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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: January 24, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

LOS ANGELES, CA

WHEN: March 4, at 9:00 a.m.
WHERE: Federal Building,
300 N. Los Angeles St.
Conference Room 8544
Los Angeles, CA
RESERVATIONS: 1–800–726–4995

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WHEN: March 5, at 9:00 a.m.
WHERE: Federal Building,
880 Front St.
Conference Room 45–13
San Diego, CA
RESERVATIONS: 1–800–726–4995

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

9 CFR Part 97

[Docket No. 90-238]

Fee Increase for Overtime Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations that establish charges for Sunday, holiday, or overtime work performed by inspectors of the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture, at laboratories, border ports, seaports, and airports. The regulations are amended to: (1) Increase the hourly rates charged a person, firm or corporation having ownership, custody, or control of plants, plant products, animals and animal byproducts, or other commodities or articles subject to certain inspection, laboratory testing, certification, or quarantine and who requires the services of an APHIS employee on a Sunday or holiday or at any other time outside the employee's regular tour of duty; and (2) increase the hourly rates charged an owner or operator of an aircraft requesting inspection or quarantine services at an airport outside of the regularly established hours of service. This action is necessary in order to reflect salary increases for Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), as implemented by Executive Orders of the President, and to reflect allowable costs associated with the implementation of the Debt Collection Act of 1982.

EFFECTIVE DATE: January 13, 1991.

FOR FURTHER INFORMATION CONTACT: Paul R. Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, room 458, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7764; or Louise Rakestraw Lothery, Director, Resource Management Support Staff, VS, APHIS, USDA, Room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III (referred to below as the "regulations"), require inspection, laboratory testing, certification, or quarantine of certain animals, animal byproducts, plants, plant products, or other commodities or articles intended for importation into, or exportation from, the United States. When these services must be provided by an APHIS employee on a Sunday or holiday, or at any other time outside the APHIS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97 and 7 CFR part 354.

Each year the fees for these services provided by APHIS employees are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing these services. The fees to be charged for these services have been determined by an analysis of data on the current cost of these services; anticipated costs associated with changes in operations of the program; and increases in those costs due to an increase in salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970 and other increases affecting Federal employees, such as costs for travel and benefits.

In a document published in the **Federal Register** on November 26, 1990 (55 FR 49054-49055, Docket Number 90-198), we proposed to (1) increase the hourly rates charged for the inspection, laboratory testing, certification, or quarantine services of an APHIS employee on a Sunday or holiday or at any other time outside the employee's regular tour of duty and (2) increase the hourly rates charged owners or operators of aircraft requesting inspection or quarantine services at an airport outside of the regularly established hours of service.

Comment on the proposed rule were required to be received on or before December 11, 1990. We did not receive any comments. Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposal as a final rule without change.

With certain exceptions explained below, the rates would be increased by $3.52 per hour for services performed outside the regular tour of duty on a Sunday and by $2.76 per hour for services performed outside the regular tour of duty on a holiday or any other period. The new rates are $43.68 and $33.96, respectively.

The hourly rates charged an owner or operator of an aircraft requesting inspection or quarantine services at an airport outside of the regularly established hours of service are increased as follows: For services performed outside of the regularly established hours of service on a Sunday, the rate is increased by $2.92 per hour, to $35.52. For services performed outside of the regularly established hours of service on a holiday or any other period, the rate is increased by $2.28 per hour, to $27.16.

Owners and operators of aircraft will continue to be provided inspection services without reimbursement during regularly established hours of service on a Sunday or holiday. Further, there is no charge in the $25.00 limit for all private aircraft or private vessel inspection services performed on a Sunday, holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This is a full cost recovery program. In order to allow for orderly implementation and maximum recovery of costs, the rule will be effective at the beginning of the first pay period following publication.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not 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.

Based on information compiled by the Department, we estimate that for calendar year 1990 APHIS will have provided an average of 13,065 hours per week of services for which charges were assessed. These services were requested by thousands of entities. We do not expect that the number of hours of service for which charges will be imposed will increase significantly in 1991.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects

7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

9 CFR Part 97

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

Accordingly, 7 CFR part 354 and 9 CFR part 97 are amended as follows:

Title 7—[Amended]

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for 7 CFR part 354 continues to read as follows:

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

§ 354.1 [Amended]

2. In paragraph (a)(1) introductory text of § 354.1, "$40.16" is removed and "$43.68" added in its place, and "$31.20" is removed and "$33.96" added in its place.

§ 354.1 [Amended]

3. In paragraph (a)(1)(iii) of § 354.1, "$32.60" is removed and "$35.52" added in its place, and "$24.88" is removed and "$27.16" added in its place.

Title 9—[Amended]

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

4. The authority citation for 9 CFR part 97 continues to read as follows:

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

§ 97.1 [Amended]

5. In paragraph (a) introductory text of § 97.1, "$40.16" is removed and "$43.68" added in its place, and "$31.20" is removed and "$33.96" added in its place.

§ 97.1 [Amended]

6. In paragraph (a)(3) of § 97.1, "$32.60" is removed and "$35.52" added in its place, and "$24.88" is removed and "$27.16" added in its place.

Done in Washington, DC, this 7th day of January, 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-674 Filed 1-10-91; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 90-239]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Nevada from Class A to Class Free.

EFFECTIVE DATE: February 11, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6188.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective September 6, 1990, and published in the **Federal Register** on September 11, 1990 (55 FR 37312-37313, Docket Number 90-164), we amended the regulations in 9 CFR part 78 governing the interstate movement of cattle because of brucellosis by changing the classification of Nevada from Class A to Class Free. Comments on the interim rule were required to be received on or before November 13, 1990. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Nevada from Class A to Class Free reduces certain testing and other requirements governing the interstate movement of cattle from Nevada. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified

brucellosis free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Nevada, as well as buyers and importers of Nevada cattle.

This action could affect an estimated 1,700 cattle herds in Nevada, 98 percent of which are owned by small entities. Most of these herds are not certified-free. Test-eligible cattle offered for sale from other than certified-free herds must have a negative test under present Class A status regulations. Last year Nevada tested 16,249 cattle under those regulations. This testing cost approximately $7 per head, or $113,743. If such testing is distributed equally among all herds potentially affected by this regulation, Class Free status could save herd owners approximately $67 per year for each herd.

Therefore, we have determined that changing Nevada's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this rule.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 78

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

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 55 FR 37312–37313 on September 11, 1990.

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

Done in Washington, DC, this 7th day of January 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–673 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 78

[Docket No. 90–240]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Idaho from Class A to Class Free. We have determined that Idaho meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Idaho.

EFFECTIVE DATE: February 11, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective October 9, 1990, and published in the **Federal Register** on October 12, 1990 (55 FR 41505–41507, Docket Number 90–178), we amended the regulations in 9 CFR part 78 that provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. We removed Idaho from the list of Class A States in § 78.41(b) and added it to the list of Class Free States in § 78.41(a).

Comments on the interim rule were required to be received on or before December 11, 1990. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Idaho from Class A to Class Free reduces certain testing and other requirements governing the interstate movement of cattle from Idaho. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Idaho, as well as buyers and importers of Idaho cattle.

There are an estimated 16,000 herds in Idaho, 98 percent of which are owned by small entities that would be affected by this rule. Most of these herds are not certified-free. Test-eligible cattle offered for sale from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. Last year Idaho tested 86,454 cattle under the Class A status regulations. This testing costs approximately $3.50 per head, or $302,589. If such testing were distributed equally among all herds affected by this rule, Class Free status would save less than $19 per herd.

Therefore, we have determined that changing Idaho's brucellosis status to Class Free should not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this rule.

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

Paperwork Reduction Act

This rule contains no information collection or recordkeeping

requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 9 CFR Part 78

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

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR 78.41 (a) and (b) that was published at 55 FR 41505–41507 on October 12, 1990.

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

Done in Washington, DC, this 7 day of January 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–675 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 90F–0021]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2′-methylenebis(4-methyl-6-*tert*-butylphenol) monoacrylate as an antioxidant in styrene block polymers intended for use in contact with food. This action is in response to a petition filed by Sumitomo Chemical America, Inc.

DATES: Effective January 11, 1991; written objections and requests for a hearing by February 11, 1991.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 8, 1990 (55 FR 4481), FDA announced that a food additive petition (FAP OB4190) had been filed by Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 2-*tert*-butyl-6-(3-*tert*-butyl-2-hydroxy-5-methylbenzyl)-4-methylphenylacrylate as an antioxidant in styrene block polymers intended for use on contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use as an antioxidant in styrene block polymers intended to contact food is safe, and that the regulations in 21 CFR 178.2010(b) should be amended as set forth below.

The agency also notes that the subject additive, 2-*tert*-butyl-6-(3-*tert*-butyl-2-hydroxy-5-methylbenzyl)-4-methylphenylacrylate (CAS Reg. No. 61167–58–6) is currently listed in § 178.2010 under the synonym 2,2′-methylenebis(4-methyl-6-*tert*-butylphenol) monoacrylate. Accordingly, this amendment will add the proposed use of the additive to the currently listed use of the additive in 21 CFR 178.2010.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before February 11, 1991, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.2010 is amended in the table in paragraph (b) by revising the "Limitations" column for the entry "2,2′-methylenebis(4-methyl-6-*tert*-butylphenol) monoacrylate * * *" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
2,2'-Methylenebis(4-methyl-6-*tert*-butylphenol) monoacrylate (CAS Reg. No. 61167-58-6).	For use only: 1. At levels not to exceed 0.5 percent by weight of polystyrene and rubber-modified polystyrene complying with § 177.1640 of this chapter. 2. At levels not to exceed 0.5 percent by weight of styrene block ploymers complying with § 177.1810 of this chapter.
* * * * *	

Dated: December 31, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-631 Filed 1-10-91; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 89F-0409]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate as a clarifying agent in propylene polymers intended for use in contact with food. This action is in response to a petition filed by Asahi Denka Kogyo K. K.

DATES: Effective January 11, 1991; written objections and requests for a hearing by February 11, 1991.

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

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 24, 1989 (54 FR 43338), FDA announced that a food additive petition (FAP 9B4165) had been filed by Adeka Argus Chemical Co., Ltd. (now known as Asahi Denka Kogyo K. K.), 5-2-13 Shirahata, Urawa, Saitama, Japan, proposing that § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) be amended to provide for the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate as a clarifying agent in propylene polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe and is therefore amending 21 CFR 178.3295 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before February 11, 1991, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3295 is amended in the table by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.3295 Clarifying agents for polymers.

* * * * *

Substances	Limitations
* * * * *	
Sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl) phosphate (CAS Reg. No. 85209-91-2).	For use only as a clarifying agent at a level not exceeding 0.30 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 3.1, or 3.2 (where the copolymers complying with items 3.1 and 3.2 contain not less than 85 weight percent of polymer units derived from propylene). The finished polymers contact food only of the types I, II, IV-B, VI-B, VII-B, and VIII as identified in Table 1 of § 176.170(c) of this chapter and limited to conditions of use B through G described in Table 2 of § 176.170(c) of this chapter; or food of all types, limited to conditions of use C through G described in Table 2 of § 176.170(c) of this chapter.

Dated: December 31, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-634 Filed 1-10-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 76

[Order No. 1462-90]

Regulations Implementing Civil Penalties Under the Anti-Drug Abuse Act of 1988

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Final rule.

SUMMARY: These regulations implement section 6486 of the Anti-Drug Abuse Act of 1988, Public Law 100-690 (hereinafter the Act), 21 U.S.C. 844a, which authorizes civil penalties of up to $10,000 for the possession of small amounts of certain controlled substances. The rules set forth the procedures to be followed in all administrative proceedings brought by the United States seeking the assessment of such a civil penalty for possession of "personal use amounts" by respondents who have violated this Act.

EFFECTIVE DATE: February 11, 1991.

FOR FURTHER INFORMATION CONTACT: Charles W. Sorenson, Jr., Room 3531, Department of Justice, 10th and Constitution Avenue NW, Washington, DC 20530. Tel. No. (202) 514-4020. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Section 6486 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), 21 U.S.C. 844a, establishes a civil penalty not to exceed $10,000 for knowingly possessing certain designated controlled substances in "personal use amounts," as defined in regulations promulgated by the Attorney General. The Act authorizes the Attorney General to assess such a civil penalty in an administrative proceeding that includes the opportunity for a hearing on the record. In the event the Attorney General issues such an order assessing a civil penalty against an individual, the Act authorizes the individual to bring an action in Federal District Court. In such an action the law and facts relating to the violation and assessment shall be determined *de novo.* The Act also provides for expungement of the record of administrative proceedings for assessment of a civil penalty if certain conditions are met.

Proposed regulations implementing section 6486 were developed by the Department of Justice and were published in the **Federal Register** on December 13, 1989 (54 FR 51206), for public comment. The proposed regulations, *inter alia,* define the term "personal use amounts," and set forth detailed procedures to be used in the administrative proceedings for assessment of a civil penalty. With certain exceptions, the administrative procedures proposed generally follow the procedures set out in 28 CFR part 68 and 5 U.S.C. 554. The proposed regulations provide for: Notice to a respondent of the intent to assess a civil penalty; complaint, answer, prehearing, and discovery procedures; the opportunity for a hearing before an Administrative Law Judge (hereinafter Judge); and procedural and evidentiary standards governing the hearing. Under the proposed regulations, after a hearing and the entry of an order by the Judge, the order would be subject to review by the Attorney General. The Attorney General has the power to accept that order, modify it, or set it aside. The Attorney General's order, or the Judge's order in the case in which the Attorney General does not enter a new order, is the final agency action subject to review by a United States District Court. In accordance with the Act, the Attorney General also has the power later to expunge the record relating to a civil penalty if certain provisions are met.

In response to the publication of the proposed rules, comments were received from various individuals and organizations. Many of the comments received were directed at the perceived problems with the statute itself or the standards required by the statute—matters which are beyond the scope of these regulations. Several comments raised concerns about perceived constitutional problems with the administrative proceedings. Other comments were directed at practical difficulties in implementing the statute and regulations. Each of the comments were read and analyzed by the Department during the process by which the final regulations were drafted. After thorough consideration of the viewpoints expressed in the comments, changes in the proposed regulations were made which are responsive to many of the comments, incorporating specific suggestions where appropriate. In addition, as a result of further reflection upon the proposed regulations, other changes were made where necessary to clarify and improve the procedures established by the regulations. A brief discussion of the comments and the Department's responses follows:

II. Discussion of Comments

One comment questioned the definition of "personal use amount" in paragraph 76.2(h) of the proposed regulations, suggesting that the quantities set for the listed controlled substances were too low and that the listing of specific factors was unnecessary and confusing, and could result in rigid application of the regulations by ALJ's and courts. We believe that this comment substantially misperceives the intent of this provision and the role of the factors in determining if a "personal use amount" is involved. As clearly reflected in paragraph 76.2(h), the determinative threshold issue for applicability of the civil penalty statute and regulations in each case is whether the possession of a particular controlled substance occurred in circumstances "where there is no other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing or exporting of any controlled substance." The first five factors listed in the definition are those which, based on experience, are considered to be directly relevant to this question and are intended to provide guidance in making the ultimate determination. As the regulations indicate, however, these factors are not to be considered conclusive, and the factors are not intended to be exclusively or rigidly applied. Thus, in an appropriate circumstance other evidence regarding an intent to distribute could be considered.

Similarly, the sixth factor setting forth quantities of particular controlled substances is intended to provide guidance as to what amounts clearly would appear to be consistent with possession of the controlled substance for personal use, but it is not intended to preclude a finding, based upon appropriate evidence, that possession of quantities in excess of those listed constitutes possession for "personal use" within the meaning of the statute and regulations. To clarify this point, language has been added to § 76.2(h) to the effect that "amounts in excess of those listed in § 76.2(h)(6) may be determined to be personal use amounts where circumstances indicate possession of the substance without an intent to distribute or to facilitate the manufacturing, compounding processing, delivering, importing or exporting of the controlled substance."

Another comment, made by two organizations submitting comments, was directed at the process by which an individual is notified that a civil penalty

is being sought from that individual. An enforcement proceeding under the regulations is commenced by the issuance by the appropriate United States Attorney's Office of a "Notice of Intent to Assess Civil Penalty," which under the proposed § 76.6 could be delivered or mailed to the respondent. The commenters urged that the proposed mail notice mechanism was inadequate, particularly in light of the fact that under § 76.4(c) of the regulations, if a respondent fails to serve an answer to the notice and request a hearing, a non-appealable final order assessing a penalty may entered. It was suggested that assessing a penalty after notice by letter sent to an incorrect or old address would violate due process.

We agree that the initial notice procedure contained in the proposed rules could be improved, and have revised § 76.6(b) of the regulations to require that the Notice of Intent to Assess Civil Penalty must be served by personal delivery or by registered or certified mail, return receipt requested. The intent of this provision is to ensure that a respondent against whom proceedings are initiated has actual notice of those proceedings, and that an order assessing a penalty is not entered in situations in which there is no evidence that the respondent actually received notice. Similar revisions have been made with regard to service of the complaint and service of the notice of a hearing.

The regulation also has been revised to clarify that the 30-day period within which the respondent must reply to the notice does not begin until the respondent is served with the notice. In addition, upon further review of the proposed § 76.4 notice procedures in light of the potential consequences of a civil penalty proceeding, modification of the requirements for the content of the notice has been made to ensure that a respondent is adequately informed of the nature of the proceedings, the respondent's obligations and liabilities, and the respondent's available rights.

Several comments suggested that various provisions of the proposed regulations are inconsistent with a respondent's constitutional rights, particularly the Fifth and Sixth Amendment rights relating to criminal proceedings. Although specific constitutional issues raised in the comments will be addressed below in the context of the particular proposed rules provisions implicated, it must be noted generally that the rules have never been intended to define or enumerate exhaustively the various constitutional or statutory rights that may be applicable to or available in the civil penalty administrative proceedings. Instead, it has been expected that application of the rules would require resort to generally controlling law, and that the rules would be interpreted and applied in a manner that is consistent with established constitutional principles. Nevertheless, an attempt has been made in the final rules to make this point clear, particularly where specific provisions of the proposed regulations might be interpreted in a manner that may be inconsistent with established constitutional or statutory rights.

Several comments were directed at aspects of the proposed rules that were seen as violating the Fifth Amendment privilege against self-incrimination, particularly those provisions relating to the required Answer to a Notice of Intent to Assess a Civil Penalty and the required Answer to a Complaint (see proposed §§ 76.4(c), 76.9). The regulations have been modified to clarify that all aspects of the proposed administrative process are subject to any applicable privileges, including the respondent's Fifth Amendment privilege against self-incrimination. Thus, the Notice of Intent to Assess Civil Penalty (§ 76.4(b)) must inform a respondent that any statement given may be used against the respondent in this or any other proceeding, and that in responding to the Notice, the respondent may be able to assert the privilege against self-incrimination as to appropriate, specific allegations. Similarly, § 76.9(c) relating to the Answer to the Complaint has been revised to provide that the privilege may be asserted in appropriate circumstances and will have the effect of a denial. In addition, the discovery provision (§§ 76.21, 76.24) have been clarified to reflect the potential applicability of the privilege against self-incrimination in that context.

Commenters also suggested that because of double jeopardy problems inherent in subsequent criminal prosecutions for the same conduct, the proposed civil penalties regulations should be amended to provide that the civil penalty process is the exclusive sanction for the conduct and cannot be followed by a criminal prosecution. We do not agree that such a modification is appropriate under the statute or the law of the double jeopardy. First, as evidenced by the statute and its legislative history, the Act establishes a civil, rather than criminal, penalty mechanism, which does not, on its face, implicate the double jeopardy clause. Also, as the comments on the regulations recognized, the statute and regulations prohibit the use of the civil penalty process where there has been a prior controlled substance conviction. Thus, it is unlikely that a civil penalty action would be brought in circumstances where the bringing of that action would constitute double jeopardy.

The proper forum and time to address any conceivable double jeopardy implications of subsequent criminal prosecutions arising out of the same conduct as that involved in the civil penalty proceeding would be in the content of any such criminal actions themselves. It would not be appropriate, in context of general regulations governing only the civil penalty administrative process in the abstract, to attempt to preclude a subsequent criminal proceeding relating to the conduct which gave rise to the civil proceeding in particular factual circumstance where the criminal action might be warranted, or to attempt to preclude a different sovereign (e.g., state or local government) from taking whatever action it deems warranted in the circumstances.

Another comment suggested that the proposed regulation improperly denies a respondent who is indigent the right to appointed counsel under the Sixth Amendment. We cannot agree that such a right exists in civil penalty proceedings where the maximum penalty which can be assessed is $10,000. It is well established that an indigent's Sixth Amendment right to appointed counsel attaches only in a criminal case where the defendant is subject to a term of imprisonment. *Scott* v. *Illinois*, 440 U.S. 367, 373–74 (1979).

Commenters also questioned the standard of proof applicable to the administrative civil penalty proceedings under which the government must prove its case "by a preponderance of the evidence" (§ 76.2), noting that this was a less stringent standard than that required in the *de novo* district court appeal proceedings under the Act (i.e., proof "beyond a reasonable doubt") and would encourage defendants to seek appeals. One commenter also asserted that the "beyond a reasonable doubt" standard applicable in criminal proceedings was constitutionally required here.

The burden of proof to be used in the civil penalty administrative proceedings is established by the Act, which incorporates certain provisions of the Administrative Procedure Act. See 28 U.S.C. 844a; 5 U.S.C. 554, 556(d); *Steadman* v. *SEC*, 450 U.S. 91, 95–99 (1981). The preponderance of evidence standard is appropriate for these civil administrative proceedings.

An organization commented that sections of the regulations relating to the parties' responsibilities for witness fees and other fees, and the provision allowing the introduction by the government of written statements (see §§ 76.22, 76.25, 76.29) violate a defendant's, particularly an indigent defendant's rights to compulsory process, confrontation, and cross examination under the Sixth Amendment. While this comment is based on a substantial misunderstanding of the regulatory provisions in question, it must be noted again that the constitutional Sixth Amendment rights in question apply to criminal rather than civil proceedings.

Nevertheless, as noted previously, the regulations are intended to be interpreted and applied in a manner that is consistent with controlling legal principles. Thus, while it is well established that written statements (i.e., hearsay) are generally admissible in administrative proceedings, see, *e.g., Richardson* v. *Perales,* 402 U.S. 389 (1971), it is also clear that constitutional due process and the Administrative Procedure Act (5 U.S.C. 555(d)) require that a defendant be given a reasonable opportunity to confront and cross-examine adverse witnesses, and in some circumstances may preclude reliance by the government solely on written statements to support its burden of proof in the administrative proceedings. The regulations were never intended to suggest that the government can rely solely on written hearsay statements of its witnesses and require the defendant to incur the expense of subpoenaing all government witnesses in order to cross-examine those witnesses. Instead, they are intended only to reflect that in some circumstances hearsay statements may be admissible and that generally defendants are responsible for the expenses incurred in presenting a defense.

Because of possible misunderstandings about the intent of the proposed regulations, §§ 76.22, 76.23, 76.25, and 76.29 have been revised slightly to clarify that the government will be expected generally to present its case through the oral testimony of its witnesses, and that in making a determination as to whether written statements may be used in lieu of oral testimony, the Administrative Law Judge must rely on established legal principles. In addition, the final rules clarify that the Administrative Law Judge has authority, in appropriate circumstances, 'o make such orders as are necessary under other controlling law with respect to the expenses incurred by an indigent defendant.

Another comment suggested that the authorization of summary judgment in § 76.18(b)(12) is inconsistent with a defendant's confrontation and cross-examination rights. This comment is apparently based upon a misunderstanding of the purpose of the summary judgment provision, and its limitations, in the context of the administrative proceedings under the regulations. Summary judgment, either partial or complete, is authorized only where there are no material disputes as to the facts. It is not intended to be used where the defendant denies the allegations of a complaint or properly invokes a privilege, and is not intended to preclude a defendant from challenging the government's evidence through cross-examination where appropriate. There are, however, circumstances where summary judgment procedures may be appropriate, such as where a defendant admits possession of a controlled substance, but disputes only facts relating to the appropriateness of the amount of the penalty.

A number of the comments were generally directed at the proposed provisions of the regulations relating to administrative discovery, prehearing statements and conferences, motions, protective orders, fees and sanctions, which were perceived as excessively complex, burdensome, and costly. These are variously seen as disadvantaging indigent defendants, coercing a respondent into paying a fine rather than incurring the costs of administrative litigation, and serving as a disincentive to the full use of the administrative civil proceedings instead of criminal proceedings or the subsequent *de novo* district court review proceeding authorized by the statute. Commenters suggested that the proposed rules be amended to make the administrative proceedings as inexpensive and open to a respondent as possible so as to encourage the utilization of the administrative penalty procedures instead of district court litigation. In this regard, one commenting organization suggested that the administrative procedures should be made more informal, flexible and favorable to the respondent, using procedures utilized by the Department of Veterans Affairs (formerly Veterans Administration) as a model.

We agree that an important objective of the regulations is the establishment of an efficient adjudicatory mechanism which can be utilized fully by the parties. It is possible that the procedures and standards reflected in the proposed regulations may have the potential to be complex or expensive and to discourage the full use of administrative civil penalty proceedings by defendants. Nevertheless, many of the procedures and standards under the regulations, such as the requirement of a hearing in conformity with the procedures set forth 5 U.S.C. 554 and the application of the "preponderance of evidence standard" at the administrative level with district court review to be based on the "beyond the reasonable doubt standard," are required by the statute. Moreover, the Department believes that, overall, the prehearing and hearing procedures and standards represent a reasonable balancing of the interests in a full and fair opportunity to contest the allegations of a violation of the statute, and the interests in litigation and cost efficiency.

The Department also believes that at least some of the criticisms regarding the complexity and burden engendered by the regulations are based on misperceptions of the manner in which the rules are intended to operate. The rules are written in a flexible manner with substantial discretion placed in the Administrative Law Judge to tailor the actual procedures in each case to the circumstances of that case, with the goals of adjudicating matters as expeditiously and efficiently as possible while ensuring that a defendant receives an opportunity for a full and fair administrative adjudicatory proceeding. See, *e.g.* §§ 76.4(b), 76.11(b) (respondent's right to waive a hearing and either pay a penalty or seek a determination by written motion); § 76.12 (prehearing statement authorized but not required in every case); § 76.19 (discretionary prehearing conferences if Administrative Law Judge finds that proceeding would be expedited); § 76.21 (discovery protective orders). Accordingly, it is not contemplated that every proceeding will or should involve all of the prehearing motions, statements or procedures, including discovery, but instead that the complexity of the proceeding will be directly related to the nature of each case.

Contrary to the suggestion of one commenter, the administrative procedures utilized by the Department of Veterans Affairs (VA) in making disability compensation decisions are not appropriate models for the civil drug penalty regulations. Unlike the civil penalty statute, which clearly contemplates that because of the very nature of the subject matter, the proceedings will be formal and adversarial, the relevant statutes

governing VA disability compensation proceedings require that the proceedings be conducted in an informal, nonadversarial manner and that the VA attempt to represent the interests of the veteran. *See generally Walters* v. *National Ass'n of Radiation Survivors*, 473 U.S. 305, 319–34 (1985).

A commenter complained that the sanction for failure to defend in proposed § 76.26 is problematic because of the vagueness of the term "failure to defend" and because such a sanction could be used inappropriately to force a defendant to expend resources on the administrative proceeding. The Department agrees that in the context of these proceedings the term "failure to defend" is not sufficiently precise. Therefore, § 76.26 has been revised to eliminate this provision. Instead, a sanction has been added for the more specific circumstance in which a defendant, without good cause, fails to appear at a hearing.

In addition to the modifications discussed above, the provision in § 76.30(f) regarding the use of grand jury developed evidence has been deleted. The determination of whether particular evidence is grand jury material and whether such evidence may be disclosed in a civil penalty administrative proceeding requires consideration of other controlling legal authority, including Fed. R. of Crim. P. 6(e), and is outside the scope of authority of the Administrative Law Judge in the civil penalty proceedings. Nevertheless, in appropriate circumstances, as authorized by law, evidence which is presented to a grand jury or which was developed through grand jury processes may be disclosed in civil drug penalty proceedings.

Modifications have also been made to the proposed § 76.36 provisions relating to administrative review by the Attorney General in order to alleviate potential confusion regarding the time within which review by a district court must be sought. Under § 76.36, as modified, the decision and order of the Administrative Law Judge becomes the final order of the Attorney General unless a party requests Attorney General review and the Attorney General enters a subsequent order modifying, vacating, adopting or affirming that order within 30 days of the time of the request for review. This change clarifies that the 30 day period in which a respondent may seek district court review runs from the date this final order is entered.

Finally, non-substantive modifications have been made throughout the regulations in response to comments and upon further consideration of the proposed rules by the Department in order to clarify and streamline the procedures for the administrative proceedings.

III. Conclusion

After thorough consideration of all of the comments received and further review of the matter, it has been determined that the regulations, with the modifications discussed above, should be adopted.

IV. Regulatory Impact Analysis

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule will not be a major rule within the meaning of paragraph 1(b) of Executive Order 12291.

List of Subjects in 28 CFR Part 76

Drug traffic control, Drug abuse, Authority delegations (Government agencies), Penalties.

Therefore, by virtue of the authority vested in me by law, including 5 U.S.C. 301, 21 U.S.C. 844a, 875, 876 and 28 U.S.C. 509, 510, and for the reasons discussed in the preamble above, title 28, chapter I, of the Code of Federal Regulations is amended by adding a new part 76 to read as follows:

PART 76—RULES OF PROCEDURE FOR ASSESSMENT OF CIVIL PENALTIES FOR POSSESSION OF CERTAIN CONTROLLED SUBSTANCES

Sec.

76.1 Purpose.
76.2 Definitions.
76.3 Basis for civil penalty.
76.4 Enforcement procedures.
76.5 Complaint.
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76.7 Content of pleadings.
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76.15 *Ex parte* communications.
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76.21 Discovery.
76.22 Exchange of witness lists, statements and exhibits.
76.23 Subpoenas.
76.24 Protective Order.
76.25 Fees.
76.26 Sanctions.
76.27 The hearing and burden of proof.
76.28 Location of hearing.
76.29 Witnesses.
76.30 Evidence.
76.31 Standards of conduct.
76.32 Hearing room conduct.
76.33 Legal assistance.
76.34 Record of hearings.
76.35 Decision and Order of the Judge.
76.36 Administrative and judicial review.
76.37 Collection of civil penalties.
76.38 Deposit in the United States Treasury.
76.39 Compromise or settlement after Decision and Order of a Judge.
76.40 Records to be public.
76.41 Expungement of records.
76.42 Limitations.

Authority: 5 U.S.C. 301; 21 U.S.C. 844a, 875, 876; 28 U.S.C. 509, 510.

§ 76.1 Purpose.

This part implements section 6486 of the Anti-Drug Abuse Act of 1988 (the Act), 21 U.S.C. 844a. This part establishes procedures for imposing civil penalties against persons who knowingly possess a controlled substance for personal use that is listed in 21 CFR 1316.91(j)(2) in violation of 21 U.S.C. 844a and specifies the appeal rights of persons subject to a civil penalty pursuant to section 6486 of the Act.

§ 76.2 Definitions.

(a) *Act* means the Anti-Drug Abuse Act of 1988, Public Law 100–690.

(b) *Adjudicatory proceeding* means a judicial-type proceeding leading to the formulation of a final order.

(c) *Administrative Procedure Act* means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C 551 through 559.

(d) *Attorney General* means the Attorney General of the United States or his or her designee.

(e) *Department* means the United States Department of Justice.

(f) *Judge* means an Administrative Law Judge appointed pursuant to the provisions of 5 U.S.C. 3105.

(g) *Penalty* means the amount described in 28 CFR 76.3 and includes the plural of that term.

(h) The term *Personal Use Amount* means possession of controlled substances in circumstances where there is no other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing or exporting of any controlled substance. Evidence of personal use amounts shall not include sweepings or other evidence of possession of amounts of a controlled substance for other than personal use. The following criteria shall be used to determine whether an amount of controlled substance in a particular case

is in fact a personal use amount. The absence of any of the factors listed in paragraphs (h)(1) through (h)(5) of this section and the existence of the factor in paragraph (h)(6) of this section shall be relevant, although not necessarily conclusive, to establish that the possession was for personal use, and amounts in excess of those listed in paragraph (h)(6) of this section may be determined to be personal use amounts where circumstances indicate possession of the substance without an intent to distribute or to facilitate the manufacturing, compounding, processing, delivering, importing or exporting of the controlled substance.

(1) Evidence, such as drug scales, drug distribution paraphernalia, drug records, drug packaging material, method of drug packaging, drug "cutting" agents and other equipment, that indicates an intent to process, package or distribute a controlled substance;

(2) Other information indicating possession of a controlled substance with intent to distribute;

(3) The controlled substance is related to large amounts of cash or any amount of prerecorded government funds;

(4) The controlled substance is possessed under circumstances that indicate such a controlled substance is a sample intended for distribution in anticipation of a transaction involving large amounts, or is part of a larger delivery; or

(5) Statements by the possessor, or otherwise attributable to the possessor, including statements of co-conspirators, that indicate possession with intent to distribute.

(6) The amounts do not exceed the following:

(i) One gram of a mixture or substance containing a detectable amount of heroin;

(ii) One gram of a mixture or substance containing a detectable amount of—

(A) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivations of ecgonine or their salts have been removed;

(B) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(D) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (h)(6)(ii) (A) through (C) of this section;

(iii) 1/10 gram of a mixture or substance described in paragraph (h)(6)(ii) of this section which contains cocaine base;

(iv) 1/10 gram of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 500 micrograms of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) One ounce of a mixture or substance containing a detectable among of marijuana;

(vii) One gram of methamphetamine, its salts, isomers, and salts of its isomers, or one gram of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

(i) *United States Attorney* means the United States Attorney in the federal district in which the alleged violation occurred, or his or her designees, or an Assistant Attorney General.

(j) *Commencement of proceeding* is the service upon a respondent of a Notice of Intent to Assess a Civil Penalty.

(k) *Complainant* means the United States.

(l) *Complaint* means the formal document initiating adjudicatory proceedings.

(m) *Consent Order* means any written document containing a specified remedy or other relief agreed to by all parties and entered as an order by the Judge.

(n) *Hearing* means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission.

(o) *Motion* means an oral or written request, made by a person or party, for some action by a Judge.

(p) *Order* means the whole or any part of a final procedural or substantive disposition of a matter by the Judge.

(q) *Party* includes the United States of America and any person named as a respondent.

(r) *Respondent* means any person alleged in a Notice of Intent to Assess a Civil Penalty or Complaint under 28 CFR 76.4 and 76.5 to be liable for a civil penalty under 28 CFR 76.3.

§ 76.3 Basis for civil penalty.

(a) Any individual who knowingly possesses a controlled substance that is listed in § 76.2(h) in violation of 21 U.S.C. 844a shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for such violation.

(b) The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this part or to prosecute the individual criminally. However, if a decision is made to assess a civil penalty, the income and net assets of an individual shall be considered in determining the amount of a penalty under this part.

(c) A civil penalty may not be assessed under this part if the individual previously was convicted of a federal or state offense relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(d) A civil penalty may not be assessed on an individual under this part on more than two separate occasions.

(e) A civil penalty under this part may be assessed by the Attorney General only after an order has been issued on the record and after an opportunity for a hearing has been given in accordance with 5 U.S.C. 554. The Attorney General by and through the United States Attorney having jurisdiction over the matter shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the thirty (30) day period beginning on the date such notice is served.

§ 76.4 Enforcement procedures.

(a) *Commencement of proceedings.* If the United States Attorney's office having jurisdiction over the matter determines that a person has violated section 6486 of the Act, the proceeding to assess a civil penalty under section 6486 of the Act shall be commenced by the United States Attorney issuing a Notice of Intent to Assess Civil Penalty. Service of this Notice shall be accomplished pursuant to 28 CFR 76.6.

(b) *Notice of intent to assess a civil penalty.* The Notice of Intent to Assess Civil Penalty (Notice) will contain a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of law, the statutory and regulatory provisions alleged to have been violated, and the amount of penalty for which the respondent could be liable. The Notice will advise the respondent of the following, in addition to any other specific information determined by the United States Attorney to be necessary:

(1) That the respondent has the right to representation by counsel, but not at government expense;

(2) That any statement given during the course of the proceeding may be used against the person in this or any other proceeding, including any criminal prosecution;

(3) That a respondent may be able to assert a privilege, such as the privilege against self-incrimination;

(4) That failure to file a response to the allegations listed in the Notice within thirty (30) days of the date of service may result in the entry of a non-appealable final order assessing a penalty in an amount to be determined by the Attorney General;

(5) That the respondent has the right to request an adjudicatory proceeding, including a hearing, before a Judge pursuant to 5 U.S.C. 554–557 and this part, and that such request, in accordance with paragraph (c) of this section, must be made within thirty (30) days from the date the notice is served;

(6) That a respondent may waive an adjudicatory proceeding at any time and agree to pay a penalty in an amount to be determined by the Attorney General; and

(7) That in determining the amount of the penalty the respondent's income and net assets must be considered.

(c) *Answer to notice.* To timely request an adjudicatory proceeding in response to a Notice, a respondent must serve upon the United States Attorney designated in the Notice a written answer responding to each allegation listed in the Notice and request a hearing, in accordance with 28 CFR 76.4(b), within thirty (30) days from the date the Notice was served upon the respondent. If the respondent does not serve an answer within thirty (30) days, the Attorney General or his designee may enter a final order, from which there is no appeal, ordering a payment of a civil penalty.

§ 76.5 Complaint.

(a) If the respondent requests an adjudicatory proceeding, the United States Attorney, within fifteen (15) days after receipt of the request, shall file a complaint against the respondent with a Judge who has been assigned to hear and decide the case and shall serve a copy of the complaint on the respondent as provided in 28 CFR 76.6(b).

(b) The complaint shall contain a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of law, the approximate date, place and location of the alleged violation including the federal district, the statutory provisions alleged to have been violated, the amount of penalty for which the respondent could be held liable, and the amount of the proposed penalty. It shall also indicate the date upon which the Notice of Intent to Assess Civil Penalty was served and shall be accompanied by a copy of that notice.

