding the use of the SF 1170 are provided in 41 CFR Subpart 101–41.2.

13. *Financial obligations/liability.*

a. *Employee.* Except for charges accrued against promptly reported lost or stolen cards, employees with charge cards are liable for all billed charges (see pars. 9b and 11). Government employees must pay their just financial debts under section 206 of Executive Order 11222 (May 8, 1965) and Office of Personnel Management Regulations, 5 CFR 735.207. At the request of the contractor, Federal agencies and departments, without Government

liability, may assist in collecting delinquent employee accounts after 60 calendar days.

b. *Government.* The Government assumes no liability for charges incurred on employee charge cards, nor is the Government liable for lost or stolen charge cards. The Government is liable only for authorized charges incurred in conjunction with official travel on centrally-billed accounts.

14. *Travelers checks.* Travelers checks issued under this program are available to participating agencies in denominations of $20, $50, $100, $500, and $1,000. Specific arrangements for issuing, shipping, and paying for bulk stocks of travelers checks are made during initial discussions between Citicorp and the participating agency.

15. *Lost or stolen travelers checks.* Lost or stolen travelers checks shall be reported promptly by telephone to Citicorp. Employees may call the following numbers 24 hours a day to report lost or stolen travelers checks and to obtain refund information:

In the continental U.S. (also serves as access to Operations Center), 1–800–645–6556
Outside the continental U.S. (Alaska, Canada) (also serves as Citicorp Hotline), 813–623–1709
Europe, Middle East, and Africa (call London Office collect), 1–438–1414
In Latin America, 813–626–4444
United Kingdom, Dial 100; ask for FREEFONE Citicorp Travelers Checks
Seoul, Korea (call collect), 2–738–8914
Tokyo (call collect), 3–501–1348
Hong Kong (call collect), 5–821–7215
Sydney, Australia, 2–239–9533
Within Australia (toll free), 2–008–022272
Singapore, 223–1009
Taipei, Taiwan (call collect), 2–713–9739

These telephone numbers are also published in the FTD.

16. *Establishing accounts.*

a. The contractor will issue charge cards and establish centrally-billed accounts only upon the request of authorized representatives of participating agencies. Interested offices within the participating agency shall contact their local administrative or travel office to initiate this program. Only the headquarters agency office, however, can approve participation in the program.

b. The contractor mails charge cards to authorized individuals or to requesting agency offices within 3 workdays of being notified.

17. *Additional agency guidance and information.*

a. *Purchasing passenger transportation.*

(1) Passenger transportation services procured with contractor-issued charge cards under this payment system are not subject to the cash limitation established by the Administrator of General Services at 41 CFR 41.203–2. Any credit card other than the contractor-issued charge card, and all travelers checks used to purchase passenger transportation services shall be considered the equivalent of cash and subject to the cash limitation and provisions of 41 CFR 101–41.203–2.

(2) The portion of the charge card application form, Optional Employee Data, Field 2, is to be used to record the standard Federal organization code(s) contained in the Department of Commerce/National Bureau of Standards publication, Codes for the Identification of Federal and Federally-assisted Organizations (FIPS PUB 95), dated December 23, 1982. Specific details concerning this requirement will be communicated by the contractor directly to each participating agency during the initial program implementation phase.

b. *Submitting passenger ticketing information to GSA for audit.*

(1) Travel vouchers containing reimbursable transportation charges purchased with contractor-issued charge cards shall not be considered transportation vouchers under 41 CFR 101–41.807.

(2) Passenger ticketing information is furnished directly by the contractor to GSA's Office of Transportation Audits. It is used to identify and collect carrier overcharges.

c. *Examination of payments and collection.* The Transportation Act of 1940, as amended (31 U.S.C. 3726), authorizes the GSA Transportation Audit Division (see 41 CFR 101–41.102) to issue a notice of overcharge when GSA finds that a carrier has been overpaid for the services rendered.

(1) Under the provisions of 41 CFR Subpart 101–41.5, carriers are requested to refund amounts due the United States. Refund checks are to be made payable to the General Services Administration and mailed promptly to General Services Administration, P.O. Box 93746, Chicago, IL 60673. Payment or credit to the contractor is not considered proper payment of overcharge claims due the U.S. Government.