§ 76.6 Service and filing of documents.

(a) *Generally.* Unless ordered otherwise, an original and one copy of the complaint and all other pleadings shall be filed with the Judge who has been assigned to the case. Each party shall deliver or mail, in accordance with paragraph (b) of this section, a copy of all pleadings, including any attachments to the other party. Each pleading filed shall be clear and legible.

(b) *By and on parties.* The Notice of Intent to Assess Civil Penalty and the Complaint shall be served by personal delivery or by certified or registered mail, return receipt requested, to the respondent. When it is known that a party is represented by an attorney, service of any other pleading, paper or document subsequent to the Notice and Complaint shall be made upon the party's attorney. Service of such other pleadings, papers, or documents may be made by personal delivery or by mailing, by first class mail, a copy to the party or attorney at the party's or attorney's last known address. The party serving the document shall certify the manner and date of service.

(c) *By the Judge.* Except as provided in paragraph (d) of this section, service of Notices, Orders and Decisions shall be made by first class mail to the last known address of a party or, if the party is known to be represented by an attorney, to the attorney.

(d) *Service of Notice of Hearing.* Service of Notice of the Date Set for Hearing shall be made by the Judge with whom the complaint has been filed either by delivering a copy to the individual party or, if known, to the attorney of record of a party; or by mailing, by certified or registered mail, return receipt requested, a copy to the last known address of a party or a party's attorney.

(e) Service is complete upon delivery to the addressee or, in the case of service by mail, upon mailing.

(f) Filing of pleadings, papers or other documents shall be deemed completed upon delivery to the Judge assigned to the case or the Judge's designee.

§ 76.7 Content of pleadings.

(a) Every pleading shall contain a caption setting forth the statutory provision under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Judge, the names of all parties, and a designation of the type of pleading or paper (e.g., complaint, motion to dismiss). The pleading shall be signed and shall contain the address and telephone number of the party or person representing the party. The pleadings should be typewritten when possible on standard-size (8½ x 11) paper. Legal size (8½ x 14) paper will not be accepted, except upon approval by the Judge.

(b) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise, will not be accepted. Papers may be reproduced by any duplicating process, provided all copies are clear and legible.

(c) All documents presented by a party in a proceeding must be in English or, if in a foreign language, accompanied by a certified translation.

§ 76.8 Time computations.

(a) *Generally.* In computing any period of time under this part or in an order issued hereunder, the time begins with the day following the act, event, or default requiring service, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday observed by the federal government, in which case the time period includes the next business day. When the period of time prescribed is eleven (11) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an order, the date of entry shall be the date the order is signed by the Judge.

(c) *Computation of time for service by mail.* Whenever a party has a right or is required to do some act or take some action within a prescribed period after service of a pleading, paper, or notice and the pleading, paper, or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.

§ 76.9 Responsive pleading—answer.

(a) *Time for answer.* A respondent shall file and serve on the United States Attorney having jurisdiction over the matter an answer within thirty (30) days after the service of a complaint.

(b) *Default.* Failure of the respondent to file and serve an answer within the time provided shall be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. In such cases, the Judge may enter a judgment by default.

(c) *Answer.* Any respondent contesting any material fact alleged in a complaint, or contending that he or she is entitled to judgment as a matter of law, shall file an answer in writing.

(1) The answer shall include a statement of the facts supporting each affirmative defense.

(2) The answer shall include a statement that the respondent admits,

denies, does not have and is unable to obtain sufficient information to admit or deny each allegation, or that an answer to the allegation is protected by a privilege, including the privilege against self-incrimination.

(3) A statement of lack of information or a statement that the answer to the allegation is privileged shall have the effect of a denial.

(4) Any allegation not denied shall be deemed to be admitted.

(d) *Reply.* A complainant may file a reply responding to each affirmative defense arrested if the Judge, pursuant to 28 CFR 76.10, so provides.

(e) *Amendments and supplemental pleadings.* If it will facilitate resolution of the controversy, the Judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to complaints and other pleadings at any time prior to the issuance of the Judge's order based on the complaint. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make the pleadings conform to the evidence. The Judge may, upon reasonable notice and such terms as are just, permit supplemental pleadings setting forth transactions, occurrences, or events which have happened or new law promulgated since the date of the pleadings and which are relevant to any of the issues involved.

§ 76.10 Motions and requests.

(a) *Generally.* Any application for an order or any other request shall: be made by motion which shall be in writing (unless the Judge in the course of an oral hearing or appearance consents to accept such motion orally), state with particularity the grounds therefor, and set forth the relief or order sought. Motions or requests made during the course of any oral hearing or appearance before a Judge may be stated orally or in writing and made part of the transcript. All parties shall be given reasonable opportunity to respond or object to the motion or request.

(b) *Responses to motions.* Within ten (10) days after a written motion is served, or within such other period as the Judge may fix, the other party to the proceeding may file a response to the motion, accompanied by such affidavits or other evidence as the party desires to rely upon. Unless the Judge provides otherwise, no reply to a response shall be filed.

(c) *Oral arguments or briefs.* No oral argument will be heard on motions unless the Judge otherwise directs. Written memoranda or briefs may be filed with motions or responses to motions, stating the points and authorities relied upon in support of the position taken.

§ 76.11 Notice of hearing.

(a) When the Judge receives the complaint and answer, the Judge shall cause to be served a Notice of Hearing upon the parties in the manner prescribed by 28 CFR 76.6(d).

(b) Such notice shall include:

(1) The time and place and nature of the hearing. In fixing the time and place of the hearing, the Judge will attempt to minimize the costs to the parties;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The description of the procedures for the conduct of the hearing;

(4) A notice that the respondent party may waive the right to an oral hearing and request that the matter be determined on written motions and written submission of the evidence; and

(5) Such other matters as the Judge deems appropriate.

§ 76.12 Prehearing statements.

(a) At any time prior to the commencement of the hearing, the Judge may order any party to file a prehearing statement of position.

(b) A prehearing statement shall state the name of the party on whose behalf it is presented and shall briefly set forth the following matters, unless otherwise ordered by the Judge:

(1) Issues involved in the proceedings and whether the respondent requests an oral hearing;

(2) Facts stipulated;

(3) Facts in dispute;

(4) Witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;

(5) A brief statement of applicable law;

(6) The conclusions to be drawn;

(7) The estimated time required for presentation of the party's case; and

(8) Any appropriate comments, suggestions, or information which might assist the parties or the Judge in preparing for the hearing or otherwise aid in the disposition of the proceeding.

§ 76.13 Parties to the hearing.

The parties to the hearing shall be the United States of America and the respondent.

§ 76.14 Separation of functions.

An employee or an agent of the Department who is or was engaged in investigative or prosecutive functions for or on behalf of the United States in a case may not participate in the decision of that case.

§ 76.15 Ex parte communications.

(a) *Generally.* The Judge shall not consult with any party, attorney or person (except persons in the office of the Judge) on any legal or factual issue unless upon notice and opportunity for all parties to participate. No party or attorney representing a party shall communicate in any instance with the Judge on any matter at issue in a case, unless notice and opportunity has been afforded for the other party to participate. This provision does not prohibit a party or attorney from inquiring about the status of a case or asking questions concerning administrative functions or procedures.

(b) *Sanctions.* A party or participant who makes a prohibited *ex parte* communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanctions. An attorney who makes a prohibited *ex parte* communication, or who encourages or solicits another to make any such communication, may be subject to sanctions, including, but not limited to, exclusion from the proceedings.

§ 76.16 Disqualification of a Judge.

(a) When a Judge deems himself or herself disqualified to preside in a particular proceeding, such Judge shall withdraw therefrom by notice on the record directed to the Chief Administrative Hearing Officer for the district in which the case is brought or, if there is no Chief Administrative Hearing Officer, to the Attorney General.

(b) Whenever any party shall deem the Judge for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, that party shall file with the Judge a motion to recuse. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The Judge shall rule upon the motion.

(c) In the event of disqualification or recusal of a Judge as provided in paragraph (a) or (b) of this section, the Chief Administrative Hearing Officer or the Attorney General shall refer the matter to another Judge for further proceedings.

(d) If the Judge denies a motion to disqualify, the Attorney General may determine the matter only as part of the

Attorney General's review of the initial decision on appeal, if any.

§ 76.17 Rights of parties.

Except as otherwise limited by this Part, all parties may:

(a) Be represented, advised and accompanied by an attorney at law who is a member in good standing of the bar of the District of Columbia or of any state, territory or commonwealth of the United States;

(b) Participate in any conference held by the Judge;

(c) Conduct discovery in accordance with 28 CFR 76.18 and 76.21;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral argument at the adjudicatory proceeding as permitted by the Judge; and

(h) Submit a written brief and a proposed final order after the hearing.

§ 76.18 Authority of the Judge.

(a) The Judge shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The Judge has the authority to:

(1) Set and change the date, time and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas in accordance with 21 U.S.C. 875 and 876 requiring the attendance of witnesses and the production of documents at dispositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as necessary to carry out the responsibilities of the Judge under this Part.

(c) The Judge does not have the authority to rule upon the validity of federal statutes or regulations.

§ 76.19 Prehearing conferences.

(a) *Purpose and scope.* Upon motion of a party or in the Judge's discretion, the Judge may direct the parties or their counsel to participate in a prehearing conference at any reasonable time prior to a hearing, or during the course of a hearing, when the Judge finds that the proceeding would be expedited by such a conference. Prehearing conferences normally shall be conducted by telephone unless, in the opinion of the Judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place, and manner of the prehearing conference shall be given. At the conference, the following matters may be considered:

(1) The simplification of issues;

(2) The necessity of amendments to pleadings;

(3) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;

(4) The limitations on the number of expert or other witnesses;

(5) Negotiation, compromise, or settlement of issues;

(6) The exchange of copies of proposed exhibits;

(7) The identification of documents or matters of which official notice may be required;

(8) A schedule to be followed by the parties for completion of the actions decided at the conference; and

(9) Such other matters, including the disposition of pending motions and resolution of issues regarding the admissibility of evidence, as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A verbatim record of the conference shall not be kept unless directed by the Judge.

(c) *Order.* Actions taken as a result of a prehearing conference shall be reduced to a written order unless the Judge concludes that a stenographic report shall suffice or, if the conference takes place within seven (7) days of the beginning of a hearing, and the Judge elects to make a statement on the record at the hearing summarizing the actions taken.

§ 76.20 Consent Order or settlement prior to hearing.

(a) *Generally.* At any time after the commencement of a proceeding, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be at the discretion of the Judge, after consideration of such factors as the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of reaching an agreement which will result in a just disposition of the issue involved. The Judge may require the parties to submit progress reports on a regular basis as to the status of negotiations.

(b) *Consent orders.* Any agreement containing consent findings and an order disposing of a proceeding or any part thereof shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint or notice of administrative determination (or amended notice, if one is filed), as appropriate, and the agreement;

(3) A waiver of any further procedural steps before the Judge; and

(4) A waiver of any right to challenge or contest the validity of the order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement containing consent findings and an order for consideration by the Judge; or

(2) Notify the Judge that the parties have reached a full settlement and have agreed to dismissal of the action; or

(3) Inform the Judge that agreement cannot be reached.

(d) *Disposition.* In the event that an agreement containing consent findings and an order is submitted, the Judge, within thirty (30) days or as soon as practicable thereafter may, if satisfied with its timeliness, form, and substance, accept such agreement by issuing a decision based upon the agreed findings. The Judge has the discretionary authority to conduct a hearing to determine the fairness of the agreement, consent findings, and proposed order.

§ 76.21 Discovery.

(a) *Scope.* Discovery under this Part covers any matter not otherwise privileged or protected by law, which is directly relevant to the issues involved in the case, including the existence, description, nature, custody, condition, and location of documents or other tangible things, and the identity and location of persons having knowledge of relevant facts. To the extent not inconsistent with this part, the Federal Rules of Civil Procedure may be used as a general guide for discovery practices in proceedings before the Judge. However, unless otherwise stated in this part, the Federal Rules shall be deemed to be instructive rather than controlling.

(b) *Methods.* Discovery may be obtained by one or more of the methods provided under the Federal Rules of Civil Procedure, including: written interrogatories, depositions, requests for production of documents or things for inspection or copying, and requests for admission addressed to parties.

(c) *Procedures governing discovery—*

(1) *Discovery from a party.* A party seeking discovery from another party shall initiate the process by serving a request for discovery on the other party. The request for discovery shall:

(i) State the time limit for responding, as prescribed in 28 CFR 76.21(c)(4);

(ii) In the case of a request for a deposition of a party or an employee of a party shall

(A) specify the time and place of the taking of the deposition, and

(B) be served on the person to be deposed.

(2) *Discovery from a nonparty.* Whenever possible, a party seeking a deposition and/or production of documents from a nonparty shall attempt to obtain the nonparty's voluntary cooperation. A party seeking such discovery from a nonparty may initiate such discovery by serving a request for discovery on the nonparty directly and by serving the other party. Upon failure to obtain voluntary cooperation, discovery from a nonparty may be sought by a written motion directed to the Judge in accordance with paragraph (c)(3) of this section.

(3) *Discovery motions.* (i) A party shall answer a discovery request within the time provided by 28 CFR 76.21(c)(4), either by furnishing to the requesting party the information or testimony requested, agreeing to make deponents available to testify within a reasonable time, or by stating an objection to the particular request and the reasons for objection. Upon the failure of a party to respond in full to a discovery request, the requesting party may file with the Judge a motion to compel. A copy of the motion shall be served on the other party. The motion shall be accompanied by:

(A) A copy of the original request and a statement showing the relevance and materiality of the information sought; and

(B) A copy of the objections to discovery or, where appropriate, a statement with accompanying affidavit that no response has been received.

(ii) If a nonparty will not voluntarily respond to a discovery request in full, the requesting party may file with the Judge a written motion seeking a subpoena. A copy of the motion shall be served on the other party in accordance with 28 CFR 76.23. The motion shall be accompanied by:

(A) A copy of the original request and a statement showing the relevance, materiality and reasonable scope of the information sought;

(B) A copy of the objections to discovery or, where appropriate, a statement with accompanying affidavit that no response has been received; and

(C) In the case of a deposition, the date, time, and place of the proposed deposition.

(iii) The other party may respond to a motion to compel discovery or for issuance of a subpoena requiring a deposition or production of documents under this section by filing an opposition and/or a motion for a protective order in accordance with 28 CFR 76.24 within the time limits set forth in paragraph (c)(4)(iv) of this section.

(4) *Time limits.* (i) Discovery may be initiated after the filing of a complaint and shall be completed within the time designated by the Judge, but no later than seventy-five (75) days after the filing of the answer, unless a different time limit is set by the Judge after due consideration of the particular situation, including the dates set for hearing.

(ii) A party or nonparty shall file and serve a response to a discovery request promptly, but not later than twenty (20) days after the date of service of the request or order of the Judge.

(iii) A motion seeking a subpoena for the deposition testimony of a nonparty or for the production of documents by a nonparty, or a motion for an order compelling discovery from a party, shall be filed with the Judge and served upon the other party within ten (10) days of the date of service of objections, or within ten (10) days of the expiration of the time limit for response when no response is received, unless otherwise ordered by the Judge.

(iv) An opposition to a motion to compel, an opposition to a motion for an order to depose a nonparty or for the production of documents by a nonparty, or a motion for a protective order must be filed with the Judge and served upon the other party within ten (10) days of the date of service of the motion to which such motion relates.

(5) *Orders for discovery.* (i) Any order issued compelling discovery shall include, as appropriate:

(A) Provision for notice to the person to be deposed as to the time and place of such deposition;

(B) Such conditions or limitations concerning the conduct or scope of the discovery or the subject matter of the discovery as may be necessary to prevent undue delay or to protect a party or other individual or entity from undue expense, embarrassment or oppression;

(C) Limitations upon the time for conducting depositions, answering written interrogatories, or producing documentary evidence; and

(D) Other restrictions upon the discovery process as determined by the Judge.

(ii) The order will be served on the parties by the Judge, together with a subpoena, if approved in the case of discovery sought from nonparties, directed to the individual or entity from which discovery is sought, specifying the manner and time limit for compliance. It shall be the responsibility of the party seeking discovery from a nonparty to serve or arrange for service of an approved discovery request and subpoena on the nonparty from whom discovery is sought and on the other party.

(iii) Failure to comply with an order compelling discovery may subject the noncomplying party to sanctions under 28 CFR 76.26.

(6) *Costs.* Each party shall bear its own costs of discovery unless otherwise agreed by the parties or ordered by the Judge. The party seeking the deposition shall provide for a verbatim transcript of the description, which shall be available to all parties for inspection and copying.

§ 76.22 Exchange of witness lists, statements and exhibits.

(a) At least twenty-one (21) days before the hearing or at such other time as may be ordered by the Judge, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the respondent intends to offer in lieu of live testimony in accordance with 28 CFR 76.29. At the time these documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if

permitted by the Judge, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects to admission, the Judge may not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the Judge finds good cause for the failure and that there is no prejudice to the objecting party.

(c) Unless a party objects within the times set by the Judge, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 76.23 Subpoenas.

(a) Requests for the issuance of subpoenas requiring the attendance and testimony of witnesses or the production of documents or other evidence under 21 U.S.C. 875 and 876 shall be filed with the Judge. Subpoenas are not ordinarily required to obtain the attendance of federal employees as witnesses, but such testimony shall be sought first by filing a request with the United States Attorney.

(b) Requests for subpoenas shall be filed with the Judge in writing and shall specify with particularity the books, papers, or testimony desired, supported by a showing of general relevance and reasonable scope, and a statement of the facts expected to be proven thereby. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses or documents to be found.

(c) A party seeking a subpoena for the attendance of a witness at a hearing shall file a written request therefor not less than fifteen (15) days before the date fixed for the hearing unless otherwise allowed by the Judge upon a showing of good cause.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) Unless otherwise ordered by the Judge, the party seeking the subpoena is responsible for service of the subpoena. A subpoena may be served by any person at least eighteen (18) years of age who is not a party, including a private process server or other person authorized to serve process in actions brought in state courts of general jurisdiction or in Federal courts. Service shall be by personal delivery. Proof of service shall be made by affidavit of the person serving a subpoena entered on a true copy of the subpoena.

(f) A party or the individual to whom the subpoena is directed may file with the Judge a motion to quash the subpoena within ten (10) days after service of the subpoena, or on or before the time specified in the subpoena for compliance if it is less than ten (10) days after service.

(g) Upon failure of any person to comply with a subpoena issued by the Judge, the Attorney General, in the name of the Judge, but on relation of the party, shall institute proceedings in the appropriate district court for the enforcement of the subpoena, unless the enforcement of the subpoena would be inconsistent with law. Neither the Attorney General nor the Judge shall be deemed thereby to have assumed responsibility for prosecution of the same before the court.

§ 76.24 Protective Order.

(a) A party or a prospective witness or deponent may seek to limit the availability or disclosure of evidence by filing a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing.

(b) In issuing a protective order, the Judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to protect privileged information including one or more of the following orders:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be the subject of inquiry, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the Judge;

(6) That the contents of discovery or evidence be sealed;

(7) That a sealed deposition be opened only by order of the Judge;

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Judge.

§ 76.25 Fees.

Unless otherwise ordered by the Judge, the party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed. Such costs shall be in the amounts that would be payable to a witness in a proceeding in United States district court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the complainant, a check for witness fees and mileage need not accompany the subpoena.

§ 76.26 Sanctions.

(a) As necessary to meet the ends of justice, the Judge may impose sanctions upon any party or a party's counsel, including, but not limited to sanctions based upon the following reasons:

(1) Failure to comply with an order, rule, or procedure governing the proceeding;

(2) Failure to prosecute an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the proceeding.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission the Judge may, as appropriate under law:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission as to unprivileged matters, deem admitted each matter of which an admission is requested;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;

(4) Strike any appropriate part of the pleadings or other submissions of the party failing to comply with such order; and

(5) Permit the requesting party to introduce secondary evidence concerning the information sought.

(d) If a party fails to prosecute an action under this Part commenced by service of a notice of hearing, the Judge may dismiss the action.

(e) If a respondent who has requested a hearing pursuant to 28 CFR 76.4, and who has been served with a Notice of a Hearing under 28 CFR 76.6, fails to appear at the hearing, absent good cause shown by the respondent, the Judge may issue an initial decision imposing a penalty.

(f) The Judge may refuse to consider any motion, request, response, brief or

other document which is not filed in a timely fashion.

§ 76.27 The hearing and burden of proof.

(a) The Judge shall conduct a hearing on the record in order to determine whether the respondent is liable for a civil penalty under 28 CFR 76.3 and, if so, the appropriate amount of any such civil penalty, considering the income and net assets of the respondent.

(b) The United States Attorney shall prove respondent's liability and appropriateness of the amount of the penalty by a preponderance of the evidence.

(c) The respondent shall prove any affirmative defenses by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise closed by the Judge for good cause shown.

§ 76.28 Location of hearing.

The hearing shall be held in the judicial district of the United States Attorney's Office having jurisdiction over the matter.

§ 76.29 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the Judge and to the extent otherwise permitted by law, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties, along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena, if necessary, such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in 28 CFR 76.22.

(c) The Judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for the ascertainment of the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The Judge shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the Judge, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination.

(f) Upon motion of any party, the Judge shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This part does not authorize exclusion of the following:

(1) The respondent;

(2) An individual whose presence is shown by a party to be essential to the presentation of its case.

§ 76.30 Evidence.

(a) The Judge shall determine the admissibility of evidence.

(b) Except as provided in this part, the Judge shall not be bound by the Federal Rules of Evidence. However, the Judge may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The Judge shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Relevant evidence may be excluded if it is privileged under federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The Judge shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the Judge pursuant to 28 CFR 76.27.

§ 76.31 Standards of conduct.

(a) All persons appearing in proceedings before a Judge are expected to act with integrity and in an ethical manner.

(b) The Judge may exclude parties, witnesses, and their attorneys for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against *ex parte* communications. The Judge shall state in the record the cause for suspending or barring an attorney from participation in a proceeding. Any attorney so suspended or barred may appeal to the Chief Administrative Hearing Officer for the District, or if there is no Chief Administrative Hearing Officer, to the Attorney General but no proceeding shall be delayed or suspended pending disposition of the appeal; provided, however, that the Judge shall suspend the proceeding for a reasonable time for the purpose of enabling the party to obtain another attorney.

§ 76.32 Hearing room conduct.

Proceedings shall be conducted in an orderly manner. The consumption of food or beverage, smoking, or rearranging of courtroom furniture, unless specifically authorized by the Judge, is prohibited.

§ 76.33 Legal assistance.

The Judge does not have authority to appoint counsel, nor can it refer a party to an attorney.

§ 76.34 Record of hearings.

(a) General. Unless otherwise agreed by the parties, a verbatim written record of all hearings shall be kept. All evidence upon which the Judge relies for decision shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits introduced as evidence shall be marked for identification and incorporated into the record. Upon completion of the transcript, the transcript shall be filed by the official court reporter with the Judge, who will notify the parties. Transcripts may be obtained by the parties and the public from the official court reporter of record. Unless otherwise ordered by the Judge, any fees in connection therewith shall be the responsibility of the parties.

(b) Corrections. Corrections to the official transcript will be permitted upon motion. Motions for corrections must be submitted within ten (10) days of the service by the Judge of the notice of the filing of the transcript, or such other time as may be permitted by the Judge. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the Judge.

(c) The record of the proceedings shall consist of the notices, pleadings, motions, rulings, exhibits, orders, the findings, decisions or opinions of the Judge, the stipulations and briefs, and the transcript(s) of the hearing(s).

§ 76.35 Decision and Order of the Judge.

(a) *Proposed Decision and Order.* Within twenty (20) days of the filing of the transcript of the testimony, or such additional time as the Judge may allow, a party, if authorized by the Judge, may file proposed Findings of Fact, Conclusions of Law, and Order together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs shall be served on all parties, and shall refer to all portions

of the record and to all authorities relied upon in support of each proposal.

(b) *Decision.* Within a reasonable time, but not later than forty-five (45) days after the filing of the hearing transcript, and the time allowed for the filing of the post-hearing briefs, proposed Findings of Fact, Conclusions of Law, and Order, if any, or within thirty (30) days after receipt of an agreement containing Consent Findings and Order disposing of the disputed matter in whole, the Judge shall make a decision. The decision of the Judge shall include Findings of Fact and Conclusions of Law upon each material issue of fact or law presented on the record. The decision of the Judge shall be based upon the whole record. It shall be supported by reliable and probative evidence. The standard of proof shall be a preponderance of the evidence. Such decision shall be in accordance with the regulations and the statutes conferring jurisdiction. If the Judge fails to meet the deadline contained in this paragraph, he or she shall notify the parties and the Attorney General of the reason for the delay and shall set a new deadline.

(c) *Order.* If the Judge determines, by a preponderance of the evidence, that the respondent knowingly possessed a controlled substance that is listed in section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)) in violation of 21 U.S.C. 844, in an amount that, as specified by this part, is a personal use amount, the order shall require the respondent to pay a civil penalty of not more than $10,000 for each violation. If the Judge determines that a preponderance of the evidence does not establish that the respondent knowingly possessed a controlled substance as described above, for his or her personal use, then the order shall dismiss the complaint. A copy of the decision and order together with a record of the proceedings will be forwarded to the Attorney General.

§ 76.36 Administrative and judicial review.

(a) Upon entry of an order by a Judge, any party may file with the Attorney General, within ten (10) days of the date of the Judge's decision and order, a written request for review of the decision and order together with supporting arguments. Within thirty (30) days from the date of the filing of the request for review, the Attorney General may enter an order which adopts, affirms, modifies or vacates the Judge's order.

(b) If a party does not seek review of the Judge's decision, or if the Attorney General enters no order within thirty (30) days from the date of the filing of the request for review, the order of the Judge becomes the final order of the Attorney General. If the Attorney General modifies or vacates the order, the order of the Attorney General becomes the final order.

(c) An individual subject to an order assessing a penalty after a hearing may, before the expiration of the thirty (30) day period beginning on the date the final order is entered, either by the Judge or the Attorney General, whichever is applicable, bring a civil action in the appropriate District Court of the United States pursuant to the provisions of 21 U.S.C. 844a(g) and obtain *de novo* judicial review of the final order.

§ 76.37 Collection of civil penalties.

(a) Collection of any penalty shall be the responsibility of the United States Attorney having jurisdiction over the matter.

(b) The United States Attorney having jurisdiction over the matter may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with 28 U.S.C. 1961.

§ 76.38 Deposit in the United States Treasury.

All amounts collected pursuant to this Part shall be deposited as miscellaneous receipts in the United States Treasury.

§ 76.39 Compromise or settlement after Decision and Order of a Judge.

(a) The United States Attorney having jurisdiction over the case may, at any time before the Attorney General issues an order, compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(b) Any compromise or settlement must be in writing.

§ 76.40 Records to be public.

All documents contained in the records of formal proceedings for imposing a penalty under this Part may be inspected and copied, unless ordered sealed by the Judge.

§ 76.41 Expungement of records.

(a) The Attorney General shall expunge all official Department records created pursuant to this Part upon application of a respondent at any time after the expiration of three (3) years from the date of the final order of assessment if:

(1) The respondent has not previously been assessed a civil penalty under this section;

(2) The respondent has paid the penalty;

(3) The respondent has complied with any conditions imposed by the Attorney General;

(4) The respondent has not been convicted of a federal or state offense relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(5) The respondent agrees to submit to a drug test, and such test shows the individual to be drug free.

(b) A non-public record of a disposition under this Part shall be retained by the Department solely for the purpose of determining in any subsequent proceeding whether the person qualifies for a civil penalty or expungement under this Part.

(c) If a record is expunged under this Part, the individual for whom such an expungement was made shall not be held guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this Part or the results thereof in response to an inquiry made of him for any purpose.

§ 76.42 Limitations.

No action under this Part shall be entertained unless commenced within five (5) years from the date on which the violation occurred.

Dated: December 26, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 91-396 Filed 1-10-91; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Regulatory Program; Permitting; Performance Standards; Bond Forfeiture

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

ACTION: Final rule; approval of amendments.

SUMMARY: OSM is announcing the approval of proposed amendments of the Maryland regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments modify 11 sections in the Code of Maryland Administrative Regulations (COMAR) and are intended to make the State's regulations consistent with the

revised Federal regulations contained in 30 CFR chapter VII. These sections pertain to permit applications, surface effects of deep mines, Small Operators Assistance Program, special performance standards, topsoil handling, excess spoil disposal, waste handling, backfilling, permit suspension and bond forfeiture, and adjudicatory hearings.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program.
II. Submission of Amendments.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Procedural Determinations.

I. Background on the Maryland Program

On February 18, 1982, the Secretary of Interior approved the Maryland program. Information regarding general background on the Maryland program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Maryland program can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Actions taken subsequent to the approval of the Maryland program are identified at 30 CFR 920.12, 920.15 and 920.16.

II. Submission of Amendments

On July 8, 1986, OSM sent to Maryland a list of Maryland program provisions OSM had determined to be less effective than the Federal requirements for surface mining and reclamation operations (Administrative Record No. MD–351). After several meetings between Maryland and OSM, Maryland submitted on June 20, 1988 and December 27, 1988, proposed amendments intending to satisfy OSM's initial concerns (Administrative Record Nos. MD–377 and MD–379).

The program amendments modify the following rules of COMAR: 08.13.09.01, 08.13.09.02, 08.13.09.13, 08.13.09.17, 08.13.09.28, 08.13.09.31, 08.13.09.32, 08.13.09.33, 08.13.09.34, 08.13.09.42, and 08.13.09.43.

OSM announced receipt of the proposed amendments in the April 21, 1989, **Federal Register** (54 FR 16133), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments. The comment period closed on May 22, 1989.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the proposed amendments submitted on June 20, 1988, and December 27, 1988. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions that are not discussed below contain language similar to the corresponding Federal rules, concern nonsubstantive working changes, or revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. COMAR 08.13.09.01 General—Definitions

(a) *Soil horizons.* At COMAR 08.13.09.01B(82)(b)(ii) Maryland proposes to revise the definition of "soil horizons" to include the "E" horizon—the layer commonly near the surface below the "A" horizon and above the "B" horizon. Since the revised State definition is identical to the corresponding Federal definition in 30 CFR 701.5, the Director finds it is no less effective than the Federal rule.

(b) *Topsoil.* At COMAR 08.13.09.01B(92) Maryland proposes to revise the definition of "topsoil" to include the "E" horizon with the "A" horizon. Since the revised State definition is substantively identical to the corresponding Federal definition in 30 CFR 701.5, the Director finds it is no less effective than the Federal rule.

(c) *Excess spoil.* At COMAR 08.13.09.01B(29) Maryland proposes to add a definition for "excess spoil." The Maryland rules previously had no counterpart to the Federal definition of this term. The State definition is substantively identical to the corresponding Federal definition in 30 CFR 701.5. Therefore, the Director finds it is no less effective than the Federal rule.

(d) *Coal mine waste.* At COMAR 08.13.09.01B(14) Maryland proposes to add a definition for "coal mine waste." The Maryland rules previously had no counterpart to the Federal definition of this term. The State definition is identical to the Federal definition in 30 CFR 701.5. Therefore, the Director finds it is no less effective than the Federal rule.

2. COMAR 08.13.09.02 Permit Applications

(a) *Subsidence control plan.* Maryland is revising paragraph Q(2) to add the condition that if the State agrees with any conclusion resulting from a survey which indicates that material damage or diminution to structures or renewable resource lands could not be caused in the event of mine subsidence, further information need not be provided in the permit application under COMAR section .02. Paragraph Q(3) is revised to require a subsidence control plan if the State determines that the above-mentioned damage or diminution could occur.

These changes render the State rule identical to the corresponding Federal rule at 30 CFR 784.20 with respect to subsidence control plans and regulatory authority decisions. Therefore, the Director finds that the revised State rule is no less effective than the Federal rule.

(b) *Mining method descriptions.* Maryland is revising paragraph R of this rule to require that the subsidence control plan contain detailed descriptions of the mining methods to be utilized by the permit applicant which may affect subsidence, including the size, sequence, and timing for the development of underground workings. Revised paragraph R will also require a description of the physical conditions which affect the extent of subsidence or subsidence-related damage. Additionally, a map of the underground workings must be provided. The map will show all areas where planned subsidence mining methods will be used and those areas where subsidence prevention or damage mitigation will be used. Language has been added requiring that the subsidence plan include any other information specified by the State as necessary to demonstrate that the operation will be conducted in accordance with the appropriate performance standards.

The Director finds the revised requirements in paragraph R identical to and therefore no less effective than the Federal requirements at 30 CFR 784.20 (a), (b), (c), and (h).

3. COMAR 08.13.09.03 Permit Applications; Special Categories of Mining

(a) *Experimental practices mining.* Maryland is revising paragraph A(3) of this rule to expand the requirements of a permit application for experimental practices to include a description of performance standards for which variances are requested, the duration of the practice, and any special monitoring

practices. This revision renders the State rule identical to the corresponding Federal rule at 30 CFR 785.13(b)(1).

Maryland is revising section A(3)(e) to require that the applicant conduct monitoring of the effect of the experimental practice. Sections A(3)(e) i and ii are also revised to require that the monitoring program insure the collection, analysis, and reporting of sufficient and reliable data and evaluate the effectiveness of the experimental practice. The revised State rule is substantively identical to the corresponding Federal rule at 30 CFR 785.13(b)(4).

Maryland is revising paragraph A(7) to require that experimental practices granting variances from special performance standards applicable to prime farmlands be approved only after consultation with the United States Department of Agriculture (USDA), Soil Conservation Service. This revision makes COMAR 08.13.09.03A(7) identical to the Federal rule at 30 CFR 785.13(e).

At paragraph A(8), Maryland is changing its requirements to conduct an annual review of each experimental practice at a frequency set forth in the approved permit, but no less frequently than every 2½ years. The proposed changes will make Maryland's experimental review requirements identical to the Federal requirements at 30 CFR 785.13(g).

Maryland is adding paragraph A(9) to require that revising or modifications to an experimental practice be processed in accordance with COMAR 08.13.09.08 and approved by the State. The provisions of COMAR 08.13.09.08 are consistent with the Federal regulations for permit revisions at 30 CFR 774.13. Further, any revision which proposes significant alterations is subject to the notice, hearing and public participation requirements of COMAR 08.13.09.04 and the concurrence of OSM. COMAR 08.13.09.03A(9) is substantively identical to the corresponding Federal regulation at 30 CFR 785.13(h).

Since the proposed Maryland regulations at COMAR 08.13.09.03A are substantively identical to the Federal regulations at 30 CFR 785.13, the Director finds that the revised State rules are no less effective than their Federal counterparts.

(b) *Prime farmlands.* Maryland is revising COMAR 08.13.09.03D to conform to the Federal regulation at 30 CFR 785.17 (b) (1), (2), (3), and (c)(1). Specifically, Maryland is adding to the approved program the requirement of the permit applicant: (1) To conduct a reconnaissance inspection of the permit area to identify the existence of prime farmland, (2) to submit a statement with supporting rationale if the reconnaissance inspection or detailed soil survey indicates that no prime farmland historically used for cropland exists, (3) to conduct or obtain a detailed soil survey of the land where the reconnaissance inspection indicates prime farmland historically used for cropland may exist, and (4) to submit a plan for the mining and restoration of prime farmland if it exists. The plan shall include a soil survey of all prime farmland within the permit area. The proposed methods for conducting a soil survey are, in the main, similar to those specified in 30 CFR 785.17(c)(1).

However, by letter dated July 8, 1986, OSM identified COMAR 08.13.09.03D as being specifically less effective than the Federal regulations at 30 CFR 785.17(c)(1) in that it did not refer to the updated versions of the USDA Handbooks 18 "Soil Survey Manual" (USDA Soil Conservation Service, 1975) as amended on December 18, 1979, May 7, 1980, September 11, 1980, June 9, 1980, June 29, 1981, and November 16, 1982, and "Soil Taxonomy" (USDA Soil Conservation Service, 1975) as amended on March 22, 1982, and October 5, 1982. The State revisions to section D(5) include the latest version of the "Soil Survey Manual" but not "Soil Taxonomy." By letter dated October 5, 1990, Maryland stated it would insert the phrase "as amended on March 22, 1982 and October 5, 1982" after "soil taxonomy" prior to promulgating regulation amendments (Administrative Record No. MD–472).

The State regulations were also found to be less effective than the Federal regulations at 30 CFR 785.17(c)(1)(ii) in that the required elements of a representative soil sample were not identified. The revisions to section D(5) do not correct the deficiency. By letter dated October 5, 1990, Maryland stated it would list at section D(5) the required elements of a representative soil sample prior to promulgating regulation amendments (Administrative Record No. MD–472).

Since the other provisions of the State rule at COMAR 08.13.09.03D are substantively identical to the Federal rules at 30 CFR 785.17 (b) (1), (2), (3), and (c)(1) and with the understanding that Maryland will implement the required changes prior to promulgating the amendments, the Director finds the provisions of COMAR 08.13.09.03D to be no less effective that their Federal counterparts.

4. COMAR 08.13.09.13 Surface Effects of Deep Mines

Maryland is revising paragraph J(3) to clarify that underground mining activities may not be conducted beneath or adjacent to any public buildings or facilities. Added to this paragraph is the provision that the State may limit the percentage of coal extracted under or adjacent to any facility or aquifer or body of water that serves as a significant water source for any public water supply system if it determines that it is necessary to minimize the potential for material damage thereto.

By a letter dated July 8, 1986, OSM identified COMAR 08.13.09.13J(3) as being less effective than Federal regulations at 30 CFR 817.121(d) in that it did not specify restrictions for impoundments or bodies of water with a storage capacity of 20 acre-feet or more (Administrative Record No. MD–351). Maryland does, however, include these restrictions in COMAR 08.13.09.13J(1). Therefore, the Director finds paragraph J(3) when read with paragraph J(1) no less effective than the Federal rule at 30 CFR 817.121(d).

Maryland is adding paragraph J(4) to authorize the State to suspend mining under or adjacent to the facilities described in paragraph J(3) if subsidence causes material damage. The mining will be suspended until the subsidence control plan is modified to ensure prevention of further damage. The proposed changes render the State rule identical to the corresponding Federal rule at 30 CFR 817.121(e).

Maryland is also adding paragraph J(6) to require that the operator submit a detailed plan to the MDBOM of the underground workings. The plan shall include maps and descriptions of the significant features of the mine. The proposed changes render the State rule identical to the corresponding Federal rule at 30 CFR 817.121(g).

Because the proposed Maryland regulations at COMAR 08.13.09J(4) and J(6) are identical to the corresponding Federal rules at 30 CFR 817.121(d), (e) and (g), the Director finds that the revised State rules are no less effective than their Federal counterparts.

5. COMAR 08.13.09.17 Small Operator Assistance Program (SOAP)

Maryland is revising paragraph C(2) to establish that an applicant is eligible for SOAP if his probable total actual and attributed production from all locations during any consecutive 12 month period either during the term of the permit or during the first 5 years after issuance of the permit, whichever period is shorter, will not exceed 100,000 tons. This paragraph is further revised to require that production from the following operations shall be attributed to the permittee: (a) The pro rata share,

based upon percentage of ownership of the applicant, of coal produced by operations in which the applicant owns more than 5 percent interest; (b) the pro rata share, based upon percentage of ownership of the applicant, of coal produced in other operations by persons who own more than 5 percent of the applicant operation; (c) all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management; and, (d) all coal produced by operations owned by members of the applicant's family and relatives, unless it is established that there is no direct or indirect business relationship among them. Maryland's proposed revisions make COMAR 08.13.09.17 C(2) identical to the corresponding Federal rule at 30 CFR 795.6(a)(2). Therefore, the Director finds the revised State rule to be no less effective than its Federal counterpart.

Maryland is revising paragraphs C(3) and C(4) to require that the applicant not be restricted in any manner from receiving a permit under the permanent regulatory program, and that he not organize or reorganize his company solely for the purpose of obtaining SOAP assistance. The proposed revisions make COMAR 08.09.13.17 C(3) and C(4) identical to the corresponding Federal rules at 30 CFR 795.6(a) (3) and (4). Therefore, the Director finds the revised State rules to be no less effective than their Federal counterparts.

Maryland is revising paragraph D(4)(d) to require that each SOAP application include a general statement on the probable depth and thickness of the coal resources with a statement of reserves in the permit area and the method by which they were calculated. The proposed revisions makes COMAR 08.13.09.17 D(4)(d) identical to the corresponding Federal rule at 30 CFR 795.7(d)(4). Therefore, the Director finds the revised State rule to be no less effective than its Federal counterpart.

Maryland is revising paragraph H to add the requirement that the applicant reimburse the State for the cost of required laboratory costs if the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the 100,000 ton annual production limit during any consecutive twelve month period of the remaining term of the permit. The applicant and the successor are jointly and severally obligated to reimburse the State. The proposed revision makes COMAR 08.13.09.17H identical to the coresponding Federal rule at 30 CFR 795.12(a)(3). Therefore, the Director finds the revised State rule to be no less effective than its Federal counterpart.

6. COMAR 08.13.09.28 Special Performance Standards

(a) *Auger mining.* Maryland is revising section A(1) to require that the permittee leave areas of undisturbed coal as approved by the State. Specific measurements for the undisturbed areas have been deleted. This revision makes the proposed State rule identical to the corresponding Federal rule at 30 CFR 819.13(c).

Maryland is revising section A(2) to specify that an auger hole may not extend closer than 500 feet in horizontal distance to any abandoned or active underground mine workings with certain exceptions. This revision makes the proposed State rule identical to the corresponding Federal regulation at 30 CFR 819.21.

Maryland is revising section A(3) to require that each auger hole be plugged by backfilling and compacting noncombustible and impervious material into the hole. This change renders the proposed State rule substantially identical to the corresponding Federal rule at 30 CFR 819.15(b)(2).

Maryland is adding section A(6) to require the permittee to either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent feasible, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. The proposed State rule is substantively identical to the corresponding Federal rule at 30 CFR 817.121(a).

Maryland is adding section A(7) to require the permittee to correct any material damage resulting from subsidence caused to surface lands, to the extent feasible, by restoring the land to a condition capable of maintaining the value and uses which it was capable of supporting before subsidence. The permittee is also responsible for either correcting material damage resulting from subsidence by repairing the damage or compensating the owner in the full amount of the diminution in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of the damaged structure or facilities. Compensation may be accomplished by the purchase prior to mining of a noncancellable premium-paid insurance policy. Section A(7) does not include the state law reference of 30 CFR 817.121(c)(2) struck down by the U.S. District Court on February 12, 1990. Except for this difference, the proposed State rule is substantively identical to the corresponding Federal rule at 30 CFR 817.121(c) (1) and (2).

Because the proposed Maryland regulations at COMAR 08.13.09.28A are substantively identical to the corresponding Federal regulations at 30 CFR parts 817 and 819, the Director finds that the revised State rules are no less effective than their Federal counterparts.

(b) *Prime farmlands.* Maryland is revising section B(1) to delete references to " 'A' horizon of the soil" and substitute "topsoil." This section is further revised to specify that soil materials other than topsoil may be used if the materials will create a soil with greater productive capacity. The current State rule allows the soil materials to have an equal productive capacity. These revisions render the proposed State rule substantively identical to the corresponding Federal rules at 30 CFR 823.12 and 823.12(c)(1).

Maryland is revising section B(2) to specify that the topsoil, the 'B' horizon and the 'C' horizon be stored separately from each other and from spoil. This revision renders the State rule substantively identical to the corresponding Federal rule at 30 CFR 823.12(c)(1).

Maryland is revising section B(4) to specify standards for prime farmland soil productivity restoration. They are: (a) Measurement of soil productivity shall be initiated within 10 years after completion of soil replacement; (b) soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop described below. A statistically valid sampling technique at a 90 percent or greater confidence level shall be used as approved by the State in consultation with the USDA Soil Conservation Service (SCS); (c) the measurement period for determining average annual crop production shall be a minimum of 3 crop years prior to release of the operator's performance bond; (d) the level of management applied during a measurement period shall be the same as the level of management used on non-mined prime farmland in the surrounding area; (e) restoration of soil productivity shall be considered achieved when the average yield during the measurement period equals or exceeds the average yield of the reference crop established for the same period for non-mined soils of the same or similar texture or slope phase of the

soil series in the surrounding series in the surrounding area under equivalent management practices; and (f) the reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one of the reference crops. The revisions render the proposed State rule identical to the corresponding Federal rule at 30 CFR 823.15.

Maryland is adding section B(5) to require that reference crop yields for a given crop season are to be determined from (a) the current yield records of representative local farms in the area, with concurrence by the SCS; or (b) the average county yields recognized by the USDA, adjusted by the SCS for local yield variation within the county that is associated with differences between non-mined prime farmland soil and all other soils that produce the reference crop. The revisions render the proposed State rule substantively identical to the corresponding Federal rule at 30 CFR 823.15(b)(7).

Maryland is adding section B(6) to allow for adjustments in the average reference crop yield with the concurrence of the SCS. The yield may be adjusted for disease, pest and weather-induced seasonal variations or for differences in specific management practices where the overall management practices of the crops being compared are equivalent. The revisions render the proposed State rule identical to the corresponding Federal rule at 30 CFR 823.15(b)(8).

Because the proposed Maryland regulations at COMAR 08.13.09.28B are substantively identical to the corresponding Federal regulations at 30 CFR 823.12 and 823.15, the Director finds that the revised State rules are no less effective than their Federal counterparts.

7. COMAR 08.13.09.31 Topsoil

Maryland is modifying section A(5) to add to its existing standards for the determination of the suitability of topsoil substitutes. Selected overburden materials may be substituted for or used as a supplement to topsoil if the State determines that the resulting soil medium is equal to or more suitable for sustaining revegetation than is the available topsoil. The determination will be based on the analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The State may require other chemical and physical analyses, field-site trials, or greenhouse tests, if determined to be necessary or desirable to demonstrate the suitability of topsoil substitutes or supplements. As this language is identical to that found in the corresponding Federal rules at 30 CFR 780.18(b)(4) and 30 CFR 784.13(b)(4), the Director finds the revised State rule no less effective than its Federal counterparts.

8. COMAR 08.13.09.32 Disposal of Excess Spoil

Maryland is revising section A to modify the general requirements for spoil disposal. Former paragraph A(1) has been replaced with new paragraph A(1) which more clearly defines the general aim of excess spoil placement. Excess spoil shall be placed in designated disposal areas within the permit area in a controlled manner to: (a) Minimize the adverse effects of leachate and surface water runoff from the fill on surface and ground waters; (b) ensure mass stability and prevent mass movement during and after construction; and (c) ensure that the final fill is suitable for reclamation and revegetation compatible with the natural surroundings and the approved postmining use. The revised language is identical to the corresponding Federal regulations at 30 CFR 816.71(a) and 30 CFR 817.71(a).

Maryland is revising paragraph A(2) to add the requirement that appurtenant structures, as well as the fill, be designed using current, prudent engineering practices and meet any design criteria established by the State. Additionally, a qualified, registered professional engineer experienced in the design of earth and rock fills shall certify the design. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.71(b)(1) and 30 CFR 817.71(b)(1).

Maryland is revising paragraph A(6) to require that excess spoil be placed in horizontal lifts not exceeding 4 feet in thickness. Mass movement shall be prevented during and after construction and the spoil shall be covered with topsoil or substitute material. The State is authorized to approve an alternate design which incorporates horizontal lifts other than 4 feet in thickness when it is demonstrated by the operator and certified by a qualified, registered professional engineer that the design will ensure the stability of the fill and will meet all other applicable requirements. The previous State rule did not specify the lift thickness or allow for an alternate design. The revised State rule is substantively identical to the corresponding Federal rules at 30 CFR 816.71(e)(2) and 30 CFR 817.71(e)(2).

Maryland is revising paragraph A(8) to add requirements for terrace construction. Terraces may be constructed on the outslope of the fill if required for stability, control of erosion, conservation of soil moisture, or to facilitate the approved post-mining land use. The grade of the outslope between terrace benches shall not be steeper than 2h:1v (50 percent). The revised State rule is identical to the corresponding Federal regulations at 30 CFR 816.71(e)(3) and 30 CFR 817.71(e)(3).

Maryland is revising paragraph A(10) to add the requirement that excess spoil that is acid- or toxic-forming or combustible be adequately covered with nonacid, nontoxic and noncombustible material, or treated to control the impact on surface and ground water, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining use. The revised State rule is identical to its Federal counterparts at 30 CFR 816.71(e)(5) and 30 CFR 817.71(e)(5).

Maryland is revising paragraph A(11) to modify the inspection requirements. A qualified, registered professional engineer, or other qualified professional specialist under the direction of the professional engineer, shall periodically inspect the fill during construction. The professional engineer or specialist shall be experienced in the construction of earth and rock fills. The inspections shall be made at least quarterly throughout construction and during critical construction periods to include at a minimum: (a) Foundation preparation, including the removal of all organic material and topsoil; (b) placement of underdrains and protective filter systems; (c) installation of final surface drainage systems; and (d) the final graded and revegetated fill. Regular inspections by the engineer or specialist shall also be conducted during placement and compaction of fill materials. Additionally, the engineer is required to provide a certified report to the State promptly after each inspection that the fill has been constructed and maintained as designed and in accordance with the approved plan and regulations. The report shall include appearances of instability, structural weakness, and other hazardous conditions. The certified report on the drainage system and protective filters shall include color photographs taken during and after construction, but before underdrains are covered with excess spoil. Each phase shall be certified separately. The photographs shall be taken in adequate size and number with enough terrain of the site to provide a relative scale and to clearly identify the

site. A copy of each inspection report shall be retained at or near the mine site. The revised State rule is substantively identical to the corresponding Federal rules at 30 CFR 816.71(h) (1), (2) and (3) and 30 CFR 817.71(h) (1), (2) and (3).

Because the proposed Maryland regulations at COMAR 08.13.09.32A are substantively identical to the corresponding Federal regulations at 30 CFR 816.71 and 817.71, the Director finds that the revised State rules are no less effective than their Federal counterparts.

9. COMAR 08.13.09.33 Coal Mine Waste

(a) *General requirements.* Maryland is revising section A to modify the general requirements for processing coal waste. Former paragraph A(1) has been replaced with new paragraph A(1) which more clearly defines the general aim of coal mine waste placement.

The revised State rule requires that all coal mine waste be placed in designated disposal areas within a permit area, which are approved by the State. Coal mine waste shall be placed in a controlled manner to: (a) Minimize adverse effects of leachate and surface-water runoff on surface and ground water quality and quantity; (b) ensure mass stability and prevent mass movement during and after construction; (c) ensure that the final disposal facility is suitable for reclamation and revegetation compatible with the natural surroundings and the approved postmining use; (d) not create a public hazard; and (e) prevent combustion. The revised language is identical to the corresponding Federal rules at 30 CFR 816.81(a)(1) through (5), and 30 CFR 817.81(a)(1) through (5). On November 20, 1986, paragraph (a) of §§ 816.81 and 817.81 was suspended insofar as it allows end or side dumping of coal mine waste.

Maryland is revising paragraph A(2) and subsequent paragraphs to replace the term "coal processing waste" with "coal mine waste." Deleted from this section is the requirement that coal mine waste disposal not adversely affect water quality, flow or vegetation; not create public health hazards; or cause instability. The State is substituting the requirement that coal mine waste material disposal from activities located outside a permit area which is disposed of in the permit area be made in accordance with the standards of the State's regulations. The revised rule is substantively identical to the corresponding Federal rules at 30 CFR 816.81(b) and 30 CFR 817.81(b).

Maryland is revising paragraph A(3) to add the requirement that a disposal facility be designed using current, prudent engineering practices to attain a minimum long-term static safety factor of 1.5 and to meet any design criteria established by the State. A qualified, registered professional engineer, experienced in the design of similar earth and waste structures, shall certify the disposal facility design. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.81(c) (1) and (2), and 30 CFR 817.81(c) (1) and (2).

Maryland is revising paragraph A(4) to add the requirement that the foundation and abutments must be stable under all conditions of construction. Sufficient foundation investigations, as well as any necessary laboratory testing of foundation material, shall be performed in order to determine the design requirements for foundation stability. The analyses of the foundation conditions shall take into consideration the effect of underground mine workings, if any, upon the stability of the disposal facility. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.81 (c)(2) and (d), and 30 CFR 817.81 (c)(2) and (d).

Because the revised State rules at COMAR 08.13.09.33A are substantively identical to the corresponding Federal rules at 30 CFR 816.81 (a), (b), (c) and (d), and 30 CFR 817.81 (a), (b) (c) and (d), and with the understanding that the rules will not be interpreted as allowing end or side dumping of coal mine waste, the Director finds the revised State rules to be no less effective than their Federal counterparts.

(b) *Site inspection.* Maryland is revising section B to modify the requirements for coal mine waste disposal site inspections. Former paragraphs B(1) through B(5) have been deleted and replaced with new paragraphs B(1) through B(5). The new requirements are similar to the revised State rules for excess spoil fill inspections discussed in the previous section.

Paragraph B(1) requires the inspection of the coal mine waste disposal facility during construction by a qualified, registered professional engineer, or other qualified professional specialist under the direction of the professional engineer. The professional engineer or specialist shall be experienced in the construction of similar earth and waste structures. The revised State rule is identical to the corresponding Federal rule at 30 CFR 816.83(d) and 30 CFR 817.83(d).

Paragraph B(2) requires that inspections be made at least quarterly throughout construction and during critical construction periods including at a minimum: (a) Foundation preparation including the removal of all organic material and topsoil; (b) placement of underdrains and protective filter systems; (c) installation of final surface drainage systems; and (d) the final graded and revegetated facility. Regular inspections shall also be conducted during placement and compaction of coal mine waste materials and shall continue until the waste disposal facility has been final graded and revegetated or until a later time as required by the State. More frequent inspections shall be conducted if a danger of harm exists to the public health and safety or environment. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.83(d)(1) and 30 CFR 817.83(d)(1).

Paragraph B(3) requires the qualified, registered professional engineer to submit a certified report to the State within 10 days after each inspection that the waste disposal facility has been constructed and maintained as designed and in accordance with the approved plan. The report shall include appearances of instability, structural weakness, and other hazardous conditions. The corresponding Federal rules at 30 CFR 816.83(d)(2) and 30 CFR 817.83(d)(2) require that the certified report be submitted "promptly" after each inspection. The revised State rule is otherwise identical to the Federal rules.

Paragraph B(4) requires the inclusion of color photographs taken during and after construction, but before the underdrains are covered with coal mine waste, in the certified report on the drainage system and protective filters. If the underdrain system is constructed in phases, each phase is to be certified separately. The photographs shall be taken in adequate size and number with enough terrain of the site to provide a relative scale and to clearly identify the site. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.83(d)(3) and 30 CFR 817.83(d)(3).

Paragraph B(5) requires the retention of each inspection report at or near the mine site. The revised State rule is identical to the corresponding Federal rules at 30 CFR 816.83(d)(4) and 30 CFR 817.83(d)(4).

The revised State rules at COMAR 08.13.09.33B are identical to the corresponding Federal rules at 30 CFR 816.83(d) and 30 CFR 817.83(d) with the exception of paragraph B(3) discussed above. In paragraph B(3), the Director finds that the State's 10-day report submittal requirement is acceptable and

fulfills the Federal requirement of a "prompt" response. Therefore, the Director finds that the revised State rules at COMAR 08.09.13.33B are no less effective than their Federal counterparts.

(c) *Coal mine waste disposal facilities.* Maryland is revising section C to modify the water control measures for coal mine waste disposal facilities. Paragraph C(1) is modified to delete the provision which authorized State approval of subdrain alternatives. If the disposal area contains springs, natural or manmade water courses, or wet weather seeps, the design must include diversions and underdrains as necessary to control erosion, prevent water infiltration into the disposal facility and ensure stability.

The provisions for subdrainage systems are modified to add certain requirements to the existing rules. The subdrainage system must also: (a) Consist of durable rock or pipe; (b) be designed and constructed using current, prudent engineering practices and meet any design criteria established by the State; and (c) be designed to carry the anticipated seepage of water due to rainfall away from the fill and from seeps and springs in the foundation of the disposal area and shall be protected from piping and contamination by an adequate filter. Rock underdrains shall be constructed of durable nonacid-, nontoxic-forming rock that does not slake in water or degrade to soil material, and which is free of coal, clay or other nondurable material. Perforated pipe underdrains shall be corrosion resistant and shall have characteristics consistent with the long-term life of the fill. By letter dated October 5, 1990, Maryland stated it should further require that all subdrainage systems meet the design criteria specified at 30 CFR 77.214 and 77.215 (Administrative Record No. MD–472). The revised State rules are substantively identical to the corresponding Federal rules at 30 CFR 816.83(a) (1) and (3), 30 CFR 817.83(a) (1) and (3), and 30 CFR 816.71(f)(3).

Paragraph C(2) is modified to prohibit uncontrolled surface drainage from being diverted over the outslope of refuse piles. All runoff from the area above and from the surface of refuse piles must be diverted into stabilized diversion channels designed to safely pass the runoff from a 100-year, 6-hour precipitation event. The revised rule is identical to the corresponding Federal rules at 30 CFR 816.83(a)(2) and 30 CFR 817.83(a)(2).

Because the revised State rules at COMAR 08.13.09.33C are substantively identical to the corresponding Federal rules at 30 CFR 816.83(a) and 817.83(a), the Director finds the revised State rules to be no less effective than their Federal counterparts.

(d) *Construction requirements for refuse piles.* Maryland is revising section D to modify the construction requirements for refuse banks. All references to "coal processing waste banks" in paragraphs D(1) and D(2) have been deleted and replaced with "refuse piles." The revised terminology is identical to that which appears in the Federal regulations at 30 CFR 816.83 and 30 CFR 817.83.

Maryland is deleting paragraph D(3)(c) which provided for variations for the disposal of dewatered fine coal waste. The comparable provisions of the Federal rules at 30 CFR 816.83 and 30 CFR 817.83 were similarly removed (54 FR 44028, September 26, 1983).

Maryland is adding paragraphs D(5) and D(6) to prohibit permanent impoundments on completed refuse piles and to require that the final configuration of refuse piles be suitable for the approved postmining use. Terraces may be constructed on the outslope if required for stability, control of erosion, conservation of soil moisture, or facilitation of the approved postmining use. The grade of the outslope between the terrace benches must not be steeper than 2h:1v (50 percent). The revised State rules are substantively identical to the corresponding Federal rules at 30 CFR 816.83(c) (2) and (3) and 30 CFR 817.83(c) (2) and (3).

As the revised State rules at COMAR 08.13.09.33D are substantively identical to the corresponding rules at 30 CFR 816.83 and 30 CFR 817.83, the Director finds the revised State rules to be no less effective than their Federal counterparts.

(e) *Burning, removal and disposal of mine waste.* Maryland is revising sections E, F, and G to modify the terminology relating to the burning, removal and disposal of coal mine waste. All references to "coal processing waste" have been deleted and replaced with "coal mine waste." In section F, the reference to "burned coal processing waste" has been changed to "burned or burning coal mine waste." In section G, "return of coal processing waste" has been changed to "disposal of coal mine waste." "Waste disposal program" has been changed to "plan."

The revised language is substantively identical to that which appears in the Federal regulations at 30 CFR 816.87 and 30 CFR 817.87. Therefore, the Director finds that the revised State rules at COMAR 08.13.09.33 E, F and G are no less effective than the corresponding Federal regulations.

(f) *Disposal of noncoal wastes.* Maryland is revising section H to modify the requirements for the disposal of non-coal mine waste. Paragraph H(2) has been revised to permit disposal of non-coal waste in a State-approved solid waste disposal area as well as in a designated disposal site in the permit area. This change makes the revised State rule identical to the corresponding Federal rules at 30 CFR 816.89(b) and 30 CFR 817.89(b).

Maryland is revising paragraph H(3) to prohibit non-coal waste from being deposited in a refuse pile or impounding structure. Furthermore, an excavation for a non-coal mine waste disposal site may not be located within 8 feet of any coal outcrop or coal storage area. The revised rule is substantively identical to the corresponding Federal rules at 30 CFR 816.89(c) and 30 CFR 817.89(c).

Therefore, the Director finds that the revised State rules at COMAR 08.13.09.33 H(2) and H(3) are no less effective than their Federal counterparts.

Maryland is adding paragraph H(4) to require that any non-coal mine waste defined as "hazardous" under section 3001 of the Resource Conservation and Recovery Act (RCRA) (Pub.L. 94–580) be handled in accordance with the requirements of Subtitle C of the RCRA and any implementing regulations. However, the corresponding Federal rules at 30 CFR 816.89(d) and 30 CFR 817.89(d) were suspended on November 20, 1986 (51 FR 41962) because of the lack of adequate notice and comment. Section 505(b) of SMCRA permits states to promulgate more stringent standards than those of the Federal program. The Director finds the revised State rule to be no less effective than the Federal regulations.

(g) *Impoundng structures.* Maryland is modifying section I to revised the requirements for impounding structures. All references to "dams and embankments" have been deleted and replaced by "impounding structures." As the revised terminology is identical to that which appears in the Federal regulations at 30 CFR 816.84 and 30 CFR 817.84, the Director finds the change will not render the State rule less effective than its Federal counterpart.

Section I(1) is revised to prohibit the use of coal mine waste in the construction of impounding structures unless the permittee meets certain demonstration requirements. The demonstration must show that the stability of the structure will be ensured, and that the use of coal mine waste will not have a detrimental effect on downstream water quality or the

environment due to acid seepage. MDBOM approval of all demonstrations is required. Section I(1) is substantively identical to 30 CFR 816.84(a) and 30 CFR 817.84(a) except that it does not include a separate provision requiring that a design plan be submitted to the State discussing in detail the stability of the structure and the potential impact of acid mine seepage. By letter dated October 5, 1990, Maryland stated it interprets the demonstration requirement to include a detailed discussion of the stability of the structure and the potential impact of acid mine seepage through the impounding structure (Administrative Board No. MD–472). The demonstration would include a stability analysis including design calculations and chemical analyses to show acid producing potential of the coal mine waste. On this basis, the Director finds that the proposed State rule is no less effective than the Federal regulations at 30 CFR 816.84(a) and 30 CFR 817.84(a).

Section I(2) is added to prohibit the permanent retention, as part of the approved postmining land use, of impounding structures constructed of coal mine waste or impounding coal mine waste. As this rule is substantively identical to the corresponding Federal rules at 30 CFR 816.84(b)(1) and 30 CFR 817.84(b)(1), the Director finds the proposed State rule to be no less effective than its Federal counterparts.

Maryland is revising section J to modify the requirements for the site preparation for impounding structures. Section J(2) is revised to require that surface drainage that may cause instability or erosion be diverted by diversion ditches. Diversions which divert drainage from the upstream area or from the surface of the facility shall be designed to carry the peak runoff from a 100-year, 6-hour precipitation event. The current State rule provides for a 24-hour event. As the proposed State rule is substantively identical to the corresponding Federal rules at 30 CFR 816.84(d) and 30 CFR 817.84(d), the Director finds it no less effective than its Federal counterparts.

Maryland is revising section K(2) to require that the combination of principal and emergency spillways be able to safely pass the 100-year, 6-hour design precipitation event. The corresponding Federal rules at 30 CFR 816.84(b)(2) and 30 CFR 817.84(b)(2) require that impounding structures have sufficient spillway capacity to safely control the probable maximum precipitation of a 6-hour event, or greater as specified by the regulatory authority. The Director finds that the revised State rule is no less effective than its Federal counterparts.

10. COMAR 08.13.09.34 Backfilling and Grading

(a) *Methods.* Maryland is revising section B(2) to require that backfilled material be placed to minimize erosion and water pollution both on and off the site, to minimize adverse effects on ground water, and to support the approved postmining land use. The proposed rule is substantively identical to the corresponding Federal rules at 30 CFR 816.102(a) (4) and (5) and 30 CFR 817.102(a) (4) and (5). Therefore, the Director finds it no less effective than its Federal counterparts.

(b) *General requirements.* Maryland is revising section C(1) to delete the requirement that final graded slopes not exceed in grade the approximate pre-mining slopes. Section C(1) continues to prescribe that final grade slopes shall approximate the general nature of the pre-mining topography. At section B(1), however, Maryland retains the requirement that all disturbed areas be returned to their approximate original contour. The Federal rules at 30 CFR 816.102(a)(1) and 30 CFR 817.102(a)(1) require that disturbed areas be graded to achieve approximate original contour, with certain exceptions. The Director finds that the revisions to section C(1) when read together with section B(1) render the revised State rule no less effective than the Federal counterparts.

Maryland is revising section C(1)(b) to require a minimum long term safety factor of 1.5 for final graded slopes. The current State rule does not specify the "long term" requirement. The corresponding Federal regulations at 30 CFR 816.102(a)(3) and 30 CFR 817.102(a)(3) require a long term static safety factor of 1.3. The Director finds the revised State rules no less effective than the corresponding Federal rules.

Maryland is deleting the provision at section C(2)(d) which allowed the use of culverts and underground rock drains on terraces only when approved by the State. As the corresponding Federal regulations at 30 CFR 816.102(g) and 30 CFR 817.102(g) do not provide for culverts and drains on terraces, the Director finds that the deletion will not render the Maryland rule less effective than its Federal counterparts.

Maryland is revising section C(3)(a) to permit the construction of small depressions if they create and enhance wildlife habitat and meet other specified provisions. The Director finds that the revision makes the revised State rule substantively identical to and therefore no less effective than the corresponding Federal rules at 30 CFR 816.102(h) and 30 CFR 817.102(h).

Maryland is deleting the provision at section C(3)(c) which permitted the construction of depressions if they were not inappropriate substitutes for lower grades on reclaimed lands.

Added is the provision that construction must be approved, in writing, by the landowner. The Federal regulations at 30 CFR 816.102(h) and 30 CFR 817.102(h) do not require either of the provisions mentioned above. The revisions to section C(3)(c) do not conflict with other permanent program requirements. Therefore, the Director finds the revised State rule is not inconsistent with the requirements of SMCRA or the above-cited Federal regulations.

Maryland is revising section C(4) to delete the requirement that required all final grading and placement of topsoil be done along the contour. This section is further revised to require that the preparation of final graded surfaces be conducted in a manner which minimizes erosion and slippage of topsoil. The revisions to the State rule render it identical to the corresponding Federal rules at 30 CFR 816.102(j) and 30 CFR 817.102(j). Therefore, the Director finds the revised State rule no less effective than its Federal counterparts.

Maryland is adding section C(5) to provide certain requirements for the placement of spoil outside the mined-out area in non-steep slope areas. All vegetative and organic material must be removed; the topsoil must be removed, segregated and redistributed; and the spoil must be backfilled and graded as required. The revisions make the proposed rule identical to the corresponding Federal regulations at 30 CFR 816.102(d) and 30 CFR 817.102(d). Therefore, the Director finds the revised State rule no less effective than its Federal counterparts.

11. COMAR 18.13.09.42 Permit Suspension, Revocation, and Bond Forfeiture

(a) *General.* Maryland is revising section A to modify the general requirements for permit revocation. Section A(1) has been revised to allow the State discretionary authority to revoke an operator's permit if the State determines that he has persistently or repeatedly failed to comply with the requirements of the program or has failed to produce coal or remove overburden for a period in excess of 6 months. With regard to this discretionary authority, the corresponding Federal rules at 30 CFR 843.13 do not require a mandatory

revocation of permit if a pattern of violations of any requirement of the program exists. These rules provide only that, if such a determination is made, an order shall be issued to a permittee to show cause why his permit should not be suspended or revoked. With regard to the 6 month provision, the Federal rules at 30 CFR 773.19(e) require only that a permittee begin operation within 3 years of the issuance of his permit or the permit will be terminated. As the proposed State revisions are either consistent with or more stringent than the corresponding Federal regulations, the Director finds these revisions no less effective than the Federal regulations.

Maryland is deleting the provisions in section A(2) for permit suspension prior to revocation and adding requirements for the mandatory issuance of a show cause order if the State determines that a permittee has persistently or repeatedly failed to comply with any program requirements or has not produced coal or removed overburden for more than 6 months. The permittee is granted 30 days in which to request an adjudicatory hearing. The corresponding Federal rules at 30 CFR 843.13(a)(1) and 30 CFR 843.13(b) require the issuance of a show cause order if it is determined that a pattern of violations of any requirement of the program exists and grant the permittee the right to a hearing without specifying a time limit. The Federal rules do not, however, require that the permittee begin mining operations within 6 months. The Director finds the proposed state rule to be not inconsistent with the corresponding Federal regulations.

Maryland is deleting the provisions for compliance with suspension schedules in section A(3). Suspension procedures have been transferred to section C. New section A(3) requires that any violations by any person conducting surface coal mining and reclamation operations on behalf of the permittee be attributed to the permittee unless they are acts of deliberate sabotage. As the revised State rule is identical to the corresponding Federal rule at 30 CFR 843.13(a)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is revising section A(4) to address discretionary "persistent or repeated failure to comply" findings by the State. The State may determine that failure to comply exists or has existed based on two or more inspections of the permit area within any twelve month period. A "persistently failed to comply" finding may be made if the permittee has failed to meet the requirements of any notice or cessation order within the specified time limits. A "repeatedly failed to comply" finding may be made if a permittee has been cited on two or more occasions for violation of the same or related requirements, or has been cited on three or more occasions for violations of different requirements.

The corresponding Federal rule is 30 CFR 843.13(a)(2). Given the discretionary nature of the rule, i.e., "the Director *may* determine that a pattern of violations exists * * *" and the broad parameters of the State rule within which this discretion may be exercised, the Director finds the State rule not inconsistent with its Federal counterpart.

Maryland is revising section A(5) to address mandatory "persistent or repeated failure to comply" findings by the State. The State is required to make a "failure to comply" finding based on three or more inspections of the permit area within any 12 month period. A "persistently failed to comply" finding is required if the permittee fails to meet the requirements of any cessation order within 30 days from the issue date. A "repeatedly failed to comply" finding is required if the permittee has been cited on three or more occasions for violation of the same or related requirements, or has been issued cessation orders under Regulation 40G(2), regardless whether the permittee abated the violation within 30 days, on three or more occasions.

The corresponding Federal rule at 30 CFR 843.13(a)(2) does not provide for a mandatory pattern of violation determination. The revised State rule does not conflict with the Federal requirements for pattern of violation determinations since the State is requiring a more stringent approach as permitted by section 505(b) of SMCRA. Therefore, the Director finds the revised State rule to be no less effective than its Federal counterpart.

Maryland is revising section A(6) to require the issuance of a show cause order by the State to a permittee if a "persistent or repeated failure to comply" finding has been made, or the permittee has not produced coal or removed overburden for more than 6 months. As the revised State rule is substantively identical to the corresponding Federal rule at 30 CFR 843.13(a)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is revising section A(7) to permit the State to decline to issue a show cause order if it would be demonstrably unjust to issue the order. The basis for the finding may include a determination that the violations were not the result of willful or unwarranted failure to comply. The corresponding Federal rules at 30 CFR 843.13 (a)(1) and (d) require that a show cause order be issued if a pattern of violations exists or has existed and the violations were caused willfully or through unwarranted failure. The Director is given discretion in determining the existence of a pattern of violations. Because the discretion encompasses a finding of demonstrable injustice (47 FR 35630, August 16, 1982), the Director finds the revised State rule no less effective than its Federal counterpart.

(b) *Show cause order and hearing.* Maryland is revising section B to modify the requirements for show cause orders and hearing procedures.

Section B(1) is revised to require that a show cause order issued by the State be in writing and sent by certified mail to the permittee. The order shall describe the basis for the determination; shall advise the permittee that he may request an adjudicatory hearing within 30 days from receipt of the order; shall advise the permittee that if a hearing is not requested, the State will revoke the permit and forfeit the bonds upon expiration of the 30 day period; and shall advise the permittee that permit revocation and bond forfeiture will result in denial of future Maryland operator licenses.

Neither the Federal regulations at 30 CFR 843.13 and 30 CFR 843.14 nor section 521 of SMCRA contains specific requirements for the contents of a show cause order. The regulatory authority is provided with a certain degree of latitude in this area. The Director finds that the additional specificity provided in the State rule is not inconsistent with the requirements of SMCRA and the corresponding Federal regulations.

Maryland is revising section B(2) to provide for show cause hearing notifications. The State is required to give 30 days written notice of the hearing to the permittee and all interested parties. It shall also publish notice of the hearing, if practicable. The revised State rule is substantively identical to the corresponding Federal rule at 30 CFR 843.13(b). Therefore, the Director finds it no less effective than its Federal counterpart.

Maryland is revising section (B)(3) to require that show cause hearings to revoke a permit and forfeit bonds be held in accordance with the regulations governing adjudicatory hearings. The State shall have the burden of establishing a prima facie case for revocation and forfeiture. The permittee shall have the burden of persuasion that the permit should not be revoked and bonds forfeited. With regard to permit

revocation proceedings, the Federal rules at 30 CFR 843.13(b) provide that hearings be conducted in accordance with specific adjudicatory procedures. The Federal rules at 43 CFR 4.1193 also contain burden of proof provisions equivalent to those of the revised State rule. The Federal rules at 30 CFR 800.50 do not however apply such procedures or provisions to bond forfeiture proceedings. Maryland stated on June 5, 1990, that for the purposes of COMAR section 42B, bond forfeiture means that the bond is automatically and actually forfeited and the State will reclaim the site using the forfeited bond unless, under the provisions of COMAR section 42(d)(1), the former permittee or another person with a financial interest begins reclamation and continuously reclaims the site (Administrative Record No. MD–457).

The Director finds that the revised State rule is no less effective than the Federal rules governing permit revocation proceedings at 30 CFR 843.13(b) and 43 CFR 4.1193, and not inconsistent with the requirements of SMCRA or those of the Federal rules governing bond forfeiture at 30 CFR 800.50.

Maryland is revising section B(4) to clarify that the existence of a show cause proceeding does not relieve the permittee from his responsibilities under the permit. The permittee may be subject to certain civil penalties and further prosecution should he fail to abate any continuing violation. The revised State rule neither has a direct counterpart nor conflicts with the Federal regulations at 30 CFR 843.13 and 43 CFR 4.1190 *et seq.*

Therefore, the Director finds that the revised State rule is not inconsistent with the requirements of SMCRA or the general enforcement provisions of the Federal regulations.

(c) *Suspension.* Maryland is revising section C to modify the procedures for permit suspension. Section C(1) is revised to allow the permittee to request a temporary suspension of the permit instead of permit revocation and bond forfeiture if the permittee can demonstrate that he is making good faith efforts to bring the operation into compliance and can submit an acceptable schedule for complete compliance. The Federal rules at 30 CFR 843.13(a)(1) comprehend the permittee showing cause why his permit should be suspended rather than revoked. 43 CFR 4.1192(b) specifically provides that mitigating factors may be presented to the hearing officer regarding issues of permit suspension and revocation. The Director finds the revised State rule to be no less effective than the Federal regulations.

Maryland is revising sections C(2) and C(3). Section C(2) is revised to require that a suspension of a permit be accepted by the permittee in a written agreement containing certain stipulations. The permittee must attest to: the circumstances which led to the show cause order; the present site conditions; a reclamation or compliance schedule; the submission of periodic reports; the payment of any civil penalties within 30 days of execution of agreement; and immediate revocation and forfeiture if the permittee fails to comply with the schedule. Section C(3) is revised to specify that removal of the suspension will result in the reactivation of the permit. The revised State rules neither have direct counterparts nor conflict with the Federal regulations at 30 CFR 843.13(c)(2). Therefore, the Director finds that the revised State rules are not inconsistent with the requirements of SMCRA or the Federal rules governing permit suspension at 30 CFR 843.13(c)(2).

Section C(4) is revised to require the State to notify the permittee in writing, by certified mail, that the permit is revoked and bonds forfeited if the permittee has failed to comply with any compliance schedule specified in section C(3). The revised State rule neither has a direct counterpart nor conflicts with the provisions of 30 CFR 800.50(a)(1) and 30 CFR 843.14(a)(2) requiring notice by certified mail. The Director finds the revised State rule is not inconsistent with the requirements of SMCRA or the general notice provisions of the Federal regulations.