(2) Protests to notices of overcharges are handled and processed in accordance with 41 CFR 101–41.503.

(3) Collection of unrefunded overcharges owed to the U.S. Government are processed in accordance with 41 CFR 101–41.504.

(4) Debts collected by GSA based on audits of transportation accounts are deposited to miscellaneous receipts, U.S. Treasury.

(5) Claims against the United States related to the actions taken above are processed under 41 CFR Subpart 101–41.6.

(6) Reconsideration and review of GSA transportation claim settlements follow the provisions of 41 CFR Subpart 101–41.7.

18. *Employee training.* Participating agencies shall ensure that each of their eligible employees is adequately trained in the use of the contractor-issued charge card or centrally-billed account before allowing them to use either a charge card or use a centrally-billed account.

19. *Agency participation.* Agencies or departments desiring to participate in this program should contact the Travel and Transportation Management Division (FBT), General Services Administration, Washington, DC 20406, telephone (703) 557–1264 or FTS 557–1264.

20. *Comments and recommendations.* Comments and recommendations regarding the travel and transportation expense payment system or this regulation may be sent to: General Services Administration, Federal Supply Service, Office of Transportation and Property Management, Travel and Transportation Management Division (FBT), Washington, DC 20406.

Richard G. Austin,

Acting Administrator of General Services.

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federal register

Wednesday
May 10, 1989

Part III

Department of Labor

Child Care Liability Insurance Task Force; Employer Based On or Near Site Child Care; Request for Information; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Child Care Liability Insurance Task Force; Employer Based On or Near Site Child Care; Request for Information

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of request for information concerning employers' possible problems and insight in obtaining adequate and affordable liability insurance for on or near site child care services.

SUMMARY: The President has asked the Secretary of Labor to determine obstacles which may obstruct employers from purchasing liability insurance for child care. In March, the Secretary established the Task Force on Child Care Liability Insurance, which will study this issue before the Secretary reports back to the President in October of this year. The special task force is already beginning to collect available information, work with other federal agencies, and contact knowledgeable and interested groups. However, since time is of the essence, the task force is requesting insight and information from any interested parties who know about the problems that employers may face in obtaining liability insurance for on or near site child care.

DATE: Written comments on this notice are invited and must be received on or before June 30, 1989.

ADDRESS: Written comments shall be submitted to Ms. Debra Bowland, Director, Task Force on Child Care Liability Insurance, U.S. Department of Labor, Room S–3002, Frances Perkins Building, 200 Constitution Avenue NW. Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Bowland, Director, Task Force on Child Care Liability Insurance. Telephone: (202) 523–6611 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The President recognizes the increasing participation of women in the workforce. He has proposed legislation that not only helps parents provide care for their children while they work, but also enhances parental options and choices of child care. This would be done through various tax credit proposals and an expanded Head Start program.

The President also recognizes that there may be some special problems in the liability insurance area which might have contributed to limiting the availability of child care, particularly in terms of employer provided or sponsored child care at or near the worksite.

Because of this, he has directed me ". . . to determine what obstacles stand in the way of . . ." employers purchasing liability insurance for child care and to report back to him by October of this year. In studying this area, if we uncover significant barriers standing in the way of insuring prospective child care providers, I will recommend possible ways to address the problem.

In March, I established a special task force within the Department of Labor to study this problem. This task force has already begun work collecting available information and sources of information. It is actively working with other agencies in the federal government (for example, it is coordinating its work with the Department of Commerce evaluation of the Risk Retention Act). It has also begun to make contacts with many other knowledgeable and interested groups including State agencies, insurers, employers, child care providers, etc. However, we know that time is very short.

Specific Request

Simply put, we are requesting information or insight, from individuals or groups, as to possible problems employers may face in obtaining adequate and affordable liability insurance for child care they may wish to offer their employees either at or near the worksite. Specifically, we are asking for available information on questions such as the following:

1. *Availability*—How easy is it for employers to either get separate child care liability insurance or add it to their other, existing liability insurance policies? How many insurance companies, writing which lines of insurance, provide either separate child care policies or are willing to add it to other policies? Does it make any difference how big the employer is or in what geographical or State area the employer is located? How many employers have been willing to self-insure (or use a captive insurer for) such a program and what is their liability experience?