(d) *Revocation and forfeiture.* Maryland is revising section D to modify the requirements for the revocation of permits and forfeiture of bonds. Revised section D(1) directs the State to notify the former permittee in writing, by certified mail, that all bonds are forfeited and payment due if the right of appeal has not been exercised or the final decision upon appeal is to revoke and forfeit. The permittee shall also be advised that payment may be avoided if the permittee or another person with a financial interest completes the reclamation in accordance with the compliance schedule. As the revised State rule is substantively identical to the corresponding Federal rule at 30 CFR 800.50(a) (1) and (2), and does not conflict with the notice provisions of 30 CFR part 843 and 43 CFR 4.1190 *et seq.*, the Director finds it no less effective than these Federal rules.

Maryland is revising section D(2) to clarify that completion of reclamation work by a third party, instead of forfeiture, does not entitle that party to receipt of collateral. Collateral will be returned to the former permittee. Maryland stated on June 5, 1990, that the provisions of section D(2) apply to those sites reclaimed by a person other than the former permittee, instead of forfeiture. The provisions of section D(3) (discussed below) apply to those sites not reclaimed by the former permittee or third party (Administrative Record No. MD–457). While neither SMCRA nor the Federal regulations at 30 CFR 800.50 contains specific rules regarding this issue, 30 CFR 800.50(a)(2)(i) authorizes third party reclamation and 30 CFR 800.50(d)(2) requires that unused funds be returned to the party from whom they were collected. Therefore, the Director finds that the revised State rule is not inconsistent with the Federal rules.

Maryland is revising section D(3) to require in all cases that the total bond or collateral amount be forfeited, regardless of the actual amount of reclamation work to be done. All funds will be deposited into the Bituminous Coal Open-Pit Mining Reclamation Fund.

In 1980, the U.S. District Court remanded § 808.14(b) of OSM's 1979 bond forfeiture rules for not having a provision for returning unused portions of the forfeited bond (*In re: Permanent Surface Mining Regulations Litigation,* February 26, 1980). The court based its remand of the 1979 rule on the fact that neither section 509 nor any other part of SMCRA authorizes the use of unused portions of forfeited bond funds to pay for other reclamation costs of State programs. In 1983, OSM responded by requiring at 30 CFR 800.50(d)(2) that unused funds be returned by the regulatory authority to the party from whom they were collected (48 FR 32957, July 19, 1983). Section 7–514(a)(2) of the Maryland Administrative Code states that funds received on a bond forfeiture in excess of the amount required to reclaim the bonded land may be used to reclaim any other land affected by open pit mining. Unlike former § 808.14(b), the Maryland rule is not dependent upon SMCRA for its authority. It has an independent statutory basis, state law, for the use of excess forfeited funds thereby remedying the basis for which OSM's 1979 rule was remanded, while Maryland's proposed requirement, that the total bond or collateral amount be forfeited and deposited into a reclamation fund is not specifically authorized by SMCRA, it is nonetheless well within the discretion provided to the states by section 505 of SMCRA to propose more stringent regulation of the

surface coal mining and reclamation operations than do the provisions of SMCRA and its implementing regulations. Therefore, the Director finds the Maryland proposed rule to be not inconsistent with the requirements of SMCRA or the Federal rules at 30 CFR part 800.

(e) *Service of show cause orders and notices.* Maryland is revising the general requirements for the service of show cause orders and notices. Section E(1) is revised to require that show cause orders and other required notices be served on the permittee at the address shown on the permit or operator's license. Section E(2) is revised to specify that service shall be made by sending a copy of the order or notice by certified mail. The revised State rules are substantively identical to the corresponding Federal alternative rule at 30 CFR 843.14(a)(2). Therefore, the Director finds them no less effective than their Federal counterpart.

12. COMAR 18.13.09.43 Adjudicatory Hearings

(a) *Review procedures.* Maryland is revising section B to modify the general procedures for the initial review of requests for adjudicatory hearings. At Section B(1), the State, upon reviewing a request for a hearing and considering certain criteria, is given discretionary authority to grant or deny the request. At section B(2), a criterion is added which requires the State to consider whether the requestor has a right, duty, interest, statutory entitlement, or privilege which is or may be adversely affected. At section B(3), the State is authorized to request additional information from the requestor to be submitted within 10 days after receipt of notification. Section B(4) provides that in the event a request is denied, the State must notify the requestor of the right to appeal within certain time limits. Section B(5) authorizes the State to conduct the appeal hearing and provides for notification to all interested parties. Section B(6) authorizes the State to issue a final decision on the appeal. If the decision is adverse to any party other than the State, that party may obtain judicial review of the decision. Section B(7) provides that in the event the request for a hearing is approved, the State Secretary or his designee shall act as the hearing officer and shall properly notify all parties of the date, time and place of said hearing.

The corresponding Federal rules at 43 CFR 4.1100 *et seq.* provide procedures for adjudicatory hearings conducted by the Office of Hearings and Appeals (OHA). OHA conducts the hearing, if one is requested, and issues the decision. However, under the Maryland rules, the State conducts the hearing and issues the decision. The Director finds that the revised State rules concerning hearing procedures at section B remain no less effective than the Federal rules.

(b) *Prehearing conference, adjudicatory hearing, and post-hearing testimony.* Maryland is revising sections D, E, and F to reflect the increased authority of the hearing officer. During prehearing conferences and adjudicatory hearings, the hearing officer is authorized to identify and rule upon issues of law. The current State rule requires that issues of law be submitted to the Attorney General. The hearing officer is also required to provide an opportunity for any party to file a brief in support of his position on issues of law identified in the proceedings.

The corresponding Federal rule at 43 CFR 4.1126 governing hearings provides for the submission of briefs to the OHA Administrative Law Judge. The Director finds that the revised State rules at COMAR 08.13.09.43 D, E, and F are no less effective than the corresponding Federal rules relating to hearings.

Maryland is revising section K to provide that the Director of the Water Resources Administration rather than the Secretary is the party authorized to receive proposed decisions from the hearing officer, hear oral arguments, and within 30 days of receipt of the proposed decision, issue a final decision, which may be appealed. The Federal regulations at 43 CFR 4.1150 *et seq.* and 4.1160 have no time constraint for the issuance of a hearing decision by an Administrative Law Judge. While the time limits prescribed by section K will continue to be adjusted as required to meet specific statutory deadlines or to ensure full presentation of all relevant materials, a new provision is included that a decision on a request to review a cessation order issued for a violation which creates an imminent danger to public health or safety, or is causing environmental harm, shall be rendered by the hearing officer within 30 days of receipt of the review application unless temporary relief is granted. The Federal regulation at 43 CFR 4.1180 also prescribes a 30 day time frame for the issuance of a decision under these circumstances.

The Director finds the revised State rule at COMAR 08.13.09.43K to be no less effective than these Federal rules.

(c) *Decision.* Maryland is revising section M to provide that the Director of the Water Resources Administration rather than the Secretary, notify the parties to the hearing of the final decision and their rights of appeal. The Federal rule at 43 CFR 4.1120 ff does not specifically require such notification. Therefore, the Director finds the revised State rule to be not inconsistent with the requirements of SMCRA or the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the April 21, 1989, Federal Register ended on May 22, 1989. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(H)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Maryland program.

The USDA Soil Conservation Service and the U.S. Army Corps of Engineers supported the amendment.

The Mine Safety and Health Administration (MSHA) expressed concern that certain State rules may conflict with MSHA regulations governing refuse piles. Citing COMAR 08.13.09.33A(2)(a), MSHA commented that 30 CFR 77.215(e) requires that refuse piles shall not be constructed so as to impound water or impede drainage.

In response, the Director notes that MSHA's comments are specifically directed to a provision of the State regulations which is being deleted. Furthermore, the State regulations at COMAR 08.13.09.33A address coal mine waste, not refuse piles, and are substantively identical to and have been previously found to be no less effective than the Federal regulations at 30 CFR 816.81 and 817.81. The State instead provides for water control measures for waste piles at COMAR 08.13.09.33C which require that the disposal area include diversions and underdrains as necessary. Maryland stated on October 9, 1990, that section C regulations are interpreted and enforced as prohibiting the impounding of water and the impeding of drainage prohibited by the MSHA regulations (Administrative Record No. MD–472).

MSHA also commented that all refuse piles constructed in layers exceeding 2 feet with slopes exceeding 27 degrees must have construction approved by MSHA. In response, the Director notes

that the State regulations at COMAR 08.13.09.33D(3)(a) do not permit the layers to exceed 24 inches in thickness. Provisions allowing variations for the disposal of dewatered fine coal waste have been deleted from the State rules.

MSHA also commented that the 100-year, 6-hour design precipitation event design parameter for principal and emergency spillways is the minimum parameter the agency accepts. In response, the Director notes that the revised State rule provides for the 100-year, 6-hour event and is therefore as effective as the corresponding Federal regulations at 30 CFR 816.84(d) and 817.34(d) and meets the minimum MSHA standards.

V. Directors Decision

Based on the above findings, the Director is approving the amendments to the Maryland regulatory program submitted on March 30, 1989, with the provision that Maryland make the changes identified in Findings 3 and 9 prior to its promulgation of the amendments.

The Federal rules at 30 CFR part 920 concerning the Maryland program are being amended to implement the Director's decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to conform their programs to the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a State program amendment that relates to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The EPA concurred without comment (Administrative Record No. MD–399).

VI. Procedural Determinations

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.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 or 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.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

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

Dated: January 3, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

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

2. In § 920.15, a new paragraph (h) is added to read as follows:

§ 920.15 Approval of regulatory program amendments.

* * * * *

(h) The following amendments submitted to OSM on March 30, 1989, are approved effective January 11, 1991, with the exceptions identified herein. Revisions of the following rules of Code of Maryland Administrative Regulations:

08.13.09.01 General.
08.13.09.02 Permit Applications.
08.13.09.13 Surface Effects of Deep Mines.
08.13.09.17 Small Operator's Assistance Program.
08.13.09.28 Special Performance Standards.
08.13.09.31 Topsoil Handling.
08.13.09.32 Excess Spoil Disposal.
08.13.09.33 Waste Handling.
08.13.09.34 Back Filling.
08.13.09.42 Permit Suspensions, Revocation and Bond Forfeiture.
08.13.09.43 General Provisions on Adjudicatory Hearings.

[FR Doc. 91–649 Filed 1–10–91; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 90–18]

Security Zone Regulations; Port of Los Angeles, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the Port of Los Angeles, California around any vessels moored at LA Berths 219, 220, 221, 222, and 223 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at LA berths 219, 220, 221, 222, and 223 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective at 00:01 a.m., January 01, 1991. It terminates at midnight, March 31, 1991.

FOR FURTHER INFORMATION CONTACT: LT R.F. Shields at (213) 499–5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at LA berths 219, 220, 221, 222, and 223.

Drafting Information

The drafters of this regulation are LT R.F. Shields, project officer for the captain of the port, and LCDR A. Lotz, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 00:01 a.m. on January 01, 1991. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at LA Berths 219, 220. 221, 222, and 223.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T1119 is added to read as follows:

§ 165.T1119 Security Zone: Vessels Moored at Berths 219, 220, 221, 222, and 223 Port of Los Angeles, CA.

(a) *Location.* The following area is a security zone:

The waters of Los Angeles Harbor within 100 yards of any vessels moored at LA berths 219, 220, 221, 222, and 223.

(b) *Effective date:* This regulation becomes effective at 00:01 a.m., January 01, 1991. It terminates at 12 midnight, March 31, 1991.

(c) *Regulations:* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: December 14, 1990.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 91–678 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 90–17]

Security Zone Regulations; Port Hueneme, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in Port Hueneme, California, around any vessels moored at Port Hueneme wharfs 3, 4, 5, and 6 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective at 00:01 a.m., January 1, 1991. It terminates at 12 midnight, March 31, 1991.

FOR FURTHER INFORMATION CONTACT: LT R.F. Shields at (213) 499–5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

Drafting Information

The drafters of this regulation are LT R.F. Shields, project officer for the captain of the port, and LCDR A. Lotz, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 00:01 a.m., on January 1, 1991. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T1118 is added to read as follows:

§ 165.T1118 Security Zone: Vessels Moored at Wharfs 3, 4, 5, and 6, Port Hueneme, CA.

(a) *Location.* The following area is a security zone:

The waters of Port Hueneme within 100 yards of any vessels moored at Port Hueneme wharfs 3, 4, 5, and 6.

(b) *Effective date:* This regulation becomes effective at 00:01 a.m., January 1, 1991. It terminates at 12 midnight, March 31, 1991.

(c) *Regulations:* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: December 14, 1990.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 91–679 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD1 90–204]

Security Zone Regulations; Upper Bay of New York Harbor at Bayonne, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a security zone in the Upper Bay of New York Harbor at Bayonne, New Jersey. This zone is needed to safeguard personnel and property at the Military Ocean Terminal (MOTBY) against sabotage or other subversive acts, accidents, or other causes of similar nature during the storage, loading and/or transport of military cargoes or personnel. Entry into or movement within this zone, is prohibited unless authorized by the Captain of the Port, New York.

DATES: This regulation becomes effective at 7 a.m. local time on 30 November 1990 and should remain in effect unless terminated by the Captain of the Port, New York.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York, NY. 10004–5096. The comments and other materials referenced in this notice will be available for inspection and copying at the Waterways Management Office, Bldg. 109, Governors Island, New York. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG C.W. Jennings of Captain of the Port, New York (212) 668–7737.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Following normal rulemaking procedures would have been contrary to the public interest. Immediate action is needed to prevent any potential destruction to government property or loss of life.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer, Captain of the Port, New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from ongoing activities at the Military Ocean Terminal, Bayonne, New Jersey in support of "Operation Desert Shield". These activities include but are not limited to the storage, loading and transport of military cargoes or personnel on property chartered by or wholly owned by the United States. This regulation commences at 0700 on 30 November 1990.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T1204 is added to read as follows:

§ 165.T1204 Security Zone: Upper Bay of New York Harbor at Bayonne, NJ

(a) *Location.* The following areas are established as Security Zones during the specified conditions:

(1) That portion of the Upper Bay of New York Harbor within the waters bound by a line drawn from the northeast corner of Global Marine Terminal, Bayonne, New Jersey thence east southeast to the Gowanus Flats Lighted Gong Buoy 27 (LLN 32295) thence south southwest to the Kill Van Kull Lighted Junction Buoy "KV" (LLN 34505) thence west northwest to Exxon Pier 7 at Constable Hook, Bayonne, New Jersey thence northerly along the shoreline to origin during the loading, unloading, storage, embarkation or disembarkation of military cargoes or personnel used in support of "Operation Desert Shield".

(2) The waters of the Upper Bay and Lower Bay of New York Harbor and Ambrose Channel within 500 yards fore and aft and 200 yards port and starboard of any vessel involved in support activities for "Operation Desert Shield" as it transits those waters.

(3) The waters of the Upper Bay and Lower Bay of New York Harbor within a 500 yard radius of any vessel involved in support activities for "Operation Desert Shield" as it lies at anchor in those waters.

(b) *Effective date.* This regulation becomes effective at 7 a.m. local time 30 November 1990 and should remain in effect unless terminated by the Captain of the Port, New York.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: November 30, 1990.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91–680 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AE93

Concurrent Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations on concurrent benefits. This change is necessary in order to implement a recent VA General Counsel opinion which held that temporary disability compensation paid by a military service to a member of a reserve component who was incapacitated during training does not constitute active service pay. The intended effect of this amendment is to allow payment of VA benefits to reservists who receive such payments.

EFFECTIVE DATE: April 30, 1990.

FOR FURTHER INFORMATION CONTACT: Don England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: Based upon a VA General Counsel opinion issued in 1958, VA regulations prohibit payment of VA benefits to a member of a reserve component who is receiving "sick pay" or "incapacitation pay" after his or her training tour has expired. In an opinion issued April 30, 1990 (O.G.C. Prec. 10–90), however, the General Counsel noted that the nature of this disability pay has changed in several important regards since the 1950's. Under current law a reservist incapacitated while training is no longer treated exactly as a member of the regular services who is incapacitated in line of duty, and the reservist is not guaranteed full pay and allowances since there are offsets for nonmilitary earned income. The recent General Counsel opinion held that temporary disability compensation paid to a reservist incapacitated on a training tour does not represent payment for duty performed and that it is no longer valid for VA to include "sick pay" and "incapacitation pay" in its definition of active service pay. Accordingly, we are amending 38 CFR 3.700(a)(1)(i) to delete any reference to those benefits.

The Department of Veterans Affairs is issuing a final rule to amend the provisions of 38 CFR 3.700(a)(1)(i). This change is necessary to conform the regulatory provisions with the VA General Counsel precedent opinion referenced above. Because this amendment constitutes a liberalizing change relieving a restriction and an interpretive rule, publication as a proposal for public notice and comment is unnecessary. For the same reasons, this amendment is retroactively effective on April 30, 1990, the date of the precedent opinion upon which it is based.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act, 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory

amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Pensions, Veterans.

Approved: December 11, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is amended as follows:

In § 3.700, paragraph (a)(1)(i), the authority citation is removed at the end of the first sentence, the second and third sentences are removed, and a new authority citation is added at the end of the paragraph to read as follows:

§ 3.700 General.

* * * * *

(a) *Veterans*—(1) *Active service pay.*

(i) * * *

Authority: 38 U.S.C. 3104(c).

* * * * *

[FR Doc. 91–729 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for issue 37 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1. These revisions are minor, editorial, or clarifying.

EFFECTIVE DATE: December 16, 1990.

FOR FURTHER INFORMATION CONTACT: Catherine V. Pagano, (202) 268–2969.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual has been amended by the publication of a transmittal letter for issue 37, dated December 16, 1990. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office. The following Summary of Changes section of the transmittal for issue 37 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Summary of Changes

Chapter 1

Exhibit 113.76, *Holiday Service Levels,* is revised to show which national holidays the Postal Service currently designates as widely observed and not widely observed. Such designations help determine the services provided on those days. Memorial Day, formerly listed as a holiday not widely observed, is included with the other holidays designated as widely observed. Veterans Day is now grouped with those holidays designated as not widely observed.

Exhibits 122.63c–l are revised to reflect changes in mail processing operations, especially changes in the labeling of mail for the U.S. Virgin Islands, identified by ZIP Code prefix 008. Boldface type indicates the changes. (*Postal Bulletin* 21773, 10–4–90)

Section 124.63b(1)(b) restricts the sending of adult birds by Express Mail to shipments expected to be delivered the next day. (*Postal Bulletin* 21772, 9–20–90)

Section 137.252f is added to explain two abbreviations used in the government agency code list found in 137.253. Agencies that process mail commercially are identified by the letters "NA" (not available) or "C" (commercial).

Section 137.253 is updated to reflect the addition of five government agencies, the deletion of six agencies, the separate listings of 13 branches within the U.S. Department of Labor, and changes to several sampling and business reply mail numbers. Boldface type indicates these changes.

Section 137.272b(5) and **Exhibits 137.272a(3)–(5)** are changed to describe and illustrate the new designs and formats required for standard Postal Service penalty indicia envelopes. (*Postal Bulletin* 21776, 11–15–90)

Section 145.12, *Application,* now requires postmasters to issue unique numbers to permit imprint holders. This section clarifies the procedures used for the filing of an application, explains other fees that may be required, and describes the assignment of permit numbers. (*Postal Bulletin* 21775, 11–1–90)

Sections 145.755, 145.861, 145.862, 145.863, and **145.926f** are added. **Section 145.854** is a renumbering of 145.86. These additions provide the qualifications for mailers at Stage I of the System Certification Program at the time of their authorization to use a Manifest Mailing System (MMS), Optional Procedure (OP) Mailing System, or Alternate Mailing System (AMS) after October 1, 1990. (*Postal Bulletin* 21776, 11–15–90)

Part 149, *Indemnity Claims,* reflects changes that now allow more time for follow-up claims (duplicates, inquiries, etc.) on insured, registered, and COD mail. Several revised sections within this part clarify the requirement that customerss must present the mailing container and its packaging to the Postal Service when a claim is filed for damage or partial loss. (*Postal Bulletin* 21775, 11–1–90)

Section 153.82, *Unprotected Places,* is revised to implement new procedures for the delivery of uninsured parcels. Unless endorsed by the mailer with the words "Carrier Release" or requested by a written order from the addressee, parcels shall not be placed on porches, steps, or any other unprotected area. (*Postal Bulletin* 21775, 11–1–90)

Sections 159.435 and **159.485** are amended to define unidentified articles of value as those valued at $10 or more. **Sections 159.523** and **159.54** are revised to show that requests for the disposal of undeliverable books and sound recordings, as well as requests for the use of undeliverable bulk third-class mail for Postal Service studies and developmental programs, must be sent to the General Manager, Business Requirements Division, Office of Classification and Rates Administration. U.S. Postal Service Headquarters. (*Postal Bulletin* 21774, 10–18–90)

Section 165.2, *Presentations,* is revised in response to the recently changed titles of some of the officials who approve the use of postage and other philatelic products for Postal Service presentations.

Chapter 3

Sections 364.122, 367.212, 367.221, 367.222, 367.232, 369.3, and **Exhibit 367.1** are amended to require a green Label 3 instead of a yellow Label C on packages prepared when 50 pieces or more—but less than a full tray—remain for a city with a unique 3-digit ZIP Code prefix, after the 5-digit ZIP Code delivery unit packages have been prepared. (*Postal Bulletin* 21772, 9–20–90)

Sections 367.32d, 444.24d, 641.411d, and **767.811c** remind presort mailers that they may include carrier route information on pieces in a mailing that do not qualify for the carrier route presort discount. (*Postal Bulletin* 21772, 9–20–90)

Chapter 4

Section 429.5, *Enveloping and Wrapping, Sealing, and Folding,* is revised and reorganized to require that all single copies of second-class publications mailed to APO/FPO addresses must be enclosed in wrappers or envelopes. (*Postal Bulletin* 21777, 11–29–90)

Chapter 6

Section 652.2, *Separation of Mailings,* now cites **644.17** as a reminder that authorized mailers may commingle mixed level third-class mail on pallets. (*Postal Bulletin* 21774, 10–18–90)

Chapter 9

Sections 917.527a, 917.591, and **917.593** now permit the use of business reply labels on letter-size envelopes. (*Postal Bulletin* 21772, 9–20–90)

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In consideration of the foregoing, the table at the end of § 111.3(e) is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
37	December 16, 1990.	56 FR [insert FR page number].

Stanley F. Mires,
Assistant General Counsel, Legislative Division.

[FR Doc. 91–622 Filed 1–10–91; 8:45 am]
BILLING CODE 7710–12–M

39 CFR Part 232

Updating of Authority Citation

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to update the authority citation for part 232 by substituting a reference to the most recently enacted appropriation act.

EFFECTIVE DATE: November 5, 1990.

FOR FURTHER INFORMATION CONTACT: Catherine V. Pagano, (202) 268–2969.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Part 232

Law enforcement, Postal service.

PART 232—[AMENDED]

The authority citation for part 232 is revised to read as set forth below:

Authority: 39 U.S.C. 401, 403(b)(3), 404(a)(7); 40 U.S.C. 318, 318a, 318b, 318c; section 609, Treasury, Postal Service and General Government Appropriations Act, 1991, Pub. L. 101–509; 18 U.S.C. 13, 3061; 21 U.S.C. 802, 844.

Stanley F. Mires,
Assistant General Counsel, Legislative Division.

[FR Doc. 91–621 Filed 1–10–91; 8:45 am]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL 3896–5]

Ocean Dumping; Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates the dredged material disposal site located offshore of San Diego, California (LA–5) for the disposal of suitable dredged material removed from the Port of San Diego and other nearby harbors or dredging sites. The LA–5 site is approximately 5.4 nautical miles southwest of Point Loma and occupies an area of about 0.77 square nautical miles (2.6 square kilometers). Water depths within the area are between 480 and 660 feet (145 and 200 meters). The center coordinates of the site are: 32° 36.83' North latitude and 117° 20.67' West longitude (North American Datum from 1927), with a radius of 3,000 feet (910 meters). This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of dredged material. The final LA–5 site designation is for an indefinite period, and the site is subject to management and monitoring programs to ensure that unacceptable adverse environmental impacts do not occur.

DATES: This designation shall become effective February 11, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Cotter, Regional Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region IX, W–7–1, 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744–1985 or FTS 484–1985. The file supporting this designation (including the Proposed Rule, the Final Environmental Impact Statement, the Coastal Consistency Determination, the Science Applications International Corporation (1990) survey, the fish block data from 1984 to 1988, the EPA Region IX August 1989 sediment testing requirements, the Management Plan and the Site Monitoring Program) are available for public inspection at the following locations:

1. EPA Public Information Reference Unit (PIRU), room 2904 (rear), 401 M Street, SW., Washington, DC.
2. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California.
3. U.S. Army Corps of Engineers, Los Angeles District, Library, 300 North Los Angeles Street, Los Angeles, California.
4. Port of San Diego, Clerks Office, 3165 Pacific Highway, San Diego, California.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA authority to designate sites where ocean dumping may be permitted. On October 1, 1986 the Administrator delegated authority to designate ocean dredged material disposal sites (ODMDS) to the Regional Administrator of the EPA Region in which the sites are located. The LA–5 site designation action is being made pursuant to that authority.

The EPA Ocean Dumping Regulations state that ocean dumping sites will be designated by publication in 40 CFR part 228 (40 CFR 228.4). A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2462) and was last extended on August 24, 1984 (49 FR 33647). That list established the Point Loma ODMDS (LA–4) in 300 feet of water and the LA–5 site as interim sites. The interim designation status of the LA–4 and LA–5 sites was cancelled after December 31, 1988 when time expired on a 1980 Consent Agreement between EPA and the National Wildlife Federation to have selected ocean dredged material disposal site designated. The LA–4 site was never used as a dredged material disposal site. Since LA–4 was cancelled,

no further discussion concerning this site is necessary and it will remain cancelled.

EPA Region IX now proposes to designate LA–5 as an ODMDS for continued use, subject to a Management Plan. The LA–5 site is approximately 5.4 nautical miles southwest of Point Loma and occupies an area of about 0.77 square nautical miles (2.6 square kilometers). Water depths within the area are between 480 and 660 feet (145 and 200 meters). The center coordinates of the site are: 32° 36.83' North latitude and 117° 20.67' West longitude (North American Datum from 1927), with a radius of 3,000 feet (910 meters). The Management Plan incorporates a Site Monitoring Program and MPRSA Section 103 permit review process. A copy of the Management Plan is available from the EPA Region IX address above.

B. EIS Development

Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Federal agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to designation of ocean disposal sites, EPA has voluntarily committed to prepare EISs for these actions (39 FR 37419, October 21, 1974).

EPA Region IX prepared a final EIS entitled "San Diego (LA–5) Ocean Dredged Material Disposal Site Designation (U.S. EPA, Region IX, 1988)." On August 26, 1988 a notice of availability for public review of the FEIS was published in the **Federal Register** (53 FR 32656). A Proposed Rule was also published in the **Federal Register** on August 26, 1988 discussing EPA Region IX's intent to designate the LA–5 site (53 FR 32628). Anyone desiring a copy of the FEIS or the Proposed Rule may obtain them from the EPA Region IX office address given above in this Final Rule.

C. Responses to FEIS and Proposed Rule Comments

During the public comment period on the FEIS and Proposed Rule, which closed on September 26, 1988, EPA Region IX received 6 comment letters.

The following substantive comments were discussed in the 6 comment letters:

1. The County of San Diego requested that EPA Region IX cooperate closely on the location of future outfalls near the LA–5 site. EPA Region IX and the U.S. Army Corps of Engineers' (Corps) Los Angeles District, are currently working closely with the City of San Diego staff on this issue. Several designs for ocean outfalls are being evaluated by the City of San Diego. EPA Region IX is directly involved with the review of environmental documents and analysis of potential impacts. Possible conflicts between construction of ocean outfalls and the LA–5 site will be minimized.

2. The California Coastal Commission commented that a Coastal Consistency Determination may be required. EPA Region IX has evaluated the proposed LA–5 site designation for consistency with the State of California's approved coastal management program. We determined that the designation of LA–5 is consistent to the maximum extent practicable with section 307(c)(1) of the Coastal Zone Management Act, as amended (16 CFR 1451 *et seq.*) and the State of California's Coastal Management Program (sections of chapters 1, 3 and 8 of the California Coastal Act of 1976, as amended). EPA Region IX's determination was submitted to the California Coastal Commission for review on September 21, 1990. A copy of this determination is available from EPA Region IX upon request.

In addition, as part of the NEPA process, EPA Region IX has consulted throughout the designation process with the California Coastal Commission regarding the effects of disposal at LA–5 on California's coastal zone. EPA Region IX has taken the California Coastal Commission's comments into account in preparing the LA–5 Final EIS and this Final Rule, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site. On December 11, 1990, the California Coastal Commission voted 10 to 1 to adopt EPA Region IX's Coastal Consistency Determination.

3. The California Coastal Commission expressed concern over the possible cumulative effects of contaminants disposed of at the LA–5 site. EPA Region IX and the Corps' Los Angeles District, will evaluate the suitability of all sediments proposed for disposal at the LA–5 site. National sediment testing guidance ("Green Book") was published in 1978 by EPA and the Corps (U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, 1978). The Green Book is in the final stages of revision and a new version is expected in early 1991. Proposed revisions to the 1978 Green Book include a recommendation to develop a regional testing manual for the ocean dumping program. This manual is now being prepared by EPA Region IX, the Corps' South Pacific Division and the Corps' Los Angeles District. In August 1989 Region IX prepared recommended sediment testing procedures for all sediments proposed for ocean disposal as an aid to permit applicants. The August 1989 recommended procedures and the 1978 Green Book (or the 1991 revision) should be used until a regional manual is prepared and approved for use.

Adherence to these procedures and careful review of the test results by EPA Region IX and the Corps' Los Angeles District will ensure that unacceptable dredged materials are not disposed of at LA–5. Sediments will be considered suitable for ocean disposal only if significant undesirable effects on the marine environment and human health are not expected to occur based on the results of sediment chemistry tests, toxicity tests and bioaccumulation tests. Sediment from the proposed dredging site will be compared to the reference site for LA–5. This reference site is located at 32° 46.00' North latitude by 117° 22.70' West longitude, North American Datum from 1927, at the 600-foot depth contour. The LA–5 site will be restricted to disposal of dredged sediments only, and will not be used for the disposal of industrial or municipal wastes. A Management Plan, including a Site Monitoring Program, has been prepared. The guidelines listed in the Management Plan will help to insure that cumulative effects of contaminants will be reduced and that significant adverse impacts, if they occur, can be mitigated.

The existing Point Loma wastewater outfall is located approximately 4.5 nautical miles (8.3 kilometers) from the LA–5 site. The associated municipal discharge effects are limited to local areas near the outfall and do not extend to the vicinity of the dredged material disposal site. There is little likelihood of cumulative interaction between dredged material disposal and the existing Point Loma outfall discharge. No other outfalls or point sources of pollution exist near the LA–5 site.

Estimates of sediment accumulation at the disposal site have been made by mathematical modeling. Data from Corps MPRSA Section 103 permits for the period 1977–1988 shows that an average of 370,000 cubic yards (280,000 cubic meters) of dredged material was disposed at LA–5. Based on an annual average deposition of 10 percent clumped material into a 990-foot (300 meter) radius dumping zone, bottom accumulation will average 5.5 inches (14

centimeters) at 980 to 1,310 feet (300 to 400 meters) from the center of the dumping zone. Deposit thickness is predicted to decrease to an average of about 0.5 inch (1.3 centimeters) at radial distances of about 3,000 feet (910 meters). Beyond 3,000 feet, accumulation is projected to average no more than about 0.3 inch (0.8 centimeter) per year. For higher percent clumping of the sediment, the corresponding footprint is smaller, with higher accumulation near the center of LA–5 and lower accumulation at the disposal site boundary and beyond.

4. The California Coastal Commission also expressed concern over the effects of recurring turbidity from disposal operations. Additional modeling using disposal quantities twice those assumed in the 1988 FEIS has been conducted to determine the turbidity effects at the LA–5 site. Parameters chosen for this modeling are conservative and overestimate potential impacts of disposal operations. The results indicate that suspended solid levels in the disposal plume decrease as the material settles and disperses from the dump area. While sand and other heavy particles will settle to the bottom within 60 seconds, clay and silt will remain in the water column longer and these particles will be affected more by dispersal than settlement.

If levels of suspended solids in the water at LA–5 are a concern, EPA Region IX and the Corps' Los Angeles District may require special disposal procedures to minimize plume interaction. Assuming that ocean disposal is occurring on a regular basis and an average current speed of 0.39 foot per second (12 centimeters per second), a disposal plume dumped at the upcurrent edge of the dumping zone will clear the downcurrent boundary in less than 1.5 hours. Therefore, overlapping of plumes is not predicted to occur provided individual dumps are separated by at least 2 hours. As a conservative measure, the Corps' Los Angeles District may restrict repetitive dumping to a minimum interval of 3 hours to ensure overlapping plumes will not occur, and to ensure there is no long-term build-up of suspended solids concentrations at the LA–5 site. This interval may be revised when results of the Site Monitoring Program are reviewed.

5. The California Coastal Commission suggested that the LA–5 site should be designated on an experimental basis to allow monitoring of disposal operations, and a re-evaluation of the designation based upon the monitoring results. EPA Region IX has chosen to designate the LA–5 site for long-term disposal, and to implement a tiered Site Monitoring Program which will evaluate three major components, water column impacts, sediment impacts, and biological impacts. EPA Region IX and the Corps' South Pacific Division and Los Angeles District will review the results of the Site Monitoring Program periodically to determine if a change in site use or designation of the site is warranted.

6. The Corps' South Pacific Division questioned the need for testing of all proposed dredged material and the procedures used for evaluating the test results. The Corps is correct that some sediments are exempt from chemical and biological testing requirements based upon the physical characteristics of the material and the location of the dredging site in relation to sources of contamination. However, much of the material expected to be disposed at the LA–5 site may not satisfy this exemption. The Ocean Dumping Regulations require the EPA Regional Administrator to make an independent evaluation of the proposed dumping in accordance with the ocean dumping criteria (40 CFR 225.2(c)). This evaluation includes reviewing results of physical, chemical and biological testing of the sediments proposed for disposal.

7. The Corps' South Pacific Division questioned the need to monitor the disposal site. Under 40 CFR 228.9 of the Ocean Dumping Regulations, the Regional Administrator may initiate a monitoring program if necessary. EPA Region IX has determined that a monitoring program is crucial to evaluate the extent of potential impacts at the LA–5 site. A Site Monitoring Program has been developed as a framework to addresses the concerns raised by regulatory agencies, resource agencies and the public in response to both the Draft and Final EISs regarding water and sediment quality, dispersion of the disposed material, and impacts upon biota near the site. The Site Monitoring Program is a flexible program based on specific monitoring objectives and concerns about physical and biological impacts.

D. Alternatives Analysis

The action evaluated in the 1988 FEIS is the designation of the LA–5 ODMDS for continuing use. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal of dredged material. Approval of a specific ocean dredged material disposal permit application is a completely separate process from site designation. MPRSA Section 103 permit applications are reviewed on a case-by-case basis to determine whether the proposed dredged material is suitable for disposal at LA–5.

The FEIS discussed the need for the site designation and examined a range alternatives to the proposed action, including 3 ocean disposal sites. Land-based disposal alternatives were examined in the FEIS and found to be unacceptable for disposal of large amounts of dredged material (FEIS pages 2–1 to 2–8). However, land disposal alternatives will be evaluated by EPA Region IX and the Corps' Los Angeles District on a case-by-case basis during the permitting process when the need for ocean dumping is presented by the permit applicant (40 CFR 227.14 to 227.16). The following alternatives were evaluated in the FEIS:

1. No Action—Selection of this alternative would prevent final designation of the LA–5 site. No action on the site designation could force the Corps's Los Angeles District to designate a site under Section 103 of MPRSA, or modify, cancel or recommend no Federal participation in dredging projects that may require ocean disposal of suitable material. This alternative has been rejected by EPA Region IX because the LA–5 site has been used successfully in the past and the environmental impacts at the site have been acceptable.

2. Delayed Action Alternative—The need for an ODMDS is a continuing concern for dredging projects in San Diego Bay and requires conclusion of the site designation process in the most expeditious manner possible. Therefore, EPA Region IX is proposing to designate LA–5 for continued use and we will manage the site to prevent significant adverse environmental impacts.

3. Upland Disposal (including beach replenishment, landfilling in port areas and disposal at sanitary landfills)—These alternatives are considered on a case-by-case basis during the Corps' MPRSA section 103 permit application review process. Beach replenishment may be preferred to ocean disposal if the dredged material is compatible with the beach and studies show that the dredged material will replinish the beach. Permitting for beach replenishment is regulated under section 404 of the Clean Water Act (CWA). Disposal of large amounts of dredged material at an upland site is not a feasible long-term solution for management of dredged material disposal because these sites are limited in the San Diego area. Upland disposal can be evaluated on a case-by-case basis as part of the permit application process.

4. LA–5 ODMDS (Preferred Alternative)—This site was selected as the preferred alternative because it is a historical site and it satisfies the site selection criteria (40 CFR 228.5 and 228.6(a)). The site is located 5.4 nautical miles (10 kilometers) southwest of Point Loma on the continental shelf in 480 to 660 feet (145 to 200 meters) of water. The environmental impacts at the site have been determined to be acceptable. The anticipated future use of the site will not cause significant adverse environmental impacts and conflicts with other uses of the ocean are minimal.

5. LA–4 ODMDS—This site is located in 270 feet (82 meters) of water, 4.9 nautical miles (9.1 kilometers) south of Point Loma. Synergistic effects from the Point Loma outfall, proximity to fishing and boating areas, and effects on kelp beds, benthic resources, cultural resources, navigation and shoreline processes were evaluated in the FEIS. EPA Region IX and the Corps' Los Angeles District determined that the environmental impacts of designating the LA–4 site were not acceptable because the site could potentially impact the major resources listed above.

6. Deep Water ODMDS—The candidate deep water site is located 12 to 16 nautical miles (22 to 30 kilometers) off Point Loma in 3,600 feet (1,090 meters) of water. This site has not been used previously as a disposal site. The major reason for not selecting this deep site is that disposal of dredged material would cause new impacts at an undisturbed habitat. The LA–5 site, in contrast, has been used for disposal of dredged material since the 1970's and impacts at the site have been acceptable. Other reasons for not selecting the deep site include: the proximity to the Coronado Bank (also known as 9–Mile Bank) which is an important fishing area, the distance from potential dredging areas, the larger size of the area affected by disposal, and the difficulty in monitoring and surveillance.

The FEIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation of LA–5 and is based on a disposal site environmental study. The Final Rule is being promulgated in accordance with MPRSA, the EPA Ocean Dumping Regulations, and other applicable Federal environmental legislation. This Final Rule for designation of LA–5 as an ocean dredged material disposal site fills the same role as the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

E. Site Designation

On August 26, 1988 (53 FR 3268), EPA proposed designation of the LA–5 for the continuing use as a dredged material disposal site for San Diego Bay and vicinity. The public comment period on the proposed action closed September 26, 1988. Today EPA Region IX designated LA–5 as an ocean dredged material disposal site for continued use, subject to a Management Plan. If disposal operations at the site are shown to cause unacceptable adverse environmental impacts, further use of the site will be restricted or terminated as soon as a suitable alternative disposal site can be designated.

F. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use (40 CFR 228.5). Sites are selected to minimize interference with other marine activities, to keep any temporary perturbations from causing impacts outside the disposal site. In addition, site selection must permit effective monitoring to evaluate specific areas of concern, such as water quality impacts, significant movement of sediment outside the site and unacceptable impacts to the marine environment or human health. Where feasible, locations off the continental shelf and historical sites are chosen. The 11 specific site selection criteria are listed in 40 CFR 228.6(a) of the EPA Ocean Dumping Regulations. These specific factors are used to evaluate all candidate disposal sites.

The LA–5 site, is acceptable under the 5 general and 11 specific site selection criteria defined at 40 CFR 228.5 and 228.6(a), respectively. Historical use at the existing site has not resulted in substantially adverse effects to living resources of the ocean or to other uses of the marine environment. The characteristics of the LA–5 site are reviewed below in terms of the 11 specific site selection criteria.

1. *Geographical position, depth of water, bottom topography and distance from coast* (40 CFR 228.6(a)(1)). The LA–5 site is approximately 5.4 nautical miles southwest of Point Loma and occupies an area of about 0.77 square nautical mile. Water depths within the area are between 480 and 660 feet. The center coordinates of the site are: 32° 36.83' North latitude and 117° 20.67' West longitude (North American Datum from 1927), with a radius of 3,000 feet (910 meters).

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases* (40 CFR 228.6(a)(2)). The LA–5 site provides feeding and breeding areas for common resident benthic species. Designation of the site will not affect any geographically limited habitats, breeding sites or critical areas that are essential to commercially or recreationally important species or rare or endangered species.

3. *Location in relation to beaches and other amenity areas* (40 CFR 228.6(a)(3)). The LA–5 site is 5.4 nautical miles southwest of Point Loma (the nearest shoreline), 10 nautical miles (18 kilometers) from Mission Beach and 11 nautical miles (20 kilometers) from Imperial Beach. EPA Region IX and the Corps' Los Angeles District have determined that aesthetic impacts of plumes, transport of dredged material to any shoreline and alteration of any habitat of special biological significance or marine sanctuary will not occur if this site is designated. Suspended solids from the LA–5 site will move northwest with the prevailing current. Currents in the region are variable, however, and sometimes flow southeast towards shore. Initial modeling results using a southeastern current scenario indicate that suspended solid levels would decrease to background levels before the plume reaches the shoreline. More detailed plume data from the Site Monitoring Program will be used in future modeling analyses when it becomes available.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste if any* (40 CFR 228.6(a)(4)). An annual average of approximately 370,000 cubic yards (280,000 cubic meters) of predominantly silts and clays dredged from San Diego Bay and other nearby harbor areas are expected to be disposed at the LA–5 ODMDS once it is designated. These projections are based on historical use of the site. The actual amount of disposal may vary from the annual average for any given year. EPA Region IX and the Corps' Los Angeles District will evaluate and manage the amount of dredged material proposed for disposal at LA–5 through the MPRSA section 103 permit process.

All dredged material proposed for disposal at the site must be suitable for ocean disposal. This determination will be made by EPA Region IX and the Corps' Los Angeles District based upon the results of physical, chemical and biological tests before a MPRSA section 103 permit can be issued. Certain dredged material may be exempted from chemical and biological testing based upon the physical characteristics of the sediments and their location in relation

to sources of contamination (40 CFR 227.13(b)(1)). Disposal will occur from hopper dredges or split-hull barges or scows towed by tugboats to the site. Dumping of dredged material that containing prohibited compounds defined at 40 CFR 227.5, or persist or other industrial or municipal wastes will not be permitted at the site.

5. *Feasibility of surveillance and monitoring* (40 CFR 228.6(a)(5)). The U.S. Coast Guard (USCG) is the Federal agency with authority to conduct surveillance of disposal activities at the sea. EPA Region IX and the Corps' Los Angeles District will assist the USCG to enforce permit conditions.

A Site Monitoring Program has been developed by EPA Region IX and the Corps' South Pacific Division and Los Angeles District. The major components are listed below.

a. Physical and biological concerns will be key factors in the three-tiered Site Monitoring Program.

(1) Tier 1 monitoring is a physical survey of the disposal site to determine whether disposed dredged material remains at LA–5. The types of surveys could include: Precision bathymetry, side-scan sonar, REMOTS sediment profile photography, sub-bottom profiling, or other similar procedures. If a management decision can be made with the data obtained from the physical survey, then additional monitoring activities in a higher tier may not be necessary. If more data are needed to make a management decision, Tier 2 monitoring may be initiated.

(2) Tier 2 monitoring will focus on the physical effects of dredged material movement out of the LA–5 site on sensitive benthic biological resources of concern identified by EPA Region IX and the Corps' Los Angeles District. The benthic resources of concern could include infauna, epifauna, demersal fishes and fisheries resources identified in the FEIS and in the 1984 to 1988 fish block data from the California Department of Fish and Game. The benthic community at the boundary of LA–5 and the adjacent areas will be compared to the benthic community at the reference site used to determine whether proposed dredged material is suitable for ocean disposal. If a management decision can be made with the data obtained from the benthic community comparisons, then additional monitoring activities in a higher tier may not be necessary. If more data are needed to make a management decision, Tier 3 monitoring may be initiated.

(3) Tier 3 monitoring will be conducted as part of EPA Region IX's oversight responsibilities for site designation. This tier involves the assessment of benthic body burdens of contaminants if Tier 2 shows unacceptable environmental impacts on the resources of concern. EPA Region IX will determine whether LA–5 is a source of significant bioaccumulation in the tissues of benthic species collected at LA–5 and the adjacent area compared to the reference site. These data will be the basis for continuing use of LA–5, management options to further limit disposal times, quantities or characteristics of the dredged material, or the possible closure of the site after another site is designated.

b. The LA–5 Management Plan has some basic guidelines for site use including:

(1) Use of the site shall be restricted to disposal of dredged sediments only, regulated under Section 103 of MPRSA.

(2) All sediments proposed for dredging must be determined to be suitable for ocean disposal by EPA Region IX and the Corps' Los Angeles District. Suitability for ocean disposal will be determined after review of the results of physical, chemical and biological testing of the sediments, except those sediments specifically exempted from such testing. When the material does not qualify for an exemption, testing and reporting procedures shall be conducted as described in procedures approved by EPA Region IX and the Corps' Los Angeles District.

(3) No dredged material will be disposed of at LA–5 without a MPRSA section 103 permit issued by the Corps' Los Angeles District, or as authorized in a Corps' Civil Works project. All such permits or Corps' Civil Works projects are subject to the approval of EPA Region IX. All disposal operations will be carried out in accordance with the special conditions and other procedures set out in the MPRSA section 103 permits or specifications of the Corps' Civil Works project.

(4) If the dredged material is expected to form significant surface plumes, the timing of disposal operations may be restricted to no more than one every 3 hours, unless otherwise directed.

(5) Disposal is expected to average about 370,000 cubic yards (280,000 cubic meters) per year. If more dredged material is proposed for disposal than the annual average, management decisions will be evaluated.

(6) All sediments will be disposed within a 990-foot (300 meter) radius circle centered at the coordinates of the disposal site, unless otherwise directed.

(7) There are no restrictions on the type of disposal equipment that can be used; however, it is anticipated that most of the dredged material will be excavated by clamshell dredges and disposed from split-hull scows or barges, or excavated by hopper dredges and disposed from the hopper dredge or a towed barge.

(8) The USCG is responsible for surveillance of vessels disposing of dredged material at the site. As staff and equipment availability permit, EPA Region IX, the Corps' Los Angeles District or the USCG may provide a vessel rider, an escort, or impose other requirements to confirm that disposal occurs within the central dumping zone.

(9) The following reporting requirements shall be incorporated into all MPRSA section 103 permits for use of the LA–5 site:

(a) The permittee shall notify EPA Region IX, the Corps' Los Angeles District and the USCG Marine Safety Office in Long Beach at least two weeks prior to the start of the disposal activity.

(b) Each permittee shall provide EPA Region IX and the Regulatory Branch of the Corps' Los Angeles District, with the following information within 30 days following the end of the disposal operation:

Project information: Project name; permittee; permit number; project beginning and ending dates; project description, including a chart of the area dredged, depth of dredging, side slopes and overdredging (tolerance) depth; and the type of dredging, either construction or maintenance.

Disposal information: For each trip to the disposal site the master of the towing vessel or hopper dredge shall provide a certified record of the following information: Date; hopper dredge or towing vessel and scow or barge name, number and owner; capacity of the hopper dredge, disposal vessel, scow or barge (in cubic yards and cubic meters); estimate of yardage discharged on each trip; a plot of each hopper dredge, barge or scow disposal track once inside the boundaries of the LA–5 disposal site, including the time and coordinates for the beginning and ending of disposal; and any unusual conditions affecting disposal on any trip (i.e., heavy seas, equipment malfunction, etc.).

Post-dredging information: A copy of the controlled pre-dredging and post-dredging hydrographic surveys of the dredging site; quantity calculations of the separable reaches actually dredged; the total number of disposal trips; total amount of dredged material placed at LA–5 in cubic yards and cubic meters; and if the dredged material is not exempt from testing, the mass loading of materials disposed at the LA–5 site should be calculated based on chemical

analyses used to characterize the dredged material before the permit was issued.

c. If significant adverse impacts are detected at or beyond the site boundary, site use or designation can be modified by EPA Region IX and/or the Corps' Los Angeles District to minimize adverse environmental impacts. These modifications will be governed by the following criteria:

(1) Exceedance of Federal water quality criteria no more than 4 hours after a disposal within the site, or at any time beyond the LA–5 site boundary.

(2) Movement of disposed material toward significant biological resource areas, marine sanctuaries or beaches that will cause unacceptable environmental impacts.

(3) Significant adverse changes in the structure of the benthic community outside the disposal site boundary.

(4) Significant adverse bioaccumulation in organisms collected from the disposal site or areas adjacent to the LA–5 site boundary compared to the reference site.

(5) Significant adverse impacts upon commercial or recreational fisheries resources near the site.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any* (40 CFR 228.6(a)(6)). Surface water currents near LA–5 are variable in magnitude and direction but the net movement is predominantly north to northwest at 0.06 to 0.10 feet per second (2 to 3 centimeters per second). Instantaneous current speeds are 0.3 to 0.7 feet per second (10 to 20 centimeters per second). Counter currents, eddy currents and upwelling conditions form a complicated system that has both large scale and small scale variations. At times the current flows toward the southeast. These current conditions can persist for a few weeks. According to modeling results, levels of suspended solids at the surface would decrease to background levels within 24 hours.

Very little resuspension of deposited sediments is expected. However, bottom currents are not yet well defined at the site, but can be expected to be somewhat slower and comparable in direction and variability to those at the shallower Tijuana Ocean Engineering Study (TOES) station for which there are current data. Currents would follow the 600-foot depth contour to the north. These currents will be better defined during the initial year of monitoring by deployment of a current meter array by EPA Region IX.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects)* (40 CFR 228.6(a)(7)). LA–5 was used as an interim site for disposal of dredged material from the San Diego Bay area between the late 1970s and 1988. Comparison to a nearby reference site as part of the EIS field study suggests that some site characteristics may have been modified by disposal activities. These characteristics include:

a. A greater range of grain sizes at the site,

b. Elevated concentrations of trace metals and chlorinated hydrocarbons,

c. Lower species diversity and abundance of the demersal fish community, and

d. Lower diversity of benthic infauna and epifauna communities.

These effects are considered to be acceptable localized impacts within the disposal site because disposal of dredged material is expected to affect the bottom physically within the disposal site boundary. Impacts on the water column associated with disposal events are minimal and temporary.

The potential for cumulative effects with a possible South Bay outfall and the proposed Point Loma Outfall extension are uncertain now. EPA Region IX and the Corps' Los Angeles District are working with the City of San Diego on their alternatives for municipal wastewater disposal. A South Bay treatment plant with ocean discharge may be constructed in the future to treat sewage from both San Diego and Tijuana. The feasibility and location of these facilities are still in the planning stages. EPA Region IX and the Corps' Los Angeles District will work with the City of San Diego to ensure that the outfall is constructed so impacts of the outfall and the LA–5 ODMDS will be spatially separated.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean*(40 CFR 288.6(a)(8)). Interference with shipping is minimal because of the volumes of material to be discharged at LA–5 are small and because the disposal site is located outside the USCG Precautionary Area and major shipping lanes. Impacts on fishing activities are expected to be minor and temporary since most of the catch near LA–5 consists of pelagic species. The impacts of dredged material disposal on the upper water column are intermittent and short-term.

The most important impacts of dredged material disposal are localized changes in the benthic community. The benthic fish community at LA–5 site is somewhat depauperate compared to the nearby reference site. This effect is localized and not expected to affect the major recreational and commercial fishing activities which concentrate on pelagic species not benthic species. Sportfishing, pleasure boating, and dredged material disposal have coexisted at LA–5 during the interim designation, and no changes are expected. Oil and gas development has not occurred off the San Diego coast and will not be affected by designation of the LA–5 site.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys* (40 CFR 228.6(a)(9)). Water quality at LA–5 is indistinguishable from the water quality of nearby areas. Sediment quality differs from the reference site in grain size distribution, and levels of trace metals and organic chemicals. Species diversity of benthic epifauna, infauna, and demersal fish are lower at the LA–5 site than at the reference site. Many of the same species exist at both sites. Changes in benthic community of LA–5 are expected because historical disposal of fine grained dredged material has allowed different benthic species to colonize the area affected by disposal. If initial monitoring results indicate that unacceptable impacts have affected the benthic community at LA–5, then evaluation of the effects on the benthic community will be conducted as a component of the Site Monitoring Program. Management decisions will be evaluated to mitigate environmental impacts where possible.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site* (40 CFR 228.6(a)(10)). Opportunistic benthic species characteristic of disturbed conditions are expected to be present and abundant at any ODMDS in response to physical deposition of sediments. Opportunistic polychaetes, such as *Capitella,* may colonize the disposal site. These worms can become food items for bottom-feeding fish and are not directly harmful to other species. No recruitment of species capable of harming human health or the marine ecosystem are expected.

11. *Existence at or in close proximity to the site of any significant natural or cultural feature of historical importance* (40 CFR 228.6(a)(11)). The California State Historic Preservation Officer has determined there are no known shipwrecks nor any known aboriginal artifacts near the LA–5 site.

G. References

SAIC. 1990. Survey of the Ocean Dredged Material Disposal Site (LA–5) off San Diego, California. Final Report submitted to U.S. EPA Region IX under EPA Contract No. 68–C8–0061.

U.S. Environmental Protection Agency, Regon IX. 1988. Final Environmental Impact Statement (EIS) for the San Diego (LA–5) Ocean Dredged Material Disposal Site Designation.

U.S. Environmental Protection Agency and U.S. Army Corps of Engineers. 1978. Ecological Evaluation of Proposed Discharge of Dredged Material into Ocean Waters: Implementation Manual for Section 103 of the Public Law 92–532 (Marine Protection, Research and Sanctuaries Act of 1972). Second Printing. Environmental Effects Laboratory, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MI.

H. Action

EPA Region IX has concluded that the LA–5 site may be designated for continued use. Designation of the LA–5 site complies with the 5 general criteria and 11 specific factors used for site evaluation. The designation of the LA–5 site as an EPA-approved Ocean Dumping Site is being published as final rulemaking. Management of this site will be the responsibility of the Regional Administrator of EPA Region IX, in cooperation with the Corps' South Pacific Division Engineer and Los Angeles District Engineer, based on objectives defined in the Management Plan for LA–5.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA Region IX's or the Corps' Los Angeles District's approval of actual ocean disposal of dredged materials. Before ocean dumping of dredged material at the site may commence, EPA Region IX and the Corps' Los Angeles District must evaluate MPRSA section 103 permit applications according to EPA's Ocean Dumping Criteria and the Corps' Permitting Regulations. EPA Region IX or the Corps' Los Angeles District have the right to deny permits if either agency determines that the Ocean Dumping Criteria of MPRSA have not been met.

G. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a major rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: December 19, 1990.

John Wise,

Acting Regional Administrator for Region IX.

In consideration of the foregoing, subchapter H of chapter 1 of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by adding paragraph (b)(69) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(69) San Diego (LA–5) Ocean Dredged Material Disposal Site—Region IX.

Location: Center coordinates of the site are: 32° 36.83′ North latitude and 117° 20.67′ West longitude (North American Datum from 1927), with a radius of 3,000 feet (910 meters).

Size: 0.77 square nautical mile.

Depth: 480 to 660 feet (145 to 200 meters).

Primary Use: Ocean dredged material disposal.

Period of Use: Continuing use.

Restrictons: Disposal shall be limited to dredged materials that comply with EPA's Ocean Dumping Regulations and Corps Permitting Regulations.

[FR Doc. 91–688 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 7501]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), but will be suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, then the community will not be suspended and the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: As shown in fifth column.

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at saving lives and protecting new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the Federal Register that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the NFIP criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt, and submit the required documentation of, legally enforceable revised floodplain management regulations after this rule is

published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine whether or not a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator, Federal Insurance Administration, FEMA, finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses on both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to adopt adequate floodplain management measures, thus placing itself in noncompliance with the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

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

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

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

§ 64.6 List of Eligible Communities.

State	Community name	County	Community No.	Effective date
Regular Program Communities:				
Connecticut	Bethany, Town of	New Haven	090144	Jan. 17, 1991.
Do	Chaplin, Town of	Windham	090179	Do.
Do	Hampton, Town of	Windham	090170	Do.
Do	Harwinton, Town of	Litchfield	090147	Do.
Do	Jewett, Town of	New London	090098	Do.
Do	Marlborough, Town of	Hartford	090148	Do.
Do	Middlebury, Town of	New Haven	090080	Do.
Do	New Haven, City of	New Haven	090084	Do.
Do	Norwich, City of	New London	090102	Do.
Do	Southbury, Town of	New Haven	090089	Do.
Do	Sterling, Town of	Windham	090118	Do.
Do	Trumbull, Town of	Fairfield	090017	Do.
Do	Vernon, Town of	Tolland	090131	Do.
Do	West Haven, City of	New Haven	090092	Do.
Do	Willington, Town of	Tolland	090159	Do.

Issued: January 3, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91–663 Filed 1–10–91; 8:45 am]

BILLING CODE 6718–21–M

44 CFR Part 64

[Docket No. FEMA 7500]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: As shown in fifth column.

ADDRESSES: 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 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 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.

In addition, the Director of the Federal Emergency Management Agency has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. 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 these 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, the suspension for each listed community has been withdrawn. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State	Community name	County	Community No.	Effective date
Regular Program Communities:				
Colorado	Fruita, Town of	Mesa	080194	December 5, 1990; Suspension Withdrawn.
Delaware	Dagsboro, Town of	Sussex	100033	Do.
Do	Frederica, Town of	Kent	100009	Do.
Do	Greenwood, Town of	Sussex	100039	Do.
South Carolina	Chester County	Unincorporated Areas	450047	December 15, 1990.
Do	Columbia, City of	Richland	450172	Do.
Do	Lancaster County	Unincorporated Areas	450120	Do

Issued: January 3, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91–664 Filed 1–10–91; 8:45 am]

BILLING CODE 6718–21–M

Proposed Rules

Federal Register
Vol. 56, No. 8
Friday, January 11, 1991

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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-234]

Black Stem Rust; Addition of Rust-Resistant Variety of Berberis Thunbergii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the black stem rust quarantine and regulations to add "*Berberis thunbergii* "Bonanza Gold" " to the list of rust-resistant *Berberis* species. We believe this change is warranted to allow for the movement of this newly developed variety without unnecessary restrictions.

DATES: Consideration will be given only to comments received on or before January 28, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90-234. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 645, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis, Mahoberberis,* and *Mahonia.* The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations in 7 CFR 301.38 *et seq.* (referred to below as the regulations) quarantine the conterminous 48 States and the District of Columbia, and govern the interstate movement of certain plants of the genera *Berberis, Mahoberberis,* and *Mahonia,* also known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust; rust-susceptible plants do pose such a risk.

Section 301.38-2 of the regulations includes a listing of regulated articles, and indicates which species of the genera *Berberis, Mahoberberis,* and *Mahonia* are rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through otherwise protected areas if accompanied by a certificate. In this proposed rule, we are proposing to add "*Berberis thunbergii* "Bonanza Gold" " to the list of rust-resistant *Berberis* species.

The test to determine rust-resistance is conducted by the Agricultural Research Service of the United States Department of Agriculture at its Cereal Rust Laboratory in St. Paul, Minnesota. The test is performed in the following manner: In a greenhouse, the suspect plant or test subject is placed under a screen with a control plant—a known rust-susceptible species of *Berberis, Mahoberberis,* or *Mahonia.* Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100 percent humidity. This causes the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20-80 percent relative humidity. If the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, the test results indicate that the test plants are rust-resistant. This test must be performed 12 times, and all 12 tests must yield the same result, before USDA can make a determination as to whether the test plants are rust-resistant. The test may be conducted on 12 individual plants, or it may be performed multiple times on fewer plants, *e.g.,* 6 plants tested twice or 3 plants tested 4 times. Based on over 30 years of experience with this test, we believe that 12 is the reliable test sample size on which USDA can make its determination. We do not know of any plant that was subsequently discovered to be rust-susceptible after undergoing this procedure 12 times and being determined by USDA to be rust-resistant. The tests must be performed on new growth, just as the leaves are unfolding. Therefore, the tests are usually conducted in the spring or fall, during the growing season. All 12 tests generally cannot be conducted on the same day because of the plants' different growth stages.

Based on this testing, USDA has determined that *Berberis thunbergii* "Bonanza Gold" is rust-resistant. We are therefore proposing to add it to the list of rust-resistant *Berberis* species in § 301.38-2(b) of the regulations.

Public Comment

Dr. James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that this rulemaking proceeding should be expedited by allowing a 15-day comment period on this proposal. This comment period would allow the Agency to promulgate and implement a final rule on an expedited basis. Earlier implementation of a final rule would allow interested nurseries to ship *Berberis thunbergii* "Bonanza Gold" to protected areas during the next shipping season, and would provide consumers in protected areas with the opportunity to acquire *Berberis thunbergii* "Bonanza Gold."

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100

million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The effect of this proposed rule would be to allow the interstate movement of *Berberis thunbergii* "Bonanza Gold" into and through States or parts of States designated as protected areas. Based on the information available to us, only one commercial nursery is currently producing *Berberis thunbergii* "Bonanza Gold." It is impossible to determine how many nurseries would propagate this new variety were it to be included in the regulations as rust-resistant. However, *Berberis thunbergii* "Bonanza Gold" would be just one of 85 varieties listed in § 301.38–2 as being rust-resistant.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Black stem rust, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR part 301 would be amended as follows:

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

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

§ 301.38–2 [Amended]

2. In § 301.38–2(b), "*B. thunbergii* "Bonanza Gold" " would be added to the list of rust-resistant *Berberis* species immediately after "*B. thunbergii* "Bagatelle" ".

Done in Washington, DC, this 8th day of January 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–670 Filed 1–10–91; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 319

[Docket No. 90–226]

Citrus Canker; Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to remove the "Citrus Canker—Mexico" regulations, which prohibit or restrict the importation into the United States from Mexico of fruit and peel of citrus and citrus relatives. This action appears warranted because it has been determined that the citrus canker organism (*Xanthomonas campestris pv citri*) does not occur in Mexico. This amendment would relieve unnecessary restrictions on the importation of any fruit or peel of citrus or citrus relatives from Mexico.

DATES: consideration will be given only to comments received on or before February 11, 1991.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–226. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Robert L. Griffin, Head, Permit Unit, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645.

SUPPLEMENTARY INFORMATION:

Background

The "Citrus Canker—Mexico" regulations (referred to below as the regulations) regulate the importation, from Mexico into the United States, of fruit and peel of citrus and citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae).

The regulations designate as prohibited articles any fruit or peel of Mexican lime (*Citrus aurantifolia*) from any area in Mexico, and any other fruit or peel of citrus or citrus relatives from areas in Mexico designated as infested areas. Prohibited articles are not allowed to be imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

The regulations also designate as restricted articles fruit or peel of ethrog (*Citrus medica*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), Persian lime (*Citrus latifolia*), and tangerine (*Citrus reticulata*) from areas in Mexico not designated as infested areas. Restricted articles are allowed to be imported into the United States by anyone if imported in conformity with specified restrictions concerning permits, inspection and phytosanitary certificates of inspection, chlorine treatments and other requirements, marking and identity, arrival notification, costs and charges, and ports of entry. Restricted articles are also allowed to be imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

The regulations were established to prevent the introduction of citrus canker disease into the United States from Mexico. However, it has been determined, based on research performed by the U.S. Department of Agriculture and the Mexican government, that the citrus canker bacterium *Xanthomonas campestris pv citri* does not occur in Mexico.

Some areas in Mexico are infested with a disease known as "*mancha foliar.*" At the time the regulations were adopted, it was believed that "*mancha foliar*" was caused by the citrus canker bacterium. For that reason, imported citrus fruit or peel from Mexico was restricted or prohibited. However, we have determined that "*mancha foliar*" is caused not by the citrus canker bacteria, but by the fungus *Alternaria limicola.* Therefore, we do not believe that restrictions designed to prevent the introduction of citrus canker disease are justified based on infestations of "*mancha foliar.*"

Based on field observations and research over a 9-year period, USDA scientists believe that "*mancha foliar*" is not a dangerous or serious disease of

citrus. In addition, foliar fungi, including "*mancha foliar*," are unlikely to be introduced into the United States via citrus fruit or peel, even if the peel is not treated. Therefore, we are not proposing regulations to prevent the introduction into the United States of "*mancha foliar*" via fruit or peel. Leaves, stems, and other plant parts capable of introducing the disease are prohibited under other regulations in title 7, code of Federal Regulations.

We are therefore proposing to remove the "Citrus Canker—Mexico" regulations. This would: (1) allow Mexican limes to be imported into the United States from all parts of Mexico, subject only to inspection for freedom from pests; (2) allow other citrus from areas where "*mancha foliar*" occurs to be imported; and (3) remove the chlorine dip treatment required for all restricted articles from Mexico.

Executive Order 12291 and Regulatory Flexibility Act

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

Removing the "Citrus Cancer—Mexico" regulations would allow any fruit or peel of citrus or citrus relatives to be imported from all areas of Mexico into the United States, subject to inspection and treatment, if required for plant pests or diseases other than citrus canker.

The Animal and Plant Health Inspection Service has determined that this proposed regulatory change will not cause an increase in plant pest or disease risk. Therefore, no economic consequences related to increased pest infestations are expected in the United States.

An increase in U.S. imports of Mexican citrus is expected, as discussed below, if 7 CFR 319.27 is removed.

Two varieties of limes are currently produced in Mexico—the Mexican (key) lime and the Persian lime. Given strong domestic demand in Mexico for key limes, it is unlikely that U.S. imports of these limes would exceed 0.5 percent of Mexican production, or about 3 thousand metric tons, if this proposed rule is adopted. U.S. imports of Persian limes grew throughout the 1980's despite the restrictions established in 1983 under 7 CFR 319.27. Because most Persian limes grown in Mexico are not grown in areas designated as infested, removal of the restrictions would largely amount to removal of certification and treatment requirements. Only a modest increase (1–2 percent, or 550–1,100 metric tons) in U.S. imports of Persian limes from Mexico would be expected as a result of removing these requirements.

A total of 985 farms in the U.S. produce seedless lime varieties similar to the Persian lime. U.S. fresh seedless lime production averaged 45 thousand metric tons in 1988 and 1989. There is currently no commercial production of key limes in the United States. This fruit is produced in the U.S. only as a novelty item for localized markets; no data is available regarding the number of U.S. key lime producers.

In 1988 and 1989, Persian limes from Mexico supplied approximately 54 percent of the total fresh limes available in the United States. Increases in U.S. imports of Mexican limes of 550–1,100 metric tons would increase the total U.S. supply by no more than 1 percent. No appreciable decrease in U.S. lime prices would result from this increase, and no economic impact on U.S. producers or consumers of seedless limes would be expected. Imports of key limes from Mexico would supply essentially 100 percent of the key lime market in the United States if 7 CFR 319.27 is removed. The increased availability of key limes would be a gain to U.S. key lime consumers. U.S. key lime producers would face increased competition, but might still be able to sell their produce in localized markets.

Mexico produces large quantities of oranges, grapefruits, and tangerines, while production of lemons and ethrog is minor. The Mexican domestic market, however, consumes most of this production, leaving less than 1 percent of the oranges and grapefruit, and 7 percent of the tangerines, for export.

The impact of removing 7 CFR 319.27 would be largely one of removing the certification and treatment requirements. No significant change in U.S. imports of oranges, grapefruits, and tangerines occurred when 7 CFR 319.27 was established in 1983. Since domestic demand for citrus in Mexico is strong, removal of the regulations would likely cause only very modest (1–2 percent) increases in U.S. imports of Mexican oranges, grapefruit, and tangerines.

A total of 4,998 farms in the U.S. produce grapefruits; 14,312 produce oranges; and 853 produce tangerines. U.S. production of these citrus fruits in 1988 and 1989 averaged 1,240 thousand metric tons of grapefruit, 1,845 thousand metric tons of oranges, and 140 thousand metric tons of tangerines. Mexican imports supply less than 1 percent of the total U.S. fresh supplies of oranges and grapefruits, and approximately 10 percent of the total U.S. supply of tangerines. Modest increases in U.S. imports of Mexican oranges and grapefruit would have no effect on U.S. orange and grapefruit prices, and no economic impact on U.S. orange and grapefruit producers or consumers would be expected. Modest increases in U.S. imports of Mexican tangerines (1–2 percent of 130–260 metric tons) would result in less than a 0.2 percent increase in U.S. supplies during the months when tangerines normally arrive from Mexico. This small increase in supply would cause no appreciable decrease in U.S. tangerine prices and would thus have no effect on U.S. tangerine prices or on U.S. tangerine producers or consumers.

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

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 319

Agricultural commodities, Citrus canker, Fruit, Imports, Plants (agriculture), Plant diseases, Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, 7 CFR part 319 would be amended to read as follows:

1. The authority citation for 7 CFR part 319 would continue to read a follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 319.27 through 319.27–11 [Removed and Reserved]

2. "Subpart—Citrus Canker—Mexico" (7 CFR 319.27 through 219.27–11) would be removed.

Done in Washington, DC, this 8th day of January 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–669 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 918

[Docket No. FV–91–237PR]

Proposed Expenses and Assessment Rate for Marketing Order Covering Peaches Grown in Georgia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 918 for the 1991 fiscal period (March 1, through February) established for that order. The proposal is needed for the Georgia Peach Industry Committee (committee) to incur operating expenses during the 1991 fiscal period and to collect funds during that year to pay those expenses. This would facilitate program operations. funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by February 11, 1991.

ADDRESSES: 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: Tom Tichenor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2530–S, Washington, DC 20090–6456, telephone (202) 475–3862.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 918 (7 CFR part 918), regulating the handling of fresh peaches grown in Georgia. The order is 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 by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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 businesses 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 20 handlers of Georgia peaches regulated under this marketing order each season, and approximately 150 peach producers in Georgia. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of Georgia peaches may be classified as small entities.

The Georgia peach marketing order, administered by the Department requires that the assessment rate for a particular fiscal period shall apply to all assessable peaches received by regulated handlers from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are peach producers and handlers. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local areas, and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons having an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected peach receipts (in bushels). Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on November 28, 1990, and unanimously recommended 1991–92 fiscal period expenditures of $18,000 and an assessment rate of $00.01 per bushel of assessable peaches received by handlers. This compares with the 1990–91 projected budget of $18,450, based on an assessment rate of $00.005.

The 1991–92 budget projects an estimated assessment income of $16,000, based on shipments of 1,600,000 bushels. The 1990–91 budget projected an assessment income of approximately $6,600 on 1.3 million bushels. In addition to the projected assessment income, additional funds would be made available by drawing $750 from the reserve account ($9,700 in 1990–91); $750 interest on the reserve account ($1,500 in 1990–91), and $500 received from miscellaneous income ($650 in 1990–91). The committee's reserve is well within the amount authorized by the program.

The fee paid to the Georgia Farm Bureau Marketing Association (GFBMA) to manage the committee for the fiscal period is proposed to increase from $10,000 to $12,000. However, this increase would be offset by deletions or reductions in individual budget items such as mileage and telephone charges, recording of minutes, stationary/supplies and postage. One proposed budget item, "Miscellaneous Expenses," is proposed to be increased from $600 to $1,200 because the committee anticipates program expenses in such areas as developing and evaluating new sizes and designs of containers.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed onto producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 981

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 918 be amended as follows:

PART 918—FRESH PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR part 918 continues to read as follows:

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

2. New § 918.227, is added to read as follows:

§ 932.227 Expenses and assessment rate.

Expenses of $18,000 by the Georgia Peach Industry Committee are authorized, and an assessment rate of $00.01 per bushel of assessable peaches is established, for the fiscal period ending February 29, 1992. Any unexpended funds from the 1991–92 fiscal period may be carried over as a reserve into the 1992–93 fiscal period.

Dated: January 7, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–667 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1036

[DA–90–022]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Termination of Proceeding on Proposed Recision of Temporary Revision of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed recision of temporary revision of rules.

SUMMARY: This action terminates a proceeding that was initiated to consider a proposal to rescind, for the months of December 1990 through February 1991, a temporary increase of the percentage of producer milk receipts that must be delivered to pool distributing plants by pool supply plants and cooperative association handlers under the Eastern Ohio-Western Pennsylvania Federal Milk Order. The required shipping percentages were increased by 5 percentage points for the months of September 1990 through February 1991.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Proposed Temporary Revision of Shipping Percentages and Cooperative Association Delivery Requirements: Issued June 19, 1990; published June 22, 1990 (55 FR 25617).

Temporary Revision of Supply Plant Shipping Percentages and Cooperative Association Delivery Requirements: Issued August 22, 1990; published August 28, 1990 (55 FR 35137).

Proposed Recision of Temporary Revision of Supply Plant Shipping Percentages and Cooperative Association Delivery Requirements: Issued November 16, 1990; published November 23, 1990 (55 FR 48853).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This proceeding was initiated by a notice of rulemaking published in the **Federal Register** on November 23, 1990 (55 FR 48853) concerning a proposed recision of a temporary revision of certain provisions of the order regulating the handling of milk in the aforesaid marketing area. Interested parties were invited to comment on the proposal in writing by November 30, 1990. The proposed recision would have reduced the percentage of supply plant and cooperative milk supplies that must be delivered to distributing plants for supply plants and cooperative-owned plants to maintain pool status.

Statement of Consideration

Two proprietary pool supply plant operators requested that the temporary revision of the Eastern Ohio-Western Pennsylvania order's delivery requirements for pool supply plants and cooperative-owned plants be reconsidered on the basis that the market's milk supplies appeared to be increasing during the last half of 1990 after falling short of 1989 levels of milk production during the first half of 1990. Section 1036.7(f) provides that the Director of the Dairy Division may exercise discretionary authority to revise the order's shipping standards by up to 10 percentage points if necessary to obtain needed shipments or to prevent uneconomic shipments of milk. The shipping percentage were increased by 5 percentage points for the months of September 1990 through February 1991 to assure that adequate milk supplies would be made available to pool distributing plants during a period in which it appeared that milk supplies would fall short of the market's need for fluid supplies.

In response to the supply operator's comments a proposed recision of the temporary revision, inviting comments from interested persons, was published in the **Federal Register** on November 23, 1990. A number of comments were received in response to the proposed recision. Comments supporting the proposed recision were received from three cheese plant operators who qualify their plants as pool supply plants by shipping the required percentage of their milk supplies to pool distributing plants, and a small cooperative association. The comments stated that milk production in late 1990 has been substantially greater than during the same period of 1989, and that the increased shipping percentage therefore is not necessary to assure an adequate supply of milk for fluid uses. The handlers observed that the higher shipping requirement makes pool qualification more difficult, and the cooperative association's comments stated that the cooperative had been forced to associate some of its producer milk with other orders to assure the continued pool status of its members producers.

Comments opposed to rescinding the temporary revision were received from five pool distributing plant operators and Milk Marketing, Inc., the cooperative association that represents the majority of cooperative members whose milk is pooled under the order. The comments stated that the recent slight increase in production should not be relied upon as a basis for assuming that ample supplies of milk currently are available to distributing plants for fluid use. Comments included the observations that competition for Grade A milk between fluid and manufacturing plants as reflected by premiums paid to dairy farmers has not abated with any increases in milk production, and that cheese plant operators have contracts with many producers that assure that much of the milk in the market is not available for use in fluid milk products. The comments further observed that the rapid decline in milk prices recently will force dairy farmers out of business, resulting in shortages of milk in the near future.