2. *Affordability*—How much does insurance cost, using measures such as per child per year? What affects premium costs (e.g., experience, size of employer, geographic location, training of child care staff, State standards, loss prevention measures, etc.)? Are costs rising or falling? Are reserving practices appropriate?

3. *Adequacy*—Do employers feel that the coverage available and affordable is adequate to protect them against future liability? Does the coverage last for the term of the potential liability (e.g., for the time until a child reaches majority)? What kinds of deductibles, exclusions, caps, or other limitations are included in the insurance? What kinds of liabilities are included in the child care umbrella (e.g., product liability, medical, child abuse, transportation, etc.)? Have employers felt the need to contract out services in an attempt to limit firm liability?

4. *Group Purchasing Plans and Risk Retention Groups*—In what geographic areas do such groups operate, if any? Are they becoming more common? How do premiums compare with those that would be otherwise charged in the geographic area? Are the risk retention groups adequately reserved? What requirements exist for joining such groups?

5. *Reinsurance*—How available is reinsurance and at what price? Are reinsurers becoming more or less available and/or affordable? What requirements do reinsurers impose on insurers?

6. *State Activities*—What are the differences in State action and what has been their experience in such areas as market assistance programs, joint underwriting agreements, rate setting, mandating standards for child care facilities, etc.? Are there any local government practices that have had a significant impact (e.g., local certification standards for child care providers)?

7. *Liability Experience*—Have the number of claims been rising? Has their dollar amount (in total and on average) been changing? What are the differences by State? What specific tort law doctrines have resulted in liability? Have any States acted to modify tort doctrines to control liability? Are parties being held liable that thought they were covered?

In addition to these specific questions, if there is other information that anyone in the public thinks would be of use, or which deals with related areas such as providing child care through an employer's flexible benefit plan, off-site child care facilities, etc. such information would be welcome.

Signed at Washington, DC this 4th day of May 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89–11213 Filed 5–9–89; 8:45 am]

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S.J. Res. 25/Pub. L. 101-25

To designate the week of May 7, 1989, through May 14, 1989, as "Jewish Heritage Week." (May 5, 1989; 103 Stat. 53; 1 page) Price: $1.00

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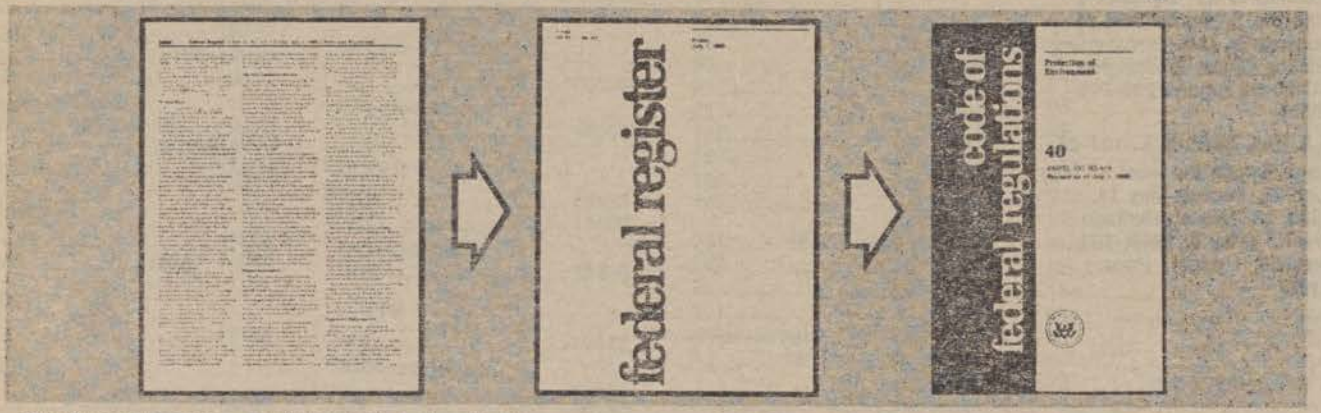

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