Milk production in the Eastern Ohio-Western Pennsylvania marketing area has increased slightly in recent months over year-earlier levels. However, the ½ percent increase in daily average production form 1989 cited by Brewster Dairy is not wholly reflected in the market's statistics, and would not compensate for the 5-percent reduction in the shipping percentage supported by Brewster. In addition, some of the year-to-year changes in the level of marketwide milk production and Class I use in Eastern Ohio-Western Pennsylvania marketing area are due to

changes in the regulations of handlers under the order. As a result, the most appropriate statistic to use for the purpose of comparing the relative supply/demand conditions for the last several years is the percentage of producer milk used in Class I. It is clear from such a comparison that the slight production increases that are observable have not resulted in significant reductions in Class I utilization percentages during the fall and winter months when milk production traditionally is more likely to fall short of meeting the market's total Class I needs and demand for manufacturing milk.

Because approximately 60 percent of the market's producer milk is used in Class I, and there does not appear to be any definite ongoing expansion in milk production, a shipping requirement of 35 percent for the months of December 1990 through February 1991 should not cause any undue difficulty in pool qualification for any handlers genuinely committed to supplying the fluid milk market. In view of the lack of evidence of any substantive changes in the market's supply/demand conditions since mid-summer, it is concluded that the temporary revision of the order's supply plant and cooperative association shipping percentages should not be rescinded. Therefore, the requested recision is hereby denied and the proceeding is terminated.

List of Subjects in 7 CFR Part 1036

Milk marketing orders.

The authority citation for 7 CFR part 1036 continues to read as follows:

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

Signed at Washington, DC on January 8, 1991.

W. H. Blanchard,

Director, Dairy Division.

[FR Doc. 91–668 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563, 571 and 575

[No. 90–4017]

RIN 1550–AA03

Mutual Holding Companies

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of Thrift Supervision (the "Office") is today publishing proposed regulations which, if adopted in final form, would implement the mutual holding company provisions of the Savings and Loan Holding Company Act, 12 U.S.C. 1467a(o). Implementing regulations are needed (i) To establish the procedures for obtaining regulatory approval for the information of mutual holding companies and for the issuance of minority stock of savings association subsidiaries of mutual holding companies; and (ii) to ensure that mutual holding companies and their savings association subsidiaries are operated in a safe and sound manner.

DATES: Comments on this proposed rule must be received on or before March 12, 1991.

ADDRESSES: Send comments to Director, Information Services, Communications, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at 1776 G Street, NW., Street Level.

FOR FURTHER INFORMATION CONTACT: Jeff Miner, Senior Counsel for Issues Analysis, Corporate and Securities Division (202) 906–7546; V. Gerard Comizio, Senior Associate Chief Counsel/Director, Corporate and Securities Division (202) 906–6411; or Julie L. Williams, Deputy Chief Counsel for Securities and Corporate Structure (202) 906–6459, Chief Counsel's office; or Michael P. Scott, Program Manager, Affiliates Policy, Supervision (202) 331–4590; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Competitive Equality Banking Act of 1987 ("CEBA"), Public Law No. 100–86, 101 Stat. 552, 577–579 (1987), amended the Savings and Loan Holding Company Act, 12 U.S.C. 1730a, to add a new subsection(s) thereto, providing for the establishment of mutual savings and loan holding companies. In the Fall of 1988, the former Federal Savings and Loan Insurance Corporation published an extensive advance notice of proposed rulemaking soliciting comments regarding how the mutual holding company provisions of CEBA should be implemented. 53 FR 41343 (Oct. 21, 1988). A public hearing on mutual holding companies was held in December of 1988. 53 FR 44436 (Nov. 3, 1988). During the course of the foregoing process, a variety of significant issues were identified that the mutual holding company provisions of CEBA failed to address, including (i) Whether savings association subsidiarires of mutual holding companies could issue or pledge stock to persons other than their mutual holding companies, (ii) how mutual holding company membership rights should be assigned, and (iii) how mutual holding companies should be formed and dissolved.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law No. 101–73, 103 Stat. 183 (1989), transferred the CEBA mutual holding company provisions to a new statutory location, 12 U.S.C. 1467a(o), and added various new provisions intended to fill in some of the gaps left by CEBA. *See, e.g.*, 12 U.S.C. 1467a(o)(4), (o)(7), (o)(8), and (o)(9). FIRREA also transferred jurisdiction for promulgating regulations implementing the mutual holding company statutory provisions from the Federal Savings and Loan Insurance Corporation to the Office.

By its action today, the Office is promulgating a comprehensive set of proposed mutual holding company regulations that, if adopted in final form, will be codified in a new part 575 of the Office's regulations. The Office has endeavored to develop a workable, efficient regulatory structure that will permit mutual savings associations to pursue the perceived advantages offered by the mutual holding company structure, subject to a variety of safeguards deemed necessary to protect institutional safety and soundness and to pretect against insider abuse. In developing these regulations, the Office has attempted, to the maximum extent possible, to utilize regulatory forms and procedures with which the thrift industry is already familiar. Thus, for example, there are many provisions in the regulations that are similar to, or directy incorpoarted poritons of, the Office's conversion regulations, 12 CFR part 563b, and the Office's acquisition of control regulations, 12 CFR part 574. See discussion below.

A section-by-section analysis of the regulations is set forth below. Before commencing such analysis, however, a brief overview of the basic steps involved in a mutual holding company reorganization will be provided as an introduction to the detailed analysis that follows.

B. Overview of Basic Steps in a Mutual Holding Company Reorganization

For purposes of this overview, and in order to illustrate several facets of the mutual holding company process, it is assumed that two mutual savings associations wish to reorganize by joining together under a single mutual

holding company and that, as part of this reorganization, one of the savings associations wishes to issue up to 49.9% of its post-reorganization stock to persons other than the mutual holding company. Under the proposed regulations, such a reorganization would be accomplished in the following basic transactional steps:

1. One of the mutual savings associations (the "reorganizing association") would be designated to take the lead by chartering an interim stock savings association subsidiary (the "resulting association"). The resulting association could be state or federally chartered.

2. The reorganizing association would amend its charter and bylaws to read in the form of a federal mutual holding company, and the other mutual association (the "acquiree association") would amend its charter and bylaws to read in the form of a federal or state stock savings association.

3. The association wishing to issue up to 49.9% of its post-reorganization stock to persons other than the mutual holding company would offer such stock in a public or private offering. (For purposes of this example, it will be assumed that the acquiree association conducts the offering.)

4. At the time the foregoing charter and bylaw amendments become effective and upon completion of the minority stock offering, the substantial part of the assets and liabilities (including all deposit liabilities) of the reorganizing association would be transferred to the resulting association (which would thereupon become a fully operational savings association), at least a majority of the stock of the acquiree association would be issued to the mutual holding company, with the remainder being issued to the minority purchasers, and membership rights in the mutual holding company would vest with each depositor and borrower member of the reorganizing association and acquiree association.

II. Section-by-Section Analysis

A. Section 575.1, Scope

Section 575.1 specifies that the purpose of part 575 is to implement the mutual holding company provisions of the Savings and Loan Holding Company Act, 12 U.S.C. 1467a(o). The legal authority of the Director of the Office to promulgate such regulations is derived primarily from the following statutory provisions:

—12 U.S.C. 1467a(o)(7), which provides that "mutual holding compan[ies] shall be chartered by the Director and shall be subject to such regulations as the Director may prescribe";

—12 U.S.C. 1467a(g)(1), which provides that the "Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of (12 U.S.C. 1467a), and to require compliance therewith and to prevent evasions thereof"; and

—12 U.S.C. 1463(a), which provides that the "Director shall provide for the * * * safe and sound operation and regulation of savings associations," and that the "Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office."

The foregoing provisions constitute a broad grant of authority to the Director to establish a comprehensive regulatory structure implementing the statutory mutual holding company provisions and providing for the safe and sound operation of mutual holding companies and their subsidiaries.

B. Section 575.2, Definitions

For purposes of part 575, the terms "acting in concert," "affiliate," "company," and "control" have been defined in the same manner as in part 574 of the Office's regulations, and the terms "District Director," "FDIC," "Office," "tax qualified employee stock benefit plan," "non-tax qualified employee stock benefit plan," "savings association," and "associate" have been defined in the same manner as in part 563b of the Office's regulations, except that the term "associate" has been expanded to include persons acting in concert with any associate.

All of the remaining definitions in § 575.2 are unique to part 575. The more significant of these terms are discussed below in connection with the substantive provisions to which they pertain.

C. Section 575.3, Mutual Holding Company Reorganizations

Section 575.3 delineates the five basic regulatory criteria that must be satisfied before consummation of a mutual holding company reorganization. The first three of these criteria are explicitly provided for in the statute. The other two are necessary in order to establish a workable reorganization procedure. The criteria are as follows:

Board of Directors' approval. The statute provides that the board of directors of a reorganizing association and of any acquiree association must each approve a Reorganization Plan by a majority vote. 12 U.S.C. 1467a(o)(2)(A).[1] Section 575.3(a) reiterates this requirement.

Reorganization Notice. The regulatory approval requirements of the mutual holding company statutory provisions, 12 U.S.C. 1467a(o)(3), are patterned on those in the Change in Bank Control Act. 12 U.S.C. 1817(j). Reorganizing associations and acquiree associations are required to submit a Reorganization Notice to the Office and then wait sixty (or ninety, if the Office exercises its option to extend the period) days to see if the Notice is disapproved by the Office. Once this period has expired, a Reorganization Notice may no longer be disapproved. The foregoing procedure is provided for in § 575.3(b). The standards to be utilized by the Office in deciding whether to disapprove a Reorganization Notice are set forth in § 575.4, discussed below.

Membership approval. The statute provides that "in the case of an association in which holders of accounts and obligors exercise voting rights, (the Reorganization Plan must be) submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws." 12 U.S.C. 1467a(o)(2)(B). Although this statutory language could be read to require that a Reorganization Plan must be approved by a majority of the persons that are members of an association, as opposed to a majority of the membership votes eligible to be cast, the Office has opted for the latter approach. There is no indication in the statutory history of the mutual holding company provisions that Congress intended to override the voting procedures established by the charter

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[1] Throughout the proposed regulations, the Office imposes the same procedural requirements upon, and extends the same rights to, acquiree associations as are imposed upon, or extended to, reorganizing associations since the ultimate impact of a mutual holding company reorganization on an acquiree association is no different from the impact on a reorganizing association. Both associations are transformed, as a part of the reorganization, from free-standing mutual associations to stock association subsidiaries of a mutual holding company, and the members of both associations exchange their membership interests in their associations for membership interests in the mutual holding company. There is, therefore, no theoretical basis for distinction.

This same approach is also applied later in the proposed regulations to post-reorganization mutual holding company acquisitions of mutual savings associations. See, e.g., discussion of § 575.11(b) below. Once again, there is no meaningful distinction between the impact of post-reorganization acquisitions of mutual associations on those associations and their members and the impact of mutual holding company reorganizations on reorganizing associations and their members.

and bylaws of mutual associations. Indeed, the statutory language quoted above explicitly states that the membership meeting called to consider a Reorganization Plan should be conducted in a manner that is consistent with the association's charter and bylaws. Accordingly, § 575.3(c) specifies that the vote required for the members of a reorganizing association or any acquiree association to approve a Reorganization Plan is a "majority of the total votes of the members of [the] association eligible to be cast" under the terms of the association's charter and bylaws.

Section 575.3(c) also provides that the solicitation of membership approval of Reorganization Plans must be conducted via proxy statements and proxies cleared in advance by the Office. This requirement is consistent with the Office's conversion regulations, 12 CFR 563b.5, and will ensure that members are provided with accurate and complete information on the matter on which they are being asked to act.

Corporate approvals. In addition to the foregoing three steps (each of which is mandated by statute), there are a variety of corporate matters that must be addressed, and related regulatory approvals that must be obtained, before a reorganizing association and any acquiree association will be in a position to legally consummate a mutual holding company reorganization. These matters, and the related approvals, are as follows:

—The resulting association must be organized, *i.e.*, the Office and any appropriate state authority must approve the charter and bylaws of the resulting association and issue a charter, and any required FDIC insurance approval must be obtained (*see* discussion at Part II.N. below);

—The charter and bylaws of the reorganizing association must be amended to read in the form of the charter and bylaws of a mutual holding company;

—The charter and bylaws of any acquiree association must be amended to read in the form of a federal or state stock association; [2]

—The reorganizing association must obtain approval under the Bank Merger Act, 12 U.S.C. 1828(c), to transfer its assets and liabilities to the resulting association.

—The mutual holding company must obtain approval pursuant to 12 U.S.C. 1467a(e) (and, if a merger is involved, 12 U.S.C. 1828(c)) to acquire any acquiree association; and

—Any conditions imposed by the Office, the FDIC, or any state in connection with any of the foregoing approvals or any notice of intent not to disapprove the Reorganization Notice must be satisfied.

Section 575.3(d) provides that the foregoing corporate matters must be addressed, and the related approvals obtained, before a reorganization is consummated. In an effort to keep the regulatory approval process as simple as possible, however, the proposed regulations specify that issuance by the Office of a notice of intent not to disapprove a reorganization, or failure by the Office to disapprove such a reorganization within the prescribed time frame, shall be deemed to constitute approval by the Office of the organization of the resulting association (if it is to be federally chartered) and/or to amend the charter and bylaws of the reorganizing association and any acquiree association. See § 575.9(c). The proposed regulations also provide that requests for the necessary approvals under the Bank Merger Act and, where applicable, under part 574 will be processed within the same time frame as the Reorganization Notices to which they relate. See § 575.13(e).

Related agreements. Pursuant to its authority to review the financial and managerial resources of associations proposing to participate in reorganizations and the safety and soundness implications of such reorganizations (see discussion of § 575.4 below), the Office is considering whether it would be appropriate to require each mutual holding company to enter into a special type of consent merger agreement (or some other type of agreement) designed to eliminate the built-in incentive for mutual holding companies, under certain circumstances, to abandon troubled savings association subsidiaries in favor of windfall distributions to members. To illustrate the problem, consider the example of a mutual holding company that controls two subsidiary associations: A resulting association that is experiencing financial difficulties, and another association that was acquired subsequent to reorganization while in thus stock form and is generating substantial profits. Given the way the statute reads, once the resulting association's liabilities exceeded its assets by one dollar, the mutual holding company could be liquidated, with the net assets of the mutual holding company (including the stock of the profitable association), minus any amounts deducted pursuant to 12 U.S.C. 1815(e), being distributed to the members of the mutual holding company. See 12 U.S.C. 1467a(o)(9) and discussion of § 575.12 below. The directors of the mutual holding company in the above example might conclude that it is in the best interests of its members for the company to cease infusing funds into the resulting association, thereby triggering liquidation of the mutual holding company while it is still solvent.

The Office is considering various ways to address this problem. One solution might be to require each mutual holding company to enter into a consent merger agreement that could be triggered by the Office if the capital of a subsidiary savings association of the mutual holding company were to fall below a specified minimum level. It is envisioned that such agreements would provide that the Office may order a mutual holding company with a capital deficient subsidiary savings association to merge (or transfer assets) back into that association, with any other savings association subsidiaries of the mutual holding company either becoming subsidiaries of the capital deficient savings association or also being merged into that association.

The Office specifically requests public comment regarding the consent merger agreement described above and whether such an agreement or some other form of agreement or regulatory measure would best address the problem described above.

In anticipation that some form of agreement will be necessary, § 575.3(e) of the proposed regulations provides that, prior to consummation of a mutual holding company reorganization, any consent merger agreement or other type of agreement, such as a dividend limitation agreement or capital maintenance agreement, that may be required by policies of the Office must be duly executed and delivered to the Office. As drafted, this requirement would apply to all mutual holding companies, even those formed pursuant to Reorganization Notices that obtain automatic regulatory clearance by virtue of the expiration of the Office's sixty or ninety day time frame for disapproval.

[2] The legal theory of what takes place in a mutual holding company reorganization is laid out explicitly by the statute, *i.e.*, the corporate entity that was the reorganizing association becomes the mutual holding company. Even though it might be transactionally and procedurally simpler for the reorganizing association to become the resulting association with the mutual holding company being chartered *de novo*, the statute precludes this approach.

D. Section 575.4, Grounds for Disapproval of Reorganizations

Basic standards. The statute provides that the Office may disapprove a Reorganization Notice only if (i) Disapproval is necessary to prevent unsafe or unsound practices; (ii) the financial or managerial resources of any association involved in the reorganization warrant disapproval; (iii) any association involved in the reorganization fails to furnish information required by the Office in connection with the Reorganization Notice, Or (iv) any association involved in the reorganization fails to obtain the approval of its board of directors and members for the Reorganization Plan. 12 U.S.C. 1467a(o)(3)C). These criteria are set forth in paragraphs (a)(1), (a)(2), (a)(5), and (a)(6) of § 575.4.[3]

The statute also authorizes the Office to approve the proposed capitalization of mutual holding companies, 12 U.S.C. 1467a(o)(3)(D), and authorizes, but does not require, the Office to permit minority blocks of stock to be issued by savings association subsidiaries of mutual holding companies to persons other than the associations' mutual holding companies as a part of the reorganization process or thereafter. 12 U.S.C. 1467a(o)(7) and (o)(8). Instead of establishing separate and duplicative approval processes for capitalization and minority stock issuances that would run parallel with the Reorganization Notice process, the regulations provide for the capitalization and minority stock issuance approval processes to be subsumed within the Reorganization Notice process. This is accomplished by specifying, in paragraphs (a)(3) and (a)(4) of § 575.4, that failure to satisfy the Office's capitalization standards (discussed below) or the Office's standards for minority stock issuances (also discussed below) will constitute grounds for disapproval of a Reorganization Notice.

Capitalization. The statute imposes two limitations on the amount of capital that may be infused into a mutual holding company. First, the statute specifies that no savings association may infuse capital into a mutual holding company as part of a mutual holding company reorganization that is needed by the association to meet its minimum capital requirements under 12 U.S.C. 1464(a) and (t). Second, the statute specifies that the amount of capital infused into a mutual holding company must meet with the approval of the Office.

Consistent with the foregoing, the proposed regulations establish a two-prong test. First, § 575.4(b)(1) provides that any proposal of a reorganizing association or any acquiree association to capitalize a mutual holding company in an amount in excess of a nominal amount will be disapproved if immediately following the reorganization the resulting association or acquiree association would fail to meet its then-applicable regulatory capital requirements under 12 CFR part 567 or any higher requirements imposed under 12 U.S.C. 1464(s) and any regulations of the Office promulgated pursuant thereto. Second, § 575.4(b)(2) provides that the Office may also disapprove any capitalization proposal that fails to comply with any regulations or policies of the Office governing capital distributions by savings associations which are then in effect. See 12 CFR 563.134, as promulgated at 55 FR 27185 (July 2, 1990).

This second prong of the test is imposed pursuant to the Office's statutory authority, as noted above, to review and approve each capitalization proposal. The Office believes it is imperative that mutual holding company reorganizations comply with uniform capital distributions regulations and policies both as a matter of safety and soundness and in order to ensure parity between mutual and stock holding company reorganization.

It should be noted that § 575.4(b) allows both reorganizing associations and acquiree associations to infuse capital into their mutual holding companies. As is discussed above in footnote 2, there is no theoretical basis for distinguishing between reorganizing associations and acquiree associations. Moreover, any rule prohibiting acquiree associations from making capital contributions as part of a reorganization could easily be circumvented. To circumvent such a rule, an acquiree association could merely form its own mutual holding company and then merge that company with and into the mutual holding company formed by the reorganizing association. See 12 U.S.C. 1467a(o)(5)(C).

Finally, it should also be noted that the capitalization standards of § 575.4(b) would not prevent capital deficient savings associations from conducting mutual holding company reorganizations. Section 575.4(b) merely prevents capital deficient savings associations from transferring more than nominal capital to the mutual holding company level as part of such reorganizations. Thus, any capital deficient savings association that can meet the approval standards of § 575.4—including the managerial and financial resources standards—will be able to form a mutual holding company and to seek approval to issue minority stock out of the subsidiary savings associations of such mutual holding company, provided no more than nominal capital is transferred to the holding company level as a part of the reorganization.

Presumptive disqualifers. Since the managerial and financial resources test that is to be applied by the Office in reviewing proposed mutual holding company reorganizations is identical to the managerial and financial resources test that is applied by the Office in reviewing change of control notices under part 574, the proposed regulations provide that the same factors that presumptively disqualify applicants under the managerial and financial resources test of part 574 will also presumptively disqualify applicants under part 575. See § 575.4(c)(1). These factors include violations of certain laws, affiliations with businesses placed in receivership, previous regulatory denials of financial institutions applications, and false or misleading statements made in filings with the Office.

The proposed regulations also closely follow part 574 in providing that failure to file a business plan or submission of a business plan projecting activities that are inconsistent with economical home financing shall be deemed to be a presumptive disqualifier. See § 575.4(c)(2). The regulations go beyond part 574, however, by providing that submission of a business plan that fails to demonstrate that the capital of the mutual holding company will be deployed in a safe and sound manner will also constitute a presumptive disqualifier. The Office believes this addition is justified since all of the initial capital of a mutual holding company will be derived directly from subsidiary savings associations and because mutual holding companies will be more financially vulnerable than stock holding companies due to their inability to raise equity capital at the holding company level via stock offerings.

Legal authority to include the business plan disqualifiers in the mutual holding company regulations is derived from the

[3] As worded, paragraph (a)(6) of § 575.4 permits the Office to disapprove reorganizations that would violate any applicable law or regulation, not just the board of director and membership approval provisions of the statute. The authority of the Office to disapprove such reorganization derives from the aforementioned statutory safety and soundness standard. Any reorganization that would be violative of applicable laws or regulations would, in the Office's opinion, be inherently unsafe and unsound.

statutory provision authorizing the Office to review the financial resources of reorganizing associations and the safety and soundness implications of such reorganizations. See discussion above.

Failure by the Office to act in a timely manner. As already noted above, the statute limits the time frame in which the Office may disapprove Reorganization Notices to sixty (or in some cases ninety) days. 12 U.S.C. 1467a(o)(3)(A). If the time period expires without action by the Office, the reorganization is deemed to be cleared automatically. Section 575.4(d) sets forth the conditions that must be satisfied before any reorganization that is cleared automatically may be consummated. The conditions are drawn primarily from two sources: (i) § 574.7(e), which specifies the conditions that must be satisfied when a change of control notice is cleared by virtue of expiration of similar statutory time periods; and (ii) § 574.7(a)(2), which specifies the conditions that must be satisfied when a routine stock holding company reorganization is approved automatically under part 574.

Section 575.4(d) provides that any reorganization that is automatically cleared may be consummated in the manner proposed in the Reorganization Notice provided the reorganization is consummated within one year, the mutual holding company is capitalized in an amount that complies with the capitalization requirements of § 575.4(b) ad is not in excess of the safe-harbor thresholds set forth in 12 CFR 563.134 (b)(1) and (b)(2), and various certifications are filed within prescribed time periods. (Matters addressed by these certificates include the absence of material adverse events, compliance with § 575.3 and other applicable laws and regulations and with generally accepted accounting principles, and compliance with the business plan submitted in the Reorganization Notice.) Section 575.4(d) also specifies that any waivers or forbearances requested in a Reorganization Notice that obtains automatic clearance shall not be deemed to be granted.

The Office believes that it has legal authority to promulgate regulatory conditions, such as those described above, for transactions that obtain automatic regulatory clearance as a result of the expiration of specified time periods, provided (i) The regulations imposing those conditions become effective before the automatic approval date of the transaction in question, and (ii) the conditions in question are not so broadly drawn as to defeat the purpose of the automatic approval provision. The apparent purpose of the automatic approval provision in the mutual holding company statute is to ensure timely regulatory action on Reorganization Notices. The imposition of simple safety and soundness conditions, such as those described above, does not interfere with this statutory purpose. The thrust of the above-described conditions is merely to ensure that reorganizations that obtain automatic clearance are conducted in compliance with applicable laws and regulations, in conformity with representations made in the Reorganization Notice, and prior to any significant change in circumstances.

E. Section 575.5, Membership Rights

The membership rights provision of the mutual holding company statute is divided into two paragraphs. 12 U.S.C. 1467a (o)(4)(A) and (o)(4)(B). The first paragraph specifies that all persons having membership rights in a mutual association (*i.e.*, depositors and in some cases borrowers) at the time it reorganizes to form a mutual holding company shall receive the same rights in the mutual holding company as they had in the mutual association. The second paragraph specifies that all depositors of any such association, or of any savings association subsequently acquired by a mutual holding company at a time when the association is in mutual form, shall receive the same membership rights in the mutual holding company as they had in the mutual association.

The apparent purpose of these two provisions is to ensure continuation of the membership rights of current and future depositors and current—but not future—borrowers of any resulting association, acquiree association, or mutual association acquired by a mutual holding company. The absence of any mention in these provisions of membership rights for depositors and borrowers of savings associations that are in the stock form when acquired by mutual holding companies (except for resulting or acquiree associations) also suggests that Congress did not intend for membership rights to be extended to such depositors or borrowers. These rules are set forth in § 575.5.

Section 575.5 also provides that whenever a savings association (whether stock or mutual) is merged into a savings association subsidiary of a mutual holding company, the depositors and borrowers of the disappearing association shall receive the same rights, if any, as the depositors and borrowers of the surviving association.

It should be noted that each of the above rules is consistent with the Office's current regulations governing the distribution of membership rights in mutual associations. Thus, for example, current regulations provide that mutual associations adopting new federal charters may not grant membership rights in connection with borrowings made after the effective date of their new charter. See 12 CFR 544.1 (the membership rights of current borrowers are grandfathered). Moreover, whenever a stock association is merged into a mutual association under the Office's current regulations, the depositors and borrowers of the stock association receive the same membership rights in the mutual association as the mutual association's existing depositors and borrowers. See 12 CFR 552.13(c)(1).

F. Section 575.6, Contents of Reorganization Plans

Section 575.3(c) requires each reorganizing association and acquiree association to prepare and submit a Reorganization Plan to their members for approval. A Reorganization Plan is also required to be submitted to the Office as part of each Reorganization Notice filed pursuant to § 575.3(b). The purpose of § 575.6 is to describe the information that must be included in each Reorganization Plan. *Cf.* 12 CFR 563b.3 (which describes the information that must be included in each Conversion Plan).

In general, § 575.6 requires Reorganization Plans to provide for organization of the resulting association, amendment of the charter and bylaws of the reorganizing association and any acquiree association, transfer of substantially all the assets and liabilities (including all of the deposit accounts) of the reorganizing association to the resulting association, and amendment and termination of the Reorganization Plan. In situations where a reorganization will involve an issuance of stock to persons other than the mutual holding company, § 575.6 also requires the Reorganization Plan to include a Stock Issuance Plan, the contents of which are described in § 575.8.

G. Section 575.7, Issuances of Stock by Savings Association Subsidiaries of Mutual Holding Companies

FIRREA amended the statutory mutual holding company provisions to specify that such provisions should not be interpreted as "* * * prohibit[ing] a savings association chartered [thereunder] from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company." 12 U.S.C. 1467a(o)(8)(B).

Given this statutory clarification, the Office is prepared to permit savings association subsidiaries of mutual holding companies to issue stock to persons other than their mutual holding companies, subject to various safeguards.

Since each such stock issuance will present much of the same potential for insider abuse and unfairness to members as traditional mutual-to-stock conversions under part 563b of the Office's regulations, § 575.7(a) requires each such issuance to be approved in advance by the Office. This advance approval requirement will apply regardless whether the issuance in question is conducted as part of a mutual holding company reorganization or thereafter, and regardless whether such issuance is made by a resulting association, an acquiree association, or any mutual or stock association acquired by a mutual holding company subsequent to reorganization. The term "stock", as defined in § 575.2, includes any type of equity security, including warrants or options to acquire stock or securities convertible into stock.

Section 575.7(a) provides that the Office shall approve a proposed stock issuance if it meets each of the criteria there listed, the most significant of which are as follows:

—The proposed issuance must be made pursuant to a Stock Issuance Plan that contains all the provisions required by section 575.8 (described below).

—No provision in the Stock Issuance Plan may be inequitable or detrimental to the association or its mutual holding company parent or to members of the mutual holding company parent, and, at the conclusion of this issuance, the capital of the association, its mutual holding company parent, and any sister associations must be fully sufficient. *Cf.* 12 CFR 563b.3(c)(21).

—The proposed price or price range of the stock to be issued must be reasonable.

Section 575.7(b) sets forth the standards that the Office will use to review the reasonableness of the proposed price or price range. The standards are, in all material respects, identical to those utilized by the Office in reviewing the proposed price or price range of stock offered in conversions under part 563b of the Office's regulations, see 12 CFR 563b.7, except that, to the extent the proposed price or price range includes any discount due to the minority status of the shares to be offered, the pricing materials must specify the amount of the discount and indicate how that amount was determined.

Section 575.7(d) sets forth a series of offering restrictions that are also derived from part 563b of the Office's regulations. In general, these restrictions prohibit representations that the Office has approved the stock being offered, limit the time for completion of the offering, require full disclosure of all material information, and prohibit transfers of, and certain offers to acquire, the stock prior to completion of the offering. *Cf.* 12 CFR 563b.3(h), (i)(1), and (i)(2), and 563b.7 (d) and (i).

Section 575.7(a) provides that any issuance by the Office of a notice of intent not to disapprove a mutual holding company reorganization pursuant to § 575.3(b), or failure by the Office to disapprove such a reorganization within the time prescribed in § 575.3(b), shall be deemed to constitute approval of any stock issuance proposed in connection with the reorganization. Section 575.7(c) further provides that any approval by the Office of a stock issuance shall be deemed to include any related approvals required under 12 CFR 552.4 and 12 CFR 563.1 regarding charter amendments and the form of stock certificate, provided such amendments and such certificate are included as a part of the association's stock issuance application.

H. Section 575.8, Contents of Stock Issuance Plans

As noted above, § 575.7 provides that each stock issuance by a savings association subsidiary of a mutual holding company to persons other than its mutual holding company must be made pursuant to a Stock Issuance Plan that contains all of the provisions required by § 575.8. Although there are many parallels between the provisions required to be included in Stock Issuance Plans pursuant § 575.8 and the provisions required to be included in traditional Conversion Plans pursuant to 12 CFR 563b.3, there are also significant differences. The three most important differences are as follows:

—Section 575.8 permits any person or persons not affiliated with the issuing association to acquire in the aggregate up to 49.99% of the common stock, and any amount of the preferred stock, of the association, whereas § 563b.3 restricts each purchaser to a maximum of 10% of the common or preferred stock of the issuing association. 12 CFR 563b.3(d)(4).

—Section 575.8 does not require the stock of the issuing association to be offered to members in a subscription offering, whereas § 563b.3 does. 12 CFR 563b.3(c)(2)—(c)(5).

—Section 575.8 does not require the issuing association to establish a liquidation account, whereas § 563b.3 does. 12 CFR 563b.3(c)(13).

The Office believes that the foregoing departures from the conversion regulations are appropriate since a stock issuance by a savings association subsidiary of a mutual holding company, unlike a traditional conversion by a mutual association, will not result in any elimination or inappropriate dilution of the membership rights of mutual members, provided, as will be required in every case, the stock in question is sold for fair value. See discussion of § 575.7(b) above. As a result, if the proposed regulations are adopted in final form, savings association subsidiaries of mutual holding companies will be able to conduct private offerings of their stock.

There are, however, a variety of restrictions imposed by § 575.8. Perhaps the most significant restriction has already been alluded to above: § 575.8(a)(2) requires every Stock Issuance Plan proposed by a resulting association, an acquiree association, or an association that was in mutual form when acquired by its mutual holding company parent to provide that the aggregate amount of outstanding common stock of the association owned or controlled by persons other than the mutual holding company parent at the close of the proposed issuance shall be less than fifty percent of the association's total outstanding common stock.[4] This provision is required by statute. See 12 U.S.C. 1467a(o)(8)(B).

Most of the other significant restrictions imposed by § 575.8 are intended to protect against undue insider advantage. Thus, for example, § 575.8, like the conversion regulations, contains a number of quantitative limitations on the amount of stock that may be purchased by "insiders" (defined as officers and directors of a company—in this case a savings association issuing stock pursuant to § 575.7—and of any affiliate of such company, and any person acting in concert with such officers and directors, § 575.2), the "associates" of insiders (defined in the same manner as in § 563b.2 except for the addition of persons acting in concert with associates, § 575.2), and "tax qualified

[4] This restriction does not apply to common stock issued by savings association subsidiaries of mutual holding companies that were in the stock form when acquired by the mutual holding company (except for resulting associations and acquiree associations).

employee benefit plans" and "non-tax qualified employee benefit plans" (defined in the same manner as in § 563b.2).

In arriving at these quantitative limitations, the Office has attempted to balance, on the one hand, its concern that undue concentration of the stock of savings association subsidiaries of mutual holding companies in the hands of directors, officers, and employees of such associations and their affiliates could reduce the likelihood that decisions about stock pricing and dividends will be made objectively, and, on the other hand, the desire of many associations to give their directors, officers, and employees the additional incentive that may come from holding an ownership stake in the association. As a general rule, the limitations are the same as imposed by the Office in traditional, non-supervisory mutual-to-stock conversions, except that the amount of stock that may be purchased is measured against the shares held by persons other than the mutual holding company, rather than all outstanding shares.

The limitations are as follows:

—The maximum amount of common stock that may be acquired by any one non-tax qualified employee stock benefit plan or any one insider and his or her associates is 10% of the total common stock held by persons other than the association's mutual holding company parent. 12 CFR 575.8(a)(3).

—The maximum amount of common stock that may be acquired by all non-tax qualified employee stock benefit plans and insiders and their associates as a group is 25% to 35% of the total common stock held by persons other than the association's mutual holding company. (The formula utilized to ascertain the applicable limit within the 25% to 35% range is the same as set forth in the conversion regulations at § 563b.3(8).) 12 CFR 575.8(a)(7).

—The maximum amount of common and preferred stock that may be acquired by any one non-tax qualified employee stock benefit plan or any one insider and his or her associates is 10% of the stockholders' equity of the association held by persons other than the association's mutual holding company parent. 12 CFR 575.8(a)(4).

—The maximum amount of common and preferred stock that may be acquired by all non-tax qualified employee stock benefit plans and insiders and their associates is 25% to 35% of the stockholders' equity of the association held by persons other than the association's mutual holding company parent. (Again, the formula utilized to ascertain the applicable limit within the 25% to 35% range is the same as set forth in the conversion regulations at § 563b.3(8).) 12 CFR 575.8(a)(8).

—The maximum amount of common stock that may be acquired by any one or more tax-qualified employee stock benefit plans is 10% of the total common stock held by persons other than the association's mutual holding company parent. 12 CFR 575.8(a)(5).

—The maximum amount of common *and* preferred stock that may be acquired by any one or more tax-qualified employee stock benefit plans is 10% of the stockholders' equity of the association held by persons other than the association's mutual holding company parent. 12 CFR 575.8(a)(6).[5]

The foregoing quantitative limitations apply only to stock purchased on original issue. It would be possible for the persons and entities subject to these limitations to acquire additional stock via secondary market purchases. In this regard, however, it should be noted that § 575.8, like the conversion regulations, restricts the type of secondary market purchases that may be made by insiders and their associates for a three-year period following each stock issuance. During this period, purchases by insiders and their associates must (i) Be made from a broker dealer registered with the Securities and Exchange Commission, (ii) be for the purchase of more than one percent of the class of stock in question, or (iii) be approved in advance by the Office. Section 575.8(a)(12); *cf.* 12 CFR 563b.3(c)(9).

In addition, § 575.8, like the conversion regulations, also prohibits insiders and their associates from selling stock purchased in a stock issuance for a period of time after each purchase (with certain exceptions) and requires stock that is subject to the prohibition to be marked with an appropriate legend. Section 575.8(a)(13) and (a)(14); *cf.* 12 CFR 563b.3(c)(17) and (c)(18). Unlike the conversion regulations, however, the period of restriction will be three years, rather than one. The Office believes this extension is warranted given the uniqueness of the mutual holding company structure.

The underlying purpose of the foregoing restrictions on stock transactions by insiders and their associates is the same as in the conversion context: To protect the integrity of the stock issuance process by preventing insiders and their associates from using, or appearing to use, their superior knowledge about the issuer to turn a quick profit by buying from or selling to other shareholders or the general public. Although the Office anticipates that the foregoing restrictions will be sufficient to prevent insider abuse of the stock issuance process, the Office intends to closely scrutinize stock issuance proposals, the stock issuance process, and secondary market activity. If abuses appear, the Office will promulgate additional restrictions. Possible additional restrictions could include (i) A requirement that all minority stock be sold in community or public offerings, (ii) a flat prohibition on insider purchases of minority stock; and/or (iii) additional restrictions on insider activity in the secondary market. The Office specifically solicits comment regarding whether any of these restrictions should be imposed at the outset.

In addition to the insider abuse provisions described above, § 575.8 requires every Stock Issuance Plan to provide that:

—The stock to be issued shall be sold at a total price equal to the estimated *pro forma* market value of such stock, based upon an independent valuation, as provided in § 575.7(b) (discussed above). 12 CFR 575.8(a)(1); *cf.* 12 CFR 563b.3(c)(1).

—The stock issuance shall be conducted in compliance with the Office's regulations governing securities offerings by savings associations, 12 CFR part 563g. 12 CFR 575.8(a)(9).

—If at the close of the stock issuance the association has more than 35 shareholders of any class of stock, the association shall register that class of stock pursuant to the Securities Exchange Act of 1934 and undertake not to deregister such stock for a period of three years. 12 CFR 575.8(a)(10); *cf.* 12 CFR 563b.3(c)(19).

[5] Under the foregoing limitations, the maximum amount of common stock that could be acquired by insiders, their associates, and employee stock benefits plans (other than through secondary market purchases) is approximately 21% of all outstanding common stock of an association with assets of less than $50 million. If it is assumed, for example, that an association with assets of less than $50 million has 100 shares outstanding, the ownership of such shares could be distributed under the foregoing rules as follows:

51 shares to the mutual holding company.

4 shares to tax-qualified employee stock benefit plans (*i.e.*, 10% of 49).

17 shares to insiders, their associates, and non-tax-qualified employee stock benefit plans (*i.e.*, 35% of 49).

28 shares to outsiders.

It should be noted that funding for the purchase of the association's shares may not be provided by the association or any affiliate of the association either directly or indirectly, *e.g.*, through loans or guarantees. See discussion below of section 575.8(a)(15).

—If at the close of the stock issuance the association has more than 100 shareholders of any class of stock, the association shall use its best efforts to encourage and assist a market maker to establish and maintain a market for that class of stock and to list that class of stock on a national or regional securities exchange or on the NASDAQ quotation system. 12 CFR 575.8(a)(11); *cf.* 12 CFR 563b.3(c)(19).
—No stock shall be offered or sold to any person whose purchase would be, directly or indirectly, financed by the association or any of its affiliates, *e.g.*, through loans or guarantees. 12 CFR 575.8(a)(15); *cf.* 12 CFR 563b.3(c)(22).

Section 575.8 also requires Stock Issuance Plans to contain various routine provisions regarding the reasonableness of expenses and amendment and termination of the Plan, 12 CFR 575.8 (a)(17), (a)(18), and (a)(19), *cf.* 12 CFR 563b.3 (c)(11), (c)(16), and (c)(20), and permits the inclusion of various optional provisions pursuant to which (i) stock offerings conducted in conjunction with reorganizations may be commenced concurrently with the mailing of proxy statements and proxies to members of the reorganizing association and any acquiree association, 12 CFR 575.8(b)(1), *cf.* 12 CFR 563b.3(d)(1); (ii) any insignificant residue of shares may be disposed of in the manner provided in the Plan, 12 CFR 575.8(b)(2), *cf.* 12 CFR 563b.3(d)(7); and (iii) long-term warrants and other forms of equity securities may be sold in lieu of common and preferred stock. 12 CFR 575.8(b)(3); *cf.* 12 CFR 563b.3(d)(10).

I. Section 575.9, Charter and Bylaws for Mutual Holding Companies and Their Savings Association Subsidiaries

The statute provides that "mutual holding compan[ies] shall be chartered by the Director" of the Office. 12 U.S.C. 1467a(o)(7). Thus, unlike traditional stock savings and loan holding companies, mutual holding companies will be federally chartered.

The proposed form of charter for mutual holding companies is set forth in § 575.9(a)(1). The charter closely resembles that of a federal mutual savings association, except for section 3 thereof (purpose and powers), which necessarily differs from that of a savings association since the activities of mutual holding companies are circumscribed by statute (as discussed below), and sections 5 (members) and 7 (capital, surplus, and distribution of earnings), both of which will vary from case to case in order to ensure continuation of pre-existing membership rights. As explained above in connection with § 575.5, the statute requires that members of a resulting association, any acquiree association, or any mutual association acquired by a mutual holding company must receive the same membership rights in the mutual holding company as they previously possessed in their savings association, except that no membership rights are to be granted to future borrowers. This means that the provisions in each mutual holding company's charter setting forth the rights of members to vote and to receive distributions of the capital and surplus of their mutual holding company will track the voting and distribution provisions that appeared in the charter(s) of the association(s) from which the mutual holding company draws members. A mutual holding company that has more than one subsidiary savings association from which it draws members will be required to have several different voting rights provisions in its charter—*e.g.*, one for members drawn from the resulting association and one for members drawn from the acquiree association—in every case where the voting and distribution provisions of the charters of the subsidiary associations at the time they become subsidiaries of the mutual holding company differ in any material respect.

Section 575.9(a) contains a variety of other provisions that provide additional details regarding the corporate governance rules that will be applicable to mutual holding companies. The basic rules are as follows:

—Section 575.9(a)(2) provides that the Office's regulations governing charter amendments and reissuances of charters for mutual associations will apply with equal force to mutual holding companies, except for several technical changes there noted;
—Section 575.9(a)(3) provides that the corporate title of every mutual holding company must include the word "mutual"; and
—Section 575.9(a)(4) provides that the Office's regulations governing the bylaws (including content and amendments) of mutual associations will apply with equal force to mutual holding companies, except for several technical changes there noted.

Section 575.9(b) confirms that, except as may be specified otherwise by the Office in a particular case, subsidiary savings associations of mutual holding companies will be subject to the same regulations (whether federal or state) regarding charters and bylaws as are applicable ordinarily to stock savings associations, except that the charter of each such association (whether federal or state) from which the mutual holding company draws members must include a provision that routinely appears in the charters of mutual associations specifying that deposits in the association constitute debts of the association having the same priority as the claims of general creditors of the association. The purpose of this provision is to ensure that the claims of depositors are not relegated to a lower priority due to the fact that such deposits confer membership rights in the association's mutual holding company.

Finally, § 575.9(c) contains a variety of provisions specifying how the process of organizing resulting associations and amending the charter and bylaws of reorganizing associations and acquiree associations will fit into the larger reorganization process. Section 575.9(c)(1) eliminates the need for applicants to obtain multiple regulatory approvals by providing that regulatory clearance of a Reorganization Notice pursuant to § 575.3(b) shall also be deemed to constitute approval under §§ 575.3(d) and 575.9 for the reorganizing association to amend its charter and bylaws to read in the form of the charter and bylaws of a mutual holding company, approval under § 563.1 and, if necessary, §§ 552.2–1 and 552.2–2 of the organization of the resulting association and of its charter and bylaws, and approval under § 563.1 and, if necessary, § 552.4 for any acquiree association to amend its charter and bylaws to read in the stock form.

The remainder of § 575.9(c) contains provisions that specify the effective date of any charters approved pursuant to the above provisions, require the Office to promptly issue any such charters that are federal charters, require the return of any federal charters in the event the reorganization is not consummated, and restrict the activities of the resulting association to activities that are appropriate for an interim association prior to the date of consummation of the reorganization. 12 CFR 575.9 (c)(3)–(c)(5). Section 575.9(c)(2) provides that any charter and bylaws approved pursuant to the above provisions in connection with a Reorganization Notice that obtains automatic clearance due to the expiration of the time period for disapproval shall be deemed to be approved subject to the condition that they must conform in every particular to the Office's model charter and bylaws. The Office believes that it has authority to impose this requirement since it could, if it chose, go further and decouple the charter and bylaw approval process altogether from the

Reorganization Notice clearance process. Moreover, any applicant whose Reorganization Notice is cleared automatically and who does not wish to adopt model charters and bylaws will be free to seek separate charter and bylaw approval.

J. Section 575.10, Acquisition and Disposition of Savings Associations, Savings and Loan Holding Companies, and Other Corporation by Mutual Holding Companies

Acquisition. The statute provides that mutual holding companies may acquire savings associations (mutual or stock), savings and loan holding companies (mutual or stock), and certain other types of corporations. 12 U.S.C. 1467a(o)(5). These rules are set forth in § 575.10.

Paragraph (a)(1) of § 575.10 authorizes mutual holding companies to acquire savings associations in the stock form, provided all necessary regulatory approvals are obtained, including approval under the Office's acquisition of control regulations and, if applicable, the Office's merger regulations.

Paragraph (a)(2) of § 575.10 authorizes mutual holding companies to acquire mutual savings associations, again provided all necessary regulatory approvals are obtained, including approval under the Office's acquisition of control regulations and merger regulations, and provided three additional conditions are met. First, per the statute, the acquisition must be structured as a merger of the mutual association either into an interim savings association subsidiary of the mutual holding company or into a savings association subsidiary from which the mutual holding company draws members. See 12 U.S.C. 1467a(o)(5)(B). Second, the acquisition must be approved by the board of directors of the mutual association and submitted to the members of the mutual association pursuant to a proxy statement authorized for use by the Office and approved by a majority of the total votes of the members eligible to be cast. This requirement is drawn from the procedures mandated by the statute for mutual holding company reorganizations. 12 U.S.C. 1467a(o)(2). The Office believes that it is appropriate to impose this requirement on mutual associations being acquired by mutual holding companies since the practical impact of such acquisitions on mutual associations and their members is the same as the impact of mutual holding company reorganizations on reorganizing associations and their members. Third, the Office may, in its discretion, require approval of the acquisition of a mutual association by a mutual holding company by the members of the mutual holding company. A similar rule applies to mergers of mutual savings associations under part 546 of the Office's regulations. See 12 CFR 546.2(e).

Paragraphs (a)(3) and (a)(4) of § 575.10 authorize mutual holding companies to acquire other savings and loan holding companies (whether in stock or mutual form), again provided all necessary approvals are obtained, including approval under the Office's acquisition of control regulations, and provided, in the case of acquisitions of mutual holding companies, membership approval is obtained by the mutual holding companies if required by the Office. See discussion in prior paragraph. Paragraph (a)(4) provides that mutual holding companies that acquire stock savings and loan holding companies may either merge the stock holding company into the mutual holding company or hold it as a subsidiary.

Paragraph (a)(5) of § 575.10 authorizes mutual holding companies to make non-controlling investments in the stock of savings associations and savings and loan holding companies to the extent, and only to the extent, such investments are permissible for savings and loan holding companies generally under 12 U.S.C. 1467a(e) and (q) and 12 CFR 574.8 and 584.4. The Office does not believe that the general statement in 12 U.S.C. 1467a(o)(5)(A) that mutual holding companies may "invest in the stock of savings associations" was intended to override the specific investment limitations in 12 U.S.C. 1467a(e) and (q).

Finally, paragraph (a)(6) of § 575.10 authorizes mutual holding companies to acquire control of, and make non-controlling investments in the stock of, corporations other than savings associations or savings and loan holding companies only where the corporation in question is not directly or indirectly controlled by a subsidiary savings association of the mutual holding company (so as to prevent double leveraging), and at least one of the two following criteria is satisfied: (i) The corporation is engaged exclusively in activities that are permissible for mutual holding companies pursuant to § 575.11(a) (discussed below), or (ii) such corporation's stock may be lawfully purchased by a federal savings association under federal law (*i.e.*, 12 CFR 545.74 and 12 U.S.C. 1828(m)(3)), or by a state association under the law of any state where any subsidiary savings association of the mutual holding company has its home office (*i.e.*, the laws of that state and 12 U.S.C. 1828(m)(3) and 1832). The second criterion above is derived directly from the statute. 12 U.S.C. 1467a(o)(5)D).[6] The first criterion has been added by the Office as a matter of interpretation, on grounds that it would make no sense to prohibit a mutual holding company from engaging indirectly, through a subsidiary, in activities that the statute expressly authorizes it to engage in directly as a holding company.

It should also be noted that paragraphs (a)(6) of section 575.10 has been worded so as to refer to "controlling" as well as "non-controlling" investments. The Office believes that this is consistent with the statute, which refers broadly to "investments" without signalling any intent to restrict the scope of that term to passive, non-controlling investments. 12 U.S.C. 1467a(o)(5)(D). As a result, mutual holding companies will be able to engage in a somewhat broader range of activities at the subsidiary level than in the mutual holding company itself. The apparent purpose for this statutory distinction is to isolate at the subsidiary level all business activities other than those most closely related to the operations of the savings association subsidiaries of mutual holding companies.

Disposition. Two basic rules regarding the disposition by mutual holding companies of controlling and non-controlling investments in subsidiaries and other corporations are set forth in § 575.10(b). Since the statute is silent on the subject of disposition, these two rules represent what the Office believes to be necessary in order to establish a workable, safe regulatory structure for mutual holding companies.

The first rule is that mutual holding companies may not, at any time, transfer any of the stock which they hold in any association from which they draw members (*i.e.*, any resulting association, acquiree association, or association that was in mutual form when acquired by the mutual holding company), unless such transfer is the result of a pledge made pursuant to § 575.11(b) (discussed below); nor may mutual holding companies cause or permit the transfer of all or substantially all of the assets or liabilities of any such

[6] In analyzing investment authority under this criterion, it is important to bear in mind that any determinations made by the FDIC pursuant to 12 U.S.C. 1828(m)(3) that any activity poses a serious risk to the Savings Association Insurance Fund will apply to both state and federally chartered thrifts and will, therefore, limit the investment authority of mutual holding companies. Section 575.10(a)(5) has been worded so as to make this apparent.

association. The purpose of the foregoing rule is to prevent the control relationship between mutual holding companies and the subsidiary savings associations from which they draw members from being severed. The portion of the rule restricting the sale of stock is also intended to prevent circumvention of the mutual holding company capitalization rules set forth in § 575.4(b).[7]

The second rule set forth in § 575.10(b) provides that mutual holding companies may freely transfer any controlling or non-controlling investment held by them other than investments covered by the first rule described above, subject to other applicable laws or regulations and subject to the requirement that such investments may not be sold to insiders, associates of insiders, or employee stock benefit plans of the mutual holding company or any affiliate of the mutual holding company. Thus, mutual holding companies will be permitted to dispose of (i) Savings associations, other than resulting or acquiree associations, acquired while in the stock form, so long as such associations have not been merged into an association from which the mutual holding company draws members, (ii) savings and loan holding companies acquired while in the stock form, so long as such companies have not been merged into the mutual holding company, (iii) any other subsidiary corporation that is not a savings association or savings and loan holding company, and (iv) any non-controlling investment in any savings association, savings and loan holding company, or other corporation.

K. Section 575.11, Operating Restrictions

Section 575.11 contains a variety of operating restrictions applicable to mutual holding companies and their subsidiaries.

Activities restrictions. Consistent with the statute, § 575.11(a) restricts the business activities of mutual holding companies to those specified in 12 U.S.C. 1467a (c)(2)(A), (c)(2)(C), (c)(2)(D), (c)(2)(E), (c)(2)(F), and (c)(2)(G). See 12 U.S.C. 1467a(o)(5)(E). In addition, as discussed above, subsidiaries of mutual holding companies that are neither savings associations nor savings and loan holding companies are permitted to engage in a somewhat broader range of activities. See discussion of § 575.10(a)(6) above.

Pledging stock. FIRREA amended the statutory mutual holding company provisions to specify that such provisions should not be interpreted as "* * * prohibit[ing] a mutual holding company from pledging all or a portion of the stock of a savings association chartered as a part of [a mutual holding company reorganization] to raise capital for such savings association." 12 U.S.C. 1467a(o)(8)(A).[8] Given this statutory clarification, the Office is prepared to permit mutual holding companies to pledge up to 100% of the stock of any such association, subject to the statutory requirement that the proceeds of the loan secured by such pledge must be infused into the association. This rule is set forth in § 575.11(b)(1).

Although § 575.11(b) contains no advance application or notice requirement with respect to such pledges, it does require mutual holding companies to file two types of after-the-fact reports. First, within ten days after making any such pledge, a mutual holding company must file a report disclosing the terms of the transaction and certifying that the entire proceeds of the loan have been transferred to the savings association whose stock has been pledged. 12 CFR 575.11(b)(2). Second, any mutual holding company that fails to make timely payment on a loan secured by such a pledge must, on the first day payment is overdue, provide written notice of nonpayment to the Office. The purpose of these two reporting requirements is to enable the Office to monitor the pledge activities of mutual holding companies. Because the statute mandates liquidation of any mutual holding company that becomes severed from any subsidiary association from which it draws members (as would be the case if stock pledged pursuant to § 575.11(b) were seized), it is imperative that the Office receive advance warning of any such possibility.

It is important to note that § 575.11(b) applies only to pledges of the stock of associations from which mutual holding companies draw members, *i.e.*, resulting associations, acquiree associations, and associations that were in the mutual form when acquired by a mutual holding company. See footnote 8. No restrictions are placed on pledges of the stock of other savings association subsidiaries of mutual holding companies.

Dividend and stock repurchase restrictions. Section 575.11(c) provides that no subsidiary savings association of a mutual holding company that has any stockholders other than the association's mutual holding company may repurchase any share of its stock within three years of its date of issuance unless the repurchase:

—Is part of a general repurchase made on a *pro rata* basis pursuant to an offer approved by the Office and made to all stockholders of the association (except that the association's mutual holding company may be excluded from the repurchase with the Office's approval);
—Is limited to the repurchase of qualifying shares of a director; or
—Is a purchase on the open market by a tax-qualified or non-tax-qualified employee stock benefit plan of the association in an amount reasonable and appropriate to fund such a plan.

Similar repurchase restrictions are imposed in connection with mutual-to-stock conversions under part 563b of the Office's regulations. 12 CFR 563b.3(g)(1).

Waiver of dividends. Section 575.11(d) provides that no mutual holding company may waive its right to receive a dividend declared by a subsidiary unless either the Office approves such waiver or no insider, associate of an insider, or employee stock benefit plan holds any shares of the class of stock to which the waiver would apply. To obtain approval of such a waiver by the Office, 575.11(d) provides that a mutual holding company must demonstrate that the waiver would be in the best interests of its members. The purpose of this restriction is to discourage declarations of dividends that disproportionately benefit insiders.

Issuance of non-savings association stock to insiders. Section 575.11(e) prohibits non-savings association subsidiaries of mutual holding companies from issuing any stock to insiders, associates of insiders, or employee stock benefit plans. The purpose of this rule is to prevent the abuses (*e.g.*, issuance of stock to insiders at below market prices) addressed by §§ 575.7 and 575.8 in the

[7] It is important to note the distinction between the stock-transfer restrictions discussed here and the provisions of §§ 575.7 and 575.8, discussed above. Pursuant to §§ 575.7 and 575.8, savings association subsidiaries of mutual holding companies may themselves sell their nonvoting stock and minority blocks of their voting stock to persons other than their mutual holding companies. The rule discussed here merely prevents mutual holding companies from selling stock that has been issued to them by subsidiary savings associations from which they draw members.

[8] In several places, the mutual holding company statute refers to savings associations chartered as a part of mutual holding company reorganizations. Throughout the proposed regulations, the Office has uniformly interpreted such references to include any association from which a mutual holding company draws members, *i.e.*, resulting associations, acquiree associations, and associations that were in the mutual form when acquired by a mutual holding company. As is noted in footnote 2 above, the impact of mutual holding company acquisitions of acquiree associations or mutual associations upon such associations and their members is, in all material respects, the same as the impact of a reorganization upon reorganizing associations and their members.

case of savings association subsidiaries. The Office solicits comment regarding whether, as an alternative to the absolute prohibition of § 575.11(e), §§ 575.7 and 575.8 should be expanded to be made applicable to all subsidiaries of mutual holding companies.

Application of other rules and regulations. Paragraphs (f) and (g) of § 575.11 provide that, as a matter of safety and soundness, mutual holding companies shall be subject to the same indemnification and employment contract restrictions as are applicable to savings associations pursuant to 12 CFR 545.121 and 563.39.

Paragraph (h) of § 575.11 provides that, within 120 days of the close of each fiscal year, mutual holding companies must submit a report to the District Director containing the information specified in 17 CFR 229.402 regarding executive compensation and 17 CFR 229.404 (a), (b), and (d) regarding transactions between management and the mutual holding company or its affiliates. Traditional stock holding companies that are registered under the Securities Exchange Act are required to disclose such information to their shareholders. Since there are no shareholders in the mutual holding company context, the Office believes it is appropriate to require mutual holding companies to disclose such information to the Office. This will enable the Office to monitor transactions involving management for signs of abuse and will assist the Office in determining whether additional regulatory restrictions should be imposed on transactions involving management.

Finally, paragraph (i) of § 575.11 provides that, consistent with 12 U.S.C. 1467a(o)(7), mutual holding companies shall be subject to the same statutory and regulatory rules as are applicable to savings and loan holding companies generally, except where expressly indicated otherwise in part 575.

L. Section 575.12, Conversion and Liquidation of Mutual Holding Companies

Conversion. Section 575.12(a) authorizes mutual holding companies to convert to the stock form in accordance with the same rules that govern savings association conversions, *i.e.*, 12 CFR part 563b. It is important to note that the corporate structure of mutual holding companies would be unaffected by any such conversion. In other words, mutual holding companies would not be required (or, in the absence of an order from the Office, permitted) to collapse back into their savings association subsidiaries as a part of a part 563b conversion. Nor would mutual holding companies be required to offer to redeem or exchange any previously-issued minority stock of their subsidiaries as part of the conversion. Such stock could remain outstanding. The stock to be offered in the conversion would be that of the holding company, and the holding company would be required, among other things, to conduct a subscription offering and to establish a liquidation account. The amount of the proceeds of the offering that could be retained at the mutual holding company level would be decided in accordance with the same policies as are applied to conversions of mutual savings associations occurring in conjunction with the formation of a holding company. See 12 CFR 563b.9. Mutual holding companies would also qualify for supervisory conversions in the same manner as mutual savings associations. The Office requests comment regarding whether it should permit minority stock held at the subsidiary level to be redeemed or exchanged for holding company stock in connection with mutual holding company conversions and, if so, how this could be accomplished in a reasonable and fair manner.

Involuntary liquidation. The statute specifies that, notwithstanding any other provision of law, "a trustee shall be appointed receiver of a mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code" upon the occurrence of any of the following events:

—The default of any resulting association, any acquiree association, or any subsidiary savings association of the mutual holding company that was in mutual form when acquired by the mutual holding company; [9]
—The default of the mutual holding company;
—Foreclosure on any pledge of subsidiary savings association stock made by a mutual holding company pursuant to section 575.11(b).

12 U.S.C. 1467a(o)(9).

The term default is defined by the statute as "any adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed." 12 U.S.C. 1467a(o)(10)(C). Upon liquidation, the statute provides that net proceeds shall be distributed to members of the mutual holding company, subject to the FDIC's right to recoup certain losses caused by savings association subsidiaries of the mutual holding company. 12 U.S.C. 1467a (o)(9)(B) and (o)(9)(C). The foregoing statutory rules are set forth in § 575.12(b).

Although the statute mandates appointment of a trustee in accordance with title 11 of the United States Code upon the occurrence of any of the above-listed events, it does not specify who should request the appointment of such a trustee. Accordingly, § 575.12(b) provides that the Office "may file a petition with the federal bankruptcy courts" seeking appointment of a trustee upon the occurrence of default, leaving open the possibility that the Office may elect not to seek such an appointment and/or that other interested parties (*e.g.*, creditors) may seek such an appointment.

The statute also does not specify who would have authority to appoint a custodian, receiver, or other legal custodian for a mutual holding company or what standards should be utilized by that authority in making such an appointment. As noted above, such an appointment is a precondition for finding that a mutual holding company is in default. See statutory definition of "default" cited above. Since the statute mandates that mutual holding company liquidations should be conducted in accordance with title 11 of the United States Code, however, it would make sense for the actions that precede liquidation, *e.g.*, appointment of a conservator or receiver, also to be conducted in accordance with title 11 of the United States Code. Under this approach, the appointing authority would be the federal bankruptcy courts, rather than the Office, and the grounds for appointment would be the same as for any corporation subject to the Federal bankruptcy code, rather than standards promulgated by the Office. Section 575.12(b) is drafted accordingly.

Voluntary liquidation. Section 575.12(c) specifies that 12 CFR 546.4 shall apply to mutual holding companies in the same manner as if they were federal savings associations. Pursuant to § 546.4, no federal savings association may voluntarily liquidate unless such liquidation is approved in advance by the Office.

M. Section 575.13, Procedural Requirements

Section 575.13 establishes the procedural rules that will govern the processing of applications, notices, and proxy statements required to be filed under part 575.

[9] See footnote 8 above.

Paragraph (a) provides that any proxy statements and proxies utilized in connection with any membership vote required by part 575 in connection with any reorganization, stock issuance, or merger or acquisition shall be subject to the same basic rules as set forth in the conversion regulations for proxy statements and proxies required thereunder, 12 CFR part 563b, with such additions, deletions, and other modifications as may be necessary or appropriate under the disclosure standard set forth at 12 CFR 563b.5(g). The Office anticipates that, in many circumstances, a proxy statement resembling the "short-form" proxy statement permitted in traditional conversions, 12 CFR 563b.6(c)(2)(iv), will satisfy the foregoing disclosure standard, except that full disclosure regarding management remuneration and any changes in management remuneration will be required.

Consistent with the conversion regulations, proxy statements and proxies utilized in connection with any membership vote required by part 575 must be filed with and authorized for use by the Office. Paragraph (a) also provides that so called "running proxies" may be utilized in connection with membership votes required by part 575 to the same extent and subject to the same limitations as set forth in the conversion regulations. 12 CFR 563b.5(d)(4).

The remainder of § 575.13 is concerned with the procedures applicable to applications and notices filed under part 575. This includes Reorganization Notices filed pursuant to § 575.3(b), stock issuance applications filed pursuant to § 575.7, applications filed pursuant to § 575.8(a)(12) by insiders for permission to purchase stock within three years after a stock issuance, applications filed pursuant to § 575.11(c) by savings association subsidiaries of mutual holding companies for approval to repurchase minority stock, applications filed pursuant to § 575.11(d) by mutual holding companies for approval to waive dividends declared by a subsidiary, applications filed pursuant to § 575.12(c) by mutual holding companies for approval of voluntary liquidations, and miscellaneous certifications and notices required to be filed with the District Director pursuant to § 575.4(d)(4) (documents filed in connection with automatic approval of reorganizations), § 575.11(b) (notices of pledges), and § 575.11(h) (reports of transactions involving management). The procedures established by § 575.13 are very similar to those applicable to applications, notices, and miscellaneous certifications filed pursuant to part 574 of the Office's regulations. Thus, for example, the part 575 rules regarding amendment of applications and notices, public disclosure of applications and notices, procedural exceptions in supervisory cases, and appeals are all taken virtually verbatim from part 574. *Cf.* 12 CFR 575.13 (d), (e), (h), and (i) with 12 CFR 574.6 (b)(1)(vii), (f), and (g) and 574.7(f)(2). However, the procedures governing public notice and comment, banking agency competitive reports, and post-approval waiting periods are taken from the Office's regulations implementing the Bank Merger Act, 12 CFR 563.22, instead of part 574. As noted above in the discussion of § 575.3(d), every mutual holding company reorganization will involve a transfer of assets subject to the Bank Merger Act. Thus, it will be necessary to comply with the procedural requirements of the Bank Merger Act, as set forth in § 563.22 (d)(2), (d)(3), and (d)(4) of the Office's regulations. 12 CFR 575.13(d)(3). (The post-approval waiting period is not expected to have any practical impact on the timing of mutual holding company reorganizations. Under procedures agreed to by the Office and the Department of Justice, the waiting period will run concurrently with the agency report period.)

Paragraph (f) of § 575.13 provides that the time frame within which the Office must determine whether an application or notice is complete, the rules governing requests for and responses to requests for additional information, and the time frame for automatic approval of applications and notices filed under part 575 shall be as specified in § 571.12 of the Office's regulations. A technical amendment is also being made to § 571.12(d)(1) to indicate that applications and notices filed under part 575 will be treated in the same manner as applications and notices filed under part 574, *i.e.*, they will be deemed automatically approved unless the Office indicates otherwise within 60 days (or 90 days if the Office exercises its rights under § 571.12(e)) of the date on which they are deemed complete. Paragraph (f) of § 575.13 also provides that any related approvals requested in connection with Reorganization Notices (including, for example, requests for approval to transfer assets to resulting associations under the Bank Merger Act and requests for permission to organize resulting associations) will be processed under the procedures specified in § 575.13, rather than any different procedures that might be applicable to such requests if they were unrelated to mutual holding company reorganizations. The goal is to avoid forcing reorganizing associations to file multiple, redundant applications subject to multiple, and sometimes inconsistent, procedural requirements. Paragraph (f) does specify, however, that the statutory and regulatory approval standards for related approval requests will remain unchanged. Thus, for example, the Office will be required to review proposed transfers of assets to resulting associations in mutual holding company reorganizations under the approval criteria specified in the Bank Merger Act. 12 U.S.C. 1828(c).

N. Regulation of Mutual Holding Companies by Governmental Authorities Other Than the Office

State approvals. Since the statute provides that any federally-insured "savings association operating in mutual form may reorganize so as to become a [mutual] holding company" under the provisions thereof, 12 U.S.C. 1467(o)(1), federally-insured state-chartered mutual savings associations will be able to form mutual holding companies under the statute regardless whether parallel mutual holding company legislation has been adopted by the home state of such institutions. As a result, mutual holding company reorganizations by such institutions will not require regulatory action or approval at the state level, unless the resulting association or an acquiree association will be a state-chartered savings association, in which case a new charter will need to be obtained at the state level.

FDIC. As noted above, the statute explicitly provides that, in a mutual holding company reorganization, the resulting association is to be a newly-chartered savings association. See footnote 2 above. Thus, the resulting association will be required to obtain approval of insurance for its accounts from the FDIC in accordance with 12 U.S.C. 1815 (a)(1) or (a)(2). The Office intends to consult with the FDIC regarding expediting processing of such applications.

O. Description of Public Comments

In response to its advance notice of proposed rulemaking regarding mutual holding companies, 53 FR 41343, 41345 (October 21, 1988), and its subsequent public hearing on mutual holding companies, 53 FR 44436 (Nov. 3, 1988), the Office's predecessor received written statements from 27 commenters. A number of the key issues discussed in the statements—*e.g.*, the juridical nature of mutual holding companies, the authority of subsidiary savings

associations of mutual holding companies to issue minority stock, the authority of mutual holding companies to pledge minority stock, the proper methodology for liquidating mutual holding companies, and so forth—were resolved by the FIRREA amendments to the mutual holding company statutory provisions. See discussion above.

The Office has attempted to be responsive to the other concerns addressed in the statements, to the extent consistent with safety and soundness. Major themes sounded in the statements were as follows:

—Keep the reorganization process as streamlined as possible. Do not require subscription offerings or liquidation accounts. Permit private placements.
—Provide for a separate streamlined process for simple reorganizations that involve no stock issuances.
—Allow mutual holding companies the flexibility of eventually converting to stock holding companies.
—Give mutual holding companies as much parity as possible with stock holding companies.
—Establish rules to prevent insider abuse, so as to protect the integrity of the mutual holding company process.

The regulations being promulgated today are responsive to the foregoing concerns.

A number of statements also argued that the Office should place no restraints on the amount of capital that reorganizing associations are permitted to infuse into mutual holding companies so long as resulting associations meet their current minimum capital requirements. In the interest of parity with stock holding companies and safety and soundness, however, the Office has decided to promulgate a stricter capitalization requirement than these statements advocated. See discussion in Part II.D. above.

Paperwork Reduction Act

The collections of information contained in the regulations being proposed today, as well as two additional collections that are related to but not provided for in the regulations being proposed today, have been submitted to the Office of Management and Budget ("OMB") for review in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3504(h). Comments concerning the collections of information, described below, and the accuracy of the estimated average annual burdens, and suggestions for reducing these burdens, should be directed to the Office of Management and Budget, Paperwork Reduction Project (agency code 1550), Washington, DC 20503, with copies to the Director, Information Services Division, Office of Communications Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

The two primary collections of information necessary to implement the mutual holding company concept are Reorganization Notices, see §§ 575.2(p) and 575.3(b), and minority stock issuance applications, see § 575.7. The Office has prepared, and submitted for OMB review, two forms (which are not contained in the regulations) that specify the information that must be submitted to the Office by associations seeking approval of mutual holding company reorganizations and minority stock issuances: Form MHC–1 (Reorganization Notice) and Form MHC–2 (minority issuance application). The information required by these Forms is necessary in order for the Office to fulfill its statutory function to review and approve or disapprove proposed mutual holding company reorganizations and related minority stock issuances. The likely respondents are mutual savings associations seeking to form mutual holding companies and subsidiary savings associations of mutual holding companies seeking to issue minority stock. The estimated reporting burden for completing a Reorganization Notice is 400 hours. The estimated reporting burden for completing a minority issuance application is 350 hours. It is estimated that there will be approximately ten Reorganization Notices filed per year and seven minority issuance applications. Thus, the estimated total annual reporting burden is 4000 hours for Reorganization Notices and 2450 hours for minority issuance applications.

Six other collections of information are provided for directly in the regulations being proposed today. Those collections of information are contained in § 575.4(d)(4) (documents filed in connection with automatic approvals of reorganizations), § 575.8(a)(12) (applications by insiders for approval of stock purchases within three years of stock issuances), § 575.11(b) (notices by mutual holding companies regarding pledges of stock), § 575.11(c) (applications by savings association subsidiaries of mutual holding companies for approval of stock repurchases), § 575.11(h) (reports by mutual holding companies on transactions involving management), and § 575.12(c) (applications by mutual holding companies for voluntary liquidation).

The certifications required by § 575.4(d)(4) are necessary in order to ensure that any reorganization that is automatically approved due to expiration of the time period for review by the Office will be conducted consistent with applicable laws and policies. Similar certifications are routinely required in approval orders issued by the Office on a case-by-case basis. The likely respondents are mutual savings associations whose Reorganization Notices have been automatically approved due to the passage of time. The estimated reporting burden per respondent is 6.0 hours. Since it is extremely rare that the Office allows any notice or application to be automatically approved due to the passage of time, the maximum number of instances in which mutual savings associations will be required to file § 575.4(d)(4) certifications in any given five-year period is estimated to be no more than one. Thus, the estimated total annual reporting burden is 1.2 hours.

The applications required by § 575.8(a)(12) are necessary to enable the Office to ensure that mutual holding company insiders do not utilize their superior knowledge of the savings association subsidiaries of their mutual holding companies to take advantage (or appear to take advantage) of other shareholders of such associations by purchasing stock in the secondary market at artificially low prices. The likely respondents are mutual holding company insiders and their associates. The estimated reporting burden per respondent is 4.0 hours. It is estimated that no more than two such applications will be filed in any given year. Thus, the estimated total annual reporting burden is 8.0 hours.

The notices required by § 575.11(b) are necessary in order to enable the Office to monitor pledges of stock by mutual holding companies and any events likely to result in seizure of the pledged stock by the pledgees. Such information is essential to ensure that pledges of stock by mutual holding companies are conducted in a safe and sound manner and to provide the Office with adequate time in which to respond to any defaults that may result in seizure of pledged stock. The likely respondents are mutual holding companies seeking to pledge the stock of subsidiary savings associations. The estimated reporting burden per respondent is 3.0 hours. Although there are no mutual holding companies at present, it is estimated that there will be approximately twenty such institutions within two years and that approximately six such institutions may engage in the type of activities that will require filing of the stock pledge notices

in any given year. Thus, the estimated total annual reporting burden is 18 hours.

The applications for approval of *pro rata* stock repurchases by savings association subsidiaries of mutual holding companies required by § 575.11(c) are necessary to ensure that such repurchases do not endanger the financial condition of the repurchasing association or result in unjust enrichment of insiders of the association, the association's mutual holding company, or others. The likely respondents are subsidiary savings associations of mutual holding companies that wish to conduct *pro rata* stock repurchases. The estimated annual reporting burden per respondent is 8.0 hours. It is estimated that, on average, no more than one such application will be filed per year. Thus, the estimated total annual reporting burden is 8.0 hours.

The reports required by § 575.11(h) are necessary (i) To enable the Office to monitor transactions between management of mutual holding companies and mutual holding companies or their affiliates for signs of abuse, and (ii) to assist the Office in determining whether additional regulatory restrictions should be imposed upon such transactions. The respondents will be mutual holding companies. The estimated annual reporting burden per respondent is 10.0 hours. As noted above, although there are no mutual holding companies at present, it is estimated that there will be approximately twenty such institutions within two years. Thus, the estimated total annual reporting burden is 200 hours.

Finally, the applications required by § 575.12(c) are necessary to enable the Office to review and approve or disapprove any proposed voluntary liquidation of a mutual holding company. Any such liquidation could present serious issues, such as potential windfall distributions to members of the mutual holding company. The likely respondents are mutual holding company's proposing to liquidate. The estimated annual reporting burden per respondent is 12.0 hours. Because liquidation applications are extremely rare in the mutual savings association context, it is anticipated they will also be extremely rare in the mutual holding company context. It is estimated that no more than one such application will be filed within any given ten-year period. Thus, the estimated total annual reporting burden is 1.2 hours.

It should be noted that the proposed regulations direct applicants to file more than three copies of the foregoing applications, notwithstanding 5 CFR 1320.6. See § 575.13 (b) and (d)(2). The Office's submission to OMB specifically requests permission to exceed the three-copy limitation of 5 CFR 1320.6. There are two primary reasons for requiring these additional copies. First, the Office is required by the Bank Merger Act to forward copies of all Reorganization Notices to the other federal banking agencies and to the Department of Justice. 12 U.S.C. 1828(c)(4).

Second, given the way the Office's regulations and decisionmaking delegations are structured, most applications filed with the Office (including those to be filed under the proposed mutual holding company regulations) require substantive input from multiple units of the Office. Section 571.12 of the Office's regulations requires all applications filed with the Office to be processed within relatively brief time frames. The Office's ability to comply with these time frames would be seriously jeopardized if it were required to take upon itself the burden of making multiple copies of each application filed with it for distribution to the relevant units of the Office for concurrent review. It is to the advantage of applicants to submit these extra copies since the processing time of their applications is thereby reduced.

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The Office has determined that this rule does not constitute a "major rule" and, therefore, the preparation of a regulatory impact analysis is not required.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small savings associations.

List of Subjects

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Saving associations, Securities, Surety bonds.

12 CFR Part 571

Accounting, Conflicts of interest, Gold, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 575

Capital, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office hereby proposes to amend subchapter D, chapter V, title 12, *Code of Federal Regulations*, as set forth below:

Subchapter D—Regulations Applicable to All Savings Associations

PART 563—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 982, as amended (42 U.S.C. 4106).

§ 563.22 [Amended]

2. Section 563.22(e)(1)(xv) is amended by removing the word "chapter" and adding in its place "subchapter or is part of a mutual holding company reorganization under part 575 of this subchapter".

PART 571—STATEMENTS OF POLICY

3. The authority citation for part 571 is revised to read as follows:

Authority: Sec. 552, 80 Stat. 383, as amended (5 U.S.C. 552); sec. 559, 80 Stat. 388, as amended (5 U.S.C. 559); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); and sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a).

§ 571.12 [Amended]

4. Section 571.12(d)(1)(i) is amended by inserting "§ 575.3(b) or" prior to the words "part 574".

5. A new part 575 is added to subchapter D to read as follows:

PART 575—MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

Sec.

575.1 Scope.
575.2 Definitions.
575.3 Mutual holding company reorganizations.
575.4 Grounds for disapproval of reorganizations.
575.5 Membership rights.
575.6 Contents of Reorganization Plans.
575.7 Issuances of stock by savings association subsidiaries of mutual holding companies.
575.8 Contents of Stock Issuance Plans.
575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.

Sec

575.10 Acquisition and disposition of savings associations, savings and loan holding companies, and other corporations by mutual holding companies.
575.11 Operating restrictions.
575.12 Conversion or liquidation of mutual holding companies.
575.13 Procedural requirements.

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828).

§ 575.1 Scope.

The purpose of this part is to implement the mutual holding company provisions of the Savings and Loan Holding Company Act, 12 U.S.C. 1467a(o).

§ 575.2 Definitions.

As used in this part, the following definitions apply, unless specified elsewhere in this part:

(a) The term *acquire association* means any savings association, other than a resulting association, that:

(1) Is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization; and

(2) Is in the mutual form immediately prior to such acquisition.

(b) The term *acting in concert* has the same meaning as specified in § 574.2(c) of this subchapter.

(c) The term *affiliate* means any person that controls, is controlled by, or is under common control with another person.

(d) The term *associate*, when used to indicate a relationship with any officer or director of a company or any affiliate thereof, means:

(1) Any corporation or organization (other than such company or any affiliate thereof) of which such person is a director, officer, or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities;

(2) Any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity (exclusive of any tax-qualified employee stock benefit plan);

(3) Any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of such company or any affiliate thereof; and

(4) Any person acting in concert with any of the persons or entities specified in paragraphs (d)(1) through (d)(3) of this section.

(e) The term *company* has the same meaning as specified in § 574.2(f) of this subchapter.

(f) The term *control* has the same meaning as specified in § 574.4 of this subchapter.

(g) The term *default* means any adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a mutual holding company or savings association subsidiary of a mutual holding company.

(h) The term *District Director* means the senior representative of the Director of the Office for all matters dealing with the examination and supervision of savings associations in the district in which any savings association seeking an approval or filing a document under this part has its principal office or in which any mutual holding company seeking an approval or filing a document under this part has its principal savings association business.

(i) The term *FDIC* means the Federal Deposit Insurance Corporation, as established by the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*

(j) The term *insider* means any officer or director of a company or of any affiliate of such company, and any person acting in concert with any such officer or director.

(k) The term *member* means any depositor or borrower of a mutual savings association that is entitled, under the charter of the savings association, to vote on matters affecting the association, and any depositor or borrower of a savings association subsidiary of a mutual holding company that is entitled, under the charter of the mutual holding company, to vote on matters affecting the mutual holding company.

(l) The term *mutual holding company* means a mutual savings and loan holding company organized under this part.

(m) The term *Office* means the Office of Thrift Supervision, established pursuant to 12 U.S.C. 1461 *et seq.*

(n) The term *parent*, when used to describe the relationship between two companies, means that the parent company controls the other company, either directly or indirectly through one or more subsidiaries.

(o) The term *person* means an individual or company.

(p) The term *Reorganization Notice* means a notice of a proposed mutual holding company reorganization that is in the form and contains the information required by the Office.

(q) The term *Reorganization Plan* means a plan to reorganize into the mutual holding company format containing the information required by § 575.6 of this part.

(r) The term *reorganizing association* means a mutual savings association that proposes to reorganize to become a mutual holding company pursuant to this part.

(s) The term *resulting association* means a savings association in the stock form that is organized as a subsidiary of a reorganizing association to receive the substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing association upon consummation of the reorganization.

(t) The term *stock* means common or preferred stock, or any other type of equity security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(u) The term *Stock Issuance Plan* means a plan providing for the issuance of stock by a savings association subsidiary of a mutual holding company submitted pursuant to § 575.7 of this part and containing the information required by § 575.8 of this part.

(v) The term *savings association* means a federal savings and loan association or a federal savings bank chartered under 12 U.S.C. 1464, a building and loan, savings and loan, or homestead association or a cooperative bank (other than a cooperative bank described in 12 U.S.C. 1813(a)(2)) the deposits of which are insured by the FDIC, and any corporation (other than a bank) the deposits of which are insured by the FDIC that the Office and the FDIC jointly determine to be operating in substantially the same manner as a savings association.

(w) The term *secondary market*, when used to describe stock purchases, means purchases made other than from the issuer or any underwriter or agent of the issuer.

(x) The term *subsidiary*, when used to describe the relationship between two companies, means that the subsidiary company is controlled by the other company, either directly or indirectly through one or more subsidiaries.

(y) The term *tax-qualified employee stock benefit plan* means any defined benefit plan or defined contribution plan (including an employee stock ownership plan, stock bonus plan, profit-sharing plan, or other plan) of a company or any of its affiliates, which, with its related

trust, meets the requirements to be *qualified* under section 401 of the Internal Revenue Code. The term *non-tax-qualified employee stock benefit plan* means any defined benefit plan or defined contribution plan of a company or any of its affiliates which is not so qualified.

§ 575.3 Mutual holding company reorganizations.

A mutual savings association may reorganize to become a mutual holding company, or join in a mutual holding company reorganization as an acquiree association, only upon satisfaction of the following conditions:

(a) A Reorganization Plan is approved by a majority of the board of directors of the reorganizing association and any acquiree association;

(b) A Reorganization Notice is filed with the Office and either:

(1) The Office has given written notice of its intent not to disapprove the proposed reorganization; or

(2) Sixty days (or such period of time as the Office may specify if the review period is extended under § 571.12(e) of this subchapter) have passed since the Office received the Reorganization Notice and deemed it sufficient under § 571.12(c) of this subchapter, and the Office has not given written notice that the proposed reorganization is disapproved;

(c) The Reorganization Plan is submitted to the members of the reorganizing association and any acquiree association pursuant to a proxy statement cleared in advance by the Office and such Reorganization Plan is approved by a majority of the total votes of the members of each association eligible to be cast at a meeting held at the call of each association's directors in accordance with the procedures prescribed by each association's charter and bylaws;

(d) All necessary approvals have been obtained from the Office and the FDIC and, if any subsidiary savings association is to be state-chartered, from state regulatory authorities in connection with the charter and bylaws of the mutual holding company, the resulting association, and any acquiree association, the insurance of accounts of the resulting association, the transfer of assets and liabilities of the reorganizing association to the resulting association, and the acquisition of any acquiree association, and all conditions specified in § 575.9(c)(5) of this part or otherwise imposed by the Office in connection with the issuance of a notice of intent not to disapprove under § 575.3(b)(1) of this part or by the Office, the FDIC, or the appropriate state authority in connection with the granting of the approvals specified in this paragraph have been satisfied; and

(e) The mutual holding company duly executes and delivers to the Office any regulatory capital maintenance, dividend limitation, merger, or other agreement that may be required by the Office.

§ 575.4 Grounds for disapproval of reorganizations.

(a) *Basic standards.* The Office may disapprove a proposed mutual holding company reorganization pursuant to § 575.3(b) of this part only if:

(1) Disapproval is necessary to prevent unsafe or unsound practices;

(2) The financial or managerial resources of the reorganizing association or any acquiree association warrant disapproval;

(3) The proposed capitalization of the mutual holding company fails to meet the requirements of paragraph (b) of this section;

(4) A stock issuance is proposed in connection with the reorganization pursuant to § 575.7 of this part that fails to meet the standards established by that section;

(5) The reorganizing association or any acquiree association fail to furnish the information required to be included in the Reorganization Notice or any other information requested by the Office in connection with the proposed reorganization; or

(6) The proposed reorganization would violate any provision of law, including (without limitation) § 575.3(a) and (c) of this part (regarding board of directors and membership approval) or § 575.5(a) of this part (regarding continuity of membership rights).

(b) *Capitalization.* (1) The Office shall disapprove a proposal by a reorganizing association or any acquiree association to capitalize a mutual holding company in an amount in excess of a nominal amount if immediately following the reorganization, the resulting association or the acquiree association will fail to meet the capital requirements of 12 CFR part 567 (or any higher capital requirements imposed upon the association pursuant to 12 U.S.C. 1464(s) and regulations of the Office promulgated thereunder).

(2) Proposals by reorganizing associations and acquiree associations to capitalize mutual holding companies shall also comply with any regulations or written policies of the Office governing capital distributions by savings associations in effect at the time of the reorganization. (Issuance by the Office of a notice of intent not to disapprove a mutual holding company reorganization pursuant to § 575.3(b) of this part, or failure by the Office to disapprove such a reorganization within the time prescribed in § 575.3(b) of this part, shall also be deemed to constitute approval under any regulation or written policy of the Office governing capital distributions by savings associations, if such approval is required, of the capitalization proposal set forth in the Reorganization Notice, subject to any conditions imposed by § 575.4(d)(2) of this part.)

(c) *Presumptive disqualifiers*—(1) *Managerial resources.* The factors specified in § 574.7(g)(1)(i) through (g)(1)(vi) of this subchapter shall give rise to a rebuttable presumption that the managerial resources test of paragraph (a)(2) of this section is not met. For this purpose, each place the term *acquiror* appears in § 574.7(g)(1)(i) through (g)(1)(vi) of this subchapter, it shall be read to mean the reorganizing association or any acquiree association, and the reference in paragraph (g)(1)(v) of § 574.7 of this subchapter to filings under this part shall be deemed to include filings under either part 574 of this subchapter or this part.

(2) *Safety and soundness and financial resources.* Failure by a reorganizing association and any acquiree association to submit a business plan in connection with a Reorganization Notice, or submission of a business plan that projects activities that are inconsistent with economical home financing or that fails to demonstrate that the capital of the mutual holding company will be deployed in a safe and sound manner, shall give rise to a rebuttable presumption that the safety and soundness and financial resources tests of paragraphs (a)(1) and (a)(2) of this section are not met.

(d) *Failure of the Office to act on a Reorganization Notice within the prescribed time period.* A proposed reorganization that obtains regulatory clearance from the Office due to the operation of § 575.3(b)(2) of this part may take place in the manner proposed, subject to the following conditions:

(1) The reorganization shall be consummated within one year of the date of the expiration of the Office's review period under § 575.3(b)(2) of this part;

(2) The mutual holding company shall not be capitalized in an amount in excess of what is permissible under § 575.4(b) of this part or, if lesser, an amount in excess of any safe-harbor thresholds set forth in any regulations or policies of the Office governing capital distributions by savings associations;

(3) No request for regulatory waivers or forbearances shall be deemed granted;

(4) The following information shall be submitted within the specified time frames:

(i) On the business day prior to the date of the reorganization, the chief financial officers of the reorganizing association and any acquiree association shall certify to the District Director in writing that no material adverse events or material adverse changes have occurred with respect to the financial condition or operations of their respective associations since the date of the financial statements submitted with the Reorganization Notice;

(ii) No later than thirty days after the reorganization, the mutual holding company shall file with the District Director a certification by legal counsel stating the effective date of the reorganization, the exact number of shares of stock of the resulting association and any acquiree association acquired by the mutual holding company and by other persons, and that the reorganization has been consummated in accordance with § 575.3 of this part and all other applicable laws and regulations and the Reorganization Notice;

(iii) No later than thirty days after the reorganization, the mutual holding company shall file with the District Director an opinion from its independent auditors certifying that the reorganization was consummated in accordance with generally accepted accounting principles; and

(iv) No later than thirty days after the reorganization, the mutual holding company shall file with the District Director a certification stating that the mutual holding company will not deviate materially, or cause its savings association subsidiaries to deviate materially, from the business plan submitted in connection with the Reorganization Notice, unless prior written approval from the District Director is obtained.

§ 575.5 Membership rights.

(a) *Depositors and borrowers of resulting associations, acquiree associations, and associations in mutual form when acquired.* The charter of a mutual holding company must:

(1) Confer upon the depositors of the resulting association the same membership rights in the mutual holding company as were conferred upon depositors by the charter of the reorganizing association as in effect immediately prior to the reorganization;

(2) Confer upon the depositors of any acquiree association or any association that is in the mutual form when acquired by the mutual holding company the same membership rights in the mutual holding company as were conferred upon depositors by the charter of the acquired association immediately prior to acquisition, unless the acquired association is merged into another association from which the mutual holding company draws members, in which case the depositors of the acquired association shall receive the same membership rights as the depositors of the association into which the acquired association is merged;

(3) Confer upon the borrowers of the resulting association who are borrowers at the time of reorganization the same membership rights in the mutual holding company as were conferred upon them by the charter of the reorganizing association immediately prior to reorganization, but shall not confer any membership rights in connection with any borrowings made after the reorganization; and

(4) Confer upon the borrowers of any acquiree association or any association that is in the mutual form when acquired by the mutual holding company who are borrowers at the time of the acquisition the same membership rights in the mutual holding company as were conferred upon them by the charter of the acquired association immediately prior to acquisition, but shall not confer any membership rights in connection with any borrowings made after the acquisition, *provided that* if the acquired association is merged into another association from which the mutual holding company draws members, the borrowers of the acquired association shall instead receive the same grandfathered membership rights as the borrowers of the association into which the acquired association is merged received at the time that association became a subsidiary of the mutual holding company.

(b) *Depositors and borrowers of associations in the stock form when acquired.* A mutual holding company that acquires a savings association in the stock form, other than a resulting association or an acquiree association, shall not confer any membership rights upon the depositors and borrowers of such association, unless such association is merged into an association from which the mutual holding company draws members, in which case the depositors of the stock association shall receive the same membership rights as other depositors of the association into which the stock association is merged

§ 575.6 Contents of Reorganization Plans.

Each Reorganization Plan shall contain a complete description of all significant terms of the proposed reorganization, shall attach and incorporate any Stock Issuance Plan proposed in connection with the Reorganization Plan, and shall:

(a) Provide for amendment of the charter and bylaws of the reorganizing association to read in the form of the charter and bylaws of a mutual holding company, and attach and incorporate such charter and bylaws.

(b) Provide for the organization of the resulting association, which shall be an interim federal or state savings association subsidiary of the reorganizing association, and attach and incorporate the proposed charter and bylaws of such association.

(c) Provide for amendment of the charter and bylaws of any acquiree association to read in the form of the charter and bylaws of a state or federal savings association in the stock form (as modified by § 575.9(b) of this part), and attach and incorporate such charter and bylaws.

(d) Provide that, upon consummation of the reorganization, substantially all of the assets and liabilities (including all savings accounts, demand accounts, tax and loan accounts, United States Treasury General Accounts, or United States Treasury Time Deposit Open Accounts, as defined in part 561 of this subchapter) of the reorganizing association shall be transferred to the resulting association, which shall thereupon become an operating savings association subsidiary of the mutual holding company.

(e) provide that all assets, rights, obligations, and liabilities of whatever nature of the reorganizing association that are not expressly retained by the mutual holding company shall be deemed transferred to the resulting association.

(f) Provide that each depositor in the reorganizing association or any acquiree association immediately prior to the reorganization shall upon consummation of the reorganization receive, without payment, an identical account in the resulting association or the acquiree association, as the case may be. (Appropriate modifications should be made to this provision if savings associations are being merged as a part of the reorganization.)

(g) Provide that the Reorganization Plan as adopted by the boards of directors of the reorganizing association and any acquiree association may be substantively amended by those boards of directors as a result of comments

from regulatory authorities or otherwise prior to the solicitation of proxies from the members of the reorganizing association and any acquiree association to vote on the Reorganization Plan and at any time thereafter with the concurrence of the Office; and that the reorganization may be terminated by the board of directors of the reorganizing association or any acquiree association at any time prior to the meeting of the members of the association called to consider the Reorganization Plan and at any time thereafter with the concurrence of the Office.

(h) Provide that the Reorganization Plan shall be terminated if not completed within a specified period of time. (The time period shall not be more than 24 months from the date upon which the members of the reorganizing association or the date upon which the members of any acquiree association, whichever is earlier, approve the Reorganization Plan and may not be extended by the reorganizing association, the acquiree association, or the Office.)

(i) Provide that the expenses incurred in connection with the reorganization shall be reasonable.

§ 575.7 Issuances of stock by savings association subsidiaries of mutual holding companies.

(a) *Approval requirements.* No savings association subsidiary of a mutual holding company (including any resulting association or acquiree association) may issue stock to persons other than its mutual holding company parent in connection with a mutual holding company parent in connection with a mutual holding company reorganization, or at any time subsequent to the association's acquisition by the mutual holding company, unless the association obtains advance approval of each such issuance from the Office. Issuance by the Office of a notice of intent not to disapprove a mutual holding company reorganization pursuant to § 575.3(b) of this part, or failure by the Office to disapprove such a reorganization within the time prescribed in § 575.3(b) of this part, shall be deemed to constitute approval of any stock issuance proposed in connection with the reorganization. The Office shall approve any proposed issuance that meets each of the criteria set forth below in paragraphs (a)(1) through (a)(7) of this section.

(1) The proposed issuance is to be made pursuant to a Stock Issuance Plan that contains all the provisions required by § 575.8 of this part.

(2) The Stock Issuance Plan is consistent with the terms of the association's charter (or any proposed amendments thereto), including terms governing the type and amount of stock that may be issued.

(3) The Stock Issuance Plan would provide the association, its mutual holding company parent, and any other savings association subsidiaries of the mutual holding company with fully sufficient capital and would not be inequitable or detrimental to the association or its mutual holding company parent or to members of the mutual holding company parent.

(4) The proposed price or price range of the stock to be issued is reasonable. (The Office shall review the reasonableness of the proposed price or price range in accordance with paragraph (b) of this section.)

(5) The aggregate amount of outstanding common stock of the association owned or controlled by persons other than the association's mutual holding company parent at the close of the proposed issuance shall be less than 50% of the association's total outstanding common stock, unless the association was a stock association when acquired by the mutual holding company and is not a resulting association or an acquiree association, in which case the foregoing restriction shall not apply. Any amount of preferred stock may be issued by any savings association subsidiary of a mutual holding company to persons other than the association's mutual holding company, consistent with any other applicable laws and regulations.

(6) The association furnishes the information required by the Office in connection with the proposed issuance.

(7) The proposed issuance complies with all other applicable laws and regulations.

(b) *Pricing of stock.* Each application for approval of a proposed stock issuance shall state the price at which the stock is proposed to be sold, or, if it is not possible to specify the exact price at the time of filing the application, then the application shall state the estimated price range. The maximum of any such price range should normally be no more than 15% above the average of the minimum and maximum of such price range, and the minimum should normally be no more than 15% below such average. The application shall include information, as specified below, supporting the reasonableness of the proposed price or price range. In considering the reasonableness of the proposed price or price range, the Office will apply the guidelines set forth below in paragraphs (b)(1) through (b)(5) of this section.

(1) The materials supporting the proposed price or price range shall demonstrate to the satisfaction of the Office that they were prepared by persons independent of the association who are experienced and expert in the area of corporate appraisals. (A person will not be considered to be lacking in independence merely because he or she will participate in effecting a sale of the stock under the Stock Issuance Plan or will receive a fee from the association for services rendered in connection with preparation of the pricing materials.)

(2) The materials supporting the proposed price or price range shall contain a brief summary of data that is sufficient to support the conclusions reached therein.

(3) To the extent the proposed price or price range is based upon a capitalization of the *pro forma* income of the association after the issuance of the stock, the materials must indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent the proposed price or price range is based upon comparison of the stock of the association with outstanding stock of existing stock associations, such existing stock associations must be reasonably comparable to the issuing association in terms of size, market area, competitive conditions, profit history, expected future earnings, and other relevant factors.

(4) To the extent the proposed price or price range includes any discount due to the minority status of the stock to be offered, the materials must indicate the amount of the discount and how that amount was determined.

(5) In addition to the information required by paragraphs (b)(1) through (b)(4) of this section, an association proposing to issue stock shall file with the Office such additional information with respect to the pricing of the stock of the association as the Office may request.

(c) *Related approvals.* Approval by the Office of any stock issuance pursuant to this section shall also be deemed to constitute:

(1) Approval under § 563.1 of this subchapter of the form of stock certificate proposed to be utilized in connection with the stock issuance, provided such form was included in the application materials filed pursuant to this section; and

(2) Preliminary approval under § 552.4 of this chapter and approval under § 563.1 of this subchapter of any charter or bylaw amendment required to authorize issuance of the stock, provided such amendment was proposed in the application materials filed pursuant to this section.

(d) *Offering restrictions.* (1) No representations may be made in any manner in connection with the offer or sale of any stock issued pursuant to this section that the price or price range of the stock has been approved or disapproved by the Office or that the Office has endorsed the accuracy or adequacy of any offering circular disseminated in connection with such stock.

(2) Any stock issuance approved by the Office pursuant to this section must be completed within 45 days of such approval, unless an extension is granted by the Office.

(3) In the offer, sale, or purchase of stock issued pursuant to this section, no person shall:

(i) Employ any device, scheme, or artifice to defraud; or

(ii) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(iii) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

(4) Prior to the completion of a stock issuance pursuant to this section, no person shall transfer, or enter into any agreement or understanding to transfer, the legal or beneficial ownership of the stock to be issued to any other person.

(5) Prior to the completion of a stock issuance pursuant to this section, no person shall make any offer, or any announcement of any offer, to purchase any stock to be issued, or knowingly acquire any stock in the issuance, in excess of the maximum purchase limitations established in the Stock Issuance Plan.

§ 575.8 Contents of Stock Issuance Plans.

(a) *Mandatory provisions.* Each Stock Issuance Plan shall contain a complete description of all significant terms of the proposed stock issuance (including the information specified in § 563b.27(a) of this subchapter to the extent known), shall attach and incorporate the proposed form of stock certificate, the proposed stock order form, and any agreements or other documents defining the rights of the stockholders, and shall:

(1) Provide that the stock shall be sold at a total price equal to the estimated *pro forma* market value of such stock, based upon an independent valuation, as provided in § 575.7(b) of this part.

(2) Provide that the aggregate amount of outstanding common stock of the association owned or controlled by persons other than the association's mutual holding company parent at the close of the proposed issuance shall be less than fifty percent of the association's total outstanding common stock. (This provision may be omitted if the proposed issuance will be conducted by an association that was in the stock form when acquired by its mutual holding company parent, provided the association is not a resulting association or an acquiree association.)

(3) Provide that the aggregate amount of common stock acquired in the proposed issuance, plus all prior issuances of the association, by any non-tax-qualified employee stock benefit plan of the association or any insider of the association and his or her associates, exclusive of any stock acquired by said plan or insider and his or her associates in the secondary market, shall not exceed ten percent of the outstanding shares of common stock of the association held by persons other than the association's mutual holding company parent at the close of the proposed issuance. In calculating the number of shares held by any insider or associate under this provision or the provision in paragraph (a)(4) of this section, shares held by any tax-qualified or non-tax-qualified employee stock benefit plan of the association that are attributable to such person shall not be counted.

(4) Provide that the aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the association, by any non-tax-qualified employee stock benefit plan of the association or any insider of the association and his or her associates, exclusive of any stock acquired by said plan or insider and his or her associates in the secondary market, shall not exceed ten percent of the stockholders' equity of the association held by persons other than the association's mutual holding company parent at the close of the proposed issuance.

(5) Provide that the aggregate amount of common stock acquired in the proposed issuance, plus all prior issuances of the association, by any one or more tax-qualified employee stock benefit plans of the association, exclusive of any stock acquired by such plans in the secondary market, shall not exceed ten percent of the outstanding shares of common stock of the association held by persons other than the association's mutual holding company parent at the close of the proposed issuance.

(6) Provide that the aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the association, by any one or more tax-qualified employee stock benefit plans of the association, exclusive of any stock acquired by such plans in the secondary market, shall not exceed ten percent of the stockholders' equity of the association held by persons other than the association's mutual holding company parent at the close of the proposed issuance.

(7) Provide that the aggregate amount of common stock acquired in the proposed issuance, plus all prior issuance of the association, by all non-tax-qualified employee stock benefit plans of the association, insiders of the association, and associates of insiders of the association, exclusive of any stock acquired by said plans, insiders, and associates in the secondary market, shall not exceed thirty-five percent of the outstanding shares of common stock of the association held by persons other than the association's mutual holding company parent at the close of the proposed issuance if the association has less that $50 million in total assets prior to the issuance or twenty-five percent of such outstanding shares if the association has more than $500 million in total assets prior to the issuance. If the association as between $50 million and $500 million in total assets prior to the issuance, the maximum percentage shall be equal to thirty-five percent minus one percent multiplied by the quotient of total assets less $50 million divided by $45 million. (*See* example calculation set forth in § 563b.3(c)(8) of this subchapter.) In calculating the number of shares held by insiders and their associates under this provision or the provision in paragraph (a)(8) of this section, shares held by any tax-qualified or non-tax qualified employee stock benefit plan of the association that are attributable to such persons shall not be counted.

(8) Provide that the aggregate amount of stock, whether common or preferred, acquired in the proposed issuance, plus all prior issuances of the association, by all non-tax-qualified employee stock benefit plans of the association, insiders of the association, and associates of insiders of the association, exclusive of any stock acquired by said plans, insiders, and associates in the secondary market, shall not exceed thirty-five percent of the stockholders' equity of the association held by persons other than the association's

mutual holding company parent at the close of the proposed issuance if the association has less than $50 million in total assets prior to the issuance or twenty-five percent of such stockholders' equity if the association has more than $500 million in total assets prior to the issuance. If the association has between $50 million and $500 million in total assets prior to the proposed issuance, the maximum percentage shall be equal to thirty-five percent minus one percent multiplied by the quotient of total assets less $50 million divided by $45 million. (*See* example calculation set forth in § 563b.3(c)(8) of this subchapter.)

(9) Provide that the issuance shall be conducted in compliance with 12 CFR part 563g.

(10) Provide that, if at the close of the stock issuance the association has more than thirty-five shareholders of any class of stock, the association shall promptly register that class of stock pursuant to the Securities Exchange Act of 1934 and undertake not to deregister such stock for a period of three years thereafter.

(11) Provide that, if at the close of the stock issuance the association has more than one hundred shareholders of any class of stock, the association shall use its best efforts to:

(i) Encourage and assist a market maker to establish and maintain a market for that class of stock; and

(ii) List that class of stock on a national or regional securities exchange or on the NASDAQ quotation system.

(12) Provide that, for a period of three years following the proposed issuance, no insider of the association or his or her associates shall purchase, without the prior written approval of the Office, any stock of the association except from a broker dealer registered with the Securities and Exchange Commission, except that the foregoing restriction shall not apply to:

(i) Negotiated transactions involving more than one percent of the outstanding stock in the class of stock; or

(ii) Purchases of stock made by and held by any tax-qualified or non-tax-qualified employee stock benefit plan of the association even if such stock is attributable to insiders of the association or their associates.

(13) Provide that stock purchased by insiders of the association and their associates in the proposed issuance shall not be sold for a period of at least three years following the date of purchase, except in the case of death of the insider or associate.

(14) Provide that, in connection with stock subject to restriction on sale for a period of time:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of such restriction;

(ii) Appropriate instructions shall be issued to the association's transfer agent with respect to applicable restrictions on transfer of such stock; and

(iii) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restrictions as apply to the restricted stock.

(15) Provide that the association will not offer or sell any of the stock proposed to be issued to any person whose purchase would be financed by funds loaned to the person by the association or any of its affiliates.

(16) Provide that, if necessary, the association's charter will be amended to authorize issuance of the stock and attach and incorporate the text of any such amendment.

(17) Provide that the expenses incurred in connection with the issuance shall be reasonable.

(18) Provide that the Stock Issuance Plan, if proposed as part of a Reorganization Plan, may be amended or terminated in the same manner as the Reorganization Plan. Otherwise, the Stock Issuance Plan shall provide that it may be substantively amended by the board of directors of the issuing association as a result of comments from regulatory authorities or otherwise prior to approval of the Plan by the Office, and at any time thereafter with the concurrence of the Office; and that the Stock Issuance Plan may be terminated by the board of directors at any time prior to approval of the Plan by the Office, and at any time thereafter with the concurrence of the Office.

(19) Provide that the Stock Issuance Plan shall be terminated if not completed within 45 days from the date of approval by the Office, unless and extension is approved by the Office.

(b) *Optional provisions.* A Stock Issuance Plan may:

(1) Provide that, in the event the proposed stock issuance is part of a Reorganization Plan, the stock offering may be commenced concurrently with or at any time after the mailing to the members of the reorganizing association and any acquiree association of any proxy statement(s) authorized for use by the Office. The offering may be closed before the required membership vote(s), provided the offer and sale of the stock shall be conditioned upon the approval of the Reorganization Plan and Stock Issuance Plan by the members of the reorganizing association and any acquiree association.

(2) Provide that any insignificant residue of stock of the association not sold in the offering may be sold in such other manner as provided in the Stock Issuance Plan, with the Office's approval.

(3) Provide that the association may issue and sell, in lieu of shares of its stock, units of securities consisting of stock and long-term warrants or other equity securities, in which event any reference in the provisions of this section and in § 575.7 of this part to stock shall apply to such units of equity securities unless the context otherwise requires.

§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.

(a) *Charters and bylaws for mutual holding companies*—(1) *Charters.* The charter of a mutual holding company shall be in the form set forth below and may include any of the additional provisions permitted pursuant to paragraph (a)(2) of this section.

Charter

Section 1: Corporate title. The name of the mutual holding company hereby chartered is _____ (the "Mutual Company").

Section 2: Duration. The duration of the Mutual Company is perpetual.

Section 3: Purpose and powers. The purpose of the Mutual Company is to pursue any or all of the lawful objectives of a federal mutual savings and loan holding company chartered under section 10(o) of the Home Owners' Loan Act, 12 U.S.C. 1467a(o), and to exercise all of the express, implied, and incidental powers conferred thereby and all acts amendatory thereof and supplemental thereto, subject to the Constitution and the laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Office of Thrift Supervision ("Office").

Section 4: Capital. The Mutual Company shall have no capital stock.

Section 5: Members. [The content of this section 5 shall be identical to the content of the parallel section in the charter of the reorganization association, with the following exceptions: (A) Any provisions conferring membership rights upon borrowers of the reorganizing association shall be eliminated and replaced with provisions grandfathering those rights in accordance with 12 CFR 575.5; and (B) appropriate changes shall be made to indicate that membership rights in the mutual holding company derive from deposit accounts in and, to the extent of any grandfather provisions, borrowings from the resulting association. Set forth below is an example of how section 5 should appear in the charter of a mutual holding company formed by a reorganizing association whose charter conforms to the model charter prescribed for federal mutual savings

associations for calendar year 1989. Additional changes to this section 5 may be required whenever a mutual holding company reorganization involves an acquiree association, or a mutual holding company makes a post-reorganization acquisition of a mutual savings association, so as to preserve the membership rights of the members of the acquired association consistent with 12 CFR 575.5.)

All holdings of the savings, demand, or other authorized accounts of _____ (insert the name of the resulting association) (the "Association") are members of the Mutual Company. With respect to all questions requiring action by the members of the Mutual Company, each holder of an account in the Association shall be permitted to cast one vote for each $100, or fraction thereof, of the withdrawal value of the member's account. In addition, borrowers from the Association as of _____ (insert the date of the reorganization or any earlier date as of which new borrowings ceased to result in membership rights) shall be entitled to one vote for the period of time during which such borrowings are in existence. (The foregoing sentence should be included only if the charter of the reorganizing association confers voting rights on any borrowers.) No member, however, shall cast more than one thousand votes. Voting may be by proxy, subject to the rules and regulations of the Office. Any number of members present and voting, represented in person or by proxy, at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of the members shall determine any question, subject to the rules and regulations of the Office. All accounts shall be nonassessable.

Section 6: Directors. The Mutual Company shall be under the direction of a board of directors. The authorized number of directors shall not be fewer than five nor more than fifteen, as fixed in the Mutual Company's bylaws, except that the number of directors may be increased to a number greater than fifteen with the prior approval of the Office. Each director of the Mutual Company shall be a member of the Mutual Company. Members of the Mutual Company shall elect the directors, provided that, in the event of a vacancy on the board, the board of directors may fill such vacancy, if the members of the Mutual Company fail to do so, by electing a director to serve until the next annual meeting of members. Directors shall be elected for periods of three years and until their successors are elected and qualified, except that provision shall be made for the election of approximately one-third of the board each year.

Section 7: Capital, surplus, and distribution of earnings. (The content of this section 7 shall be identical to the content of the parallel section in the charter of the reorganizing association, except for changes made to indicate that distribution rights in the mutual holding company derive from deposit accounts in the resulting association, any changes required to provide that the Director of the Office shall be the approving authority in instances where the charter requires regulatory approval of distributions, and any other changes necessary to accommodate the mutual holding company format. Set forth below is an example of how section 7 should appear in the charter of a mutual holding company formed by a reorganizing association whose charter conforms to the model charter prescribed for federal mutual savings associations for calendar year 1989. Additional changes to this section 7 may be required whenever a mutual holding company reorganization involves an acquiree association, or a mutual holding company makes a post-reorganization acquisition of a mutual savings association, so as to preserve the membership rights of the members of the acquired association consistent with 12 CFR 575.5.)

The Mutual Company shall distribute net earnings to account holders of the Association on such basis and in accordance with such terms and conditions as may from time to time be authorized by the Director of the Office, provided that the Mutual Company may establish minimum account balance requirements for account holders to be eligible for distributions of earnings.

All holders of accounts of the Association shall be entitled to equal distribution of the assets of the Mutual Company, *pro rata* to the value of their accounts in the Association, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the Mutual Company.

Section 8. Amendment. Adoption of any preapproved charter amendment pursuant to § 575.9(a)(2) of the Office's rules and regulations shall be effective upon filing the amendment with the Office in accordance with regulatory procedures, after such preapproved amendment has been submitted to and approved by the members at a legal meeting. Any other amendment, addition, change, or repeal of this charter must be submitted to and preliminarily approved by the Office prior to submission to and approval by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective upon filing with the Office in accordance with regulatory procedures.

By: _____

President and Chief Executive Officer of the Mutual Company

Attest: _____

Secretary of the Mutual Company

OFFICE OF THRIFT SUPERVISION

By: _____

[Title]

Attest: _____

Secretary of the Office of Thrift Supervision

Date: _____

(2) *Charter Amendments.* The rules and regulations set forth in § 544.2 of this chapter regarding charter amendments and reissuances of charters (including delegations and filing instructions) shall be applicable to mutual holding companies to the same extent as if mutual holding companies were federal mutual savings associations, except that, with respect to the pre-approved charter amendments set forth in § 544.2 of this chapter, paragraphs (b)(1) and (b)(3) of § 544.2 shall not apply to mutual holding companies, references to "association" in the text of the mutual capital certificate charter provision in paragraph (b)(4) of § 544.2 shall be replaced with references to the "Mutual Company", and mutual holding companies changing their corporate title pursuant to paragraph (b)(2) of § 544.2 shall be required to comply with § 575.9(a)(3) of this part as well as § 543.1(b) of this chapter.

(3) *Corporate title.* The corporate title of each mutual holding company shall include the term "mutual".

(4) *Bylaws.* The rules and regulations set forth in § 544.5 of this chapter regarding bylaws (including their content, any amendments thereto, delegations, and filing instructions) shall be applicable to mutual holding companies to the same extent as if mutual holding companies were federal mutual savings associations. The model bylaws for federal mutual savings associations set forth in the appendix to part 544 of this chapter shall also serve as the model bylaws for mutual holding companies, except that the term "association" each time it appears therein shall be replaced with the term "Mutual Company"; section 11(e) (extending leniency to borrowing members) and section 11(f) (rejection of applications for accounts or membership) shall be removed and the remaining paragraphs of section 11 redesignated accordingly; and modifications shall be to section 18 (emergency preparedness) to eliminate provisions that have no application to an entity that does not serve as a financial depository.

(5) *Availability of charter and bylaws.* A mutual holding company shall make available to its members at all times in the offices of each subsidiary savings association from which the mutual holding company draws members a true copy of its charter and bylaws, including any amendments, and shall deliver such a copy to any member upon request. Mutual holding companies shall also be subject to the provisions of § 545.131 of this chapter.

(b) *Charters and bylaws of subsidiary savings associations of mutual holding companies.* Except as specified otherwise by the Office in any notice of intent not to disapprove a mutual holding company reorganization or in any regulation or order, each subsidiary savings association of a mutual holding company shall be subject to the same rules and regulations regarding charters and bylaws as are applicable to stock savings associations that are chartered by the Office, 12 CFR part 552, or by the

appropriate state chartering authority, as the case may be, *provided* that the charter of each resulting association, each acquiree association, and each mutual savings association that is acquired by a mutual holding company shall contain the provision set forth below:

In any situation in which the priority of the accounts of the association is in controversy, all such accounts shall, to the extent of their withdrawable value, be debts of the association having at least as high a priority as the claims of general creditors of the association not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association.

(c) *Approval of charters and bylaws of mutual holding companies and their savings association subsidiaries in connection with Reorganization Plans.* (1) Issuance by the Office of a notice of intent not to disapprove a reorganization pursuant to § 575.3(b) of this part, or failure by the Office to disapprove such a reorganization within the time prescribed in § 575.3(b) of this part, shall be deemed to constitute:

(i) Approval pursuant to § 575.3(d) of this part and this section for the reorganizing association to amend its charter and bylaws in their entirety to read in the form of the mutual holding company charter and bylaws proposed in the Reorganization Notice (as modified by any conditions imposed by the Office in its notice of intent not to disapprove or paragraph (c)(2) of this section and subject to paragraph (c)(5) of this section);

(ii) Approval pursuant to § 563.1 of this subchapter and, if the Reorganization Plan provides that the resulting association is to be federally chartered, pursuant to 12 U.S.C. 1464 (a) and (e) and §§ 552.2–1 and 552.2–2 of this chapter of the organization of the resulting association and the proposed charter and bylaws of such association (as modified by any conditions imposed by the Office in its notice of intent not to disapprove or by paragraph (c)(2) of this section and subject to paragraph (c)(5) of this section); and

(iii) Approval pursuant to § 563.1 of this subchapter and, if the Reorganization Plan provides that the acquiree association is to be federally chartered, pursuant to § 552.4 of this chapter of the amendment of the existing charter of the acquiree association in its entirety to read in the form of the proposed charter and bylaws of such association (as modified by any conditions imposed by the Office in its notice of intent not to disapprove or paragraph (c)(2) of this section and subject to paragraph (c)(5) of this section).

(2) In the event the charter and bylaws of a mutual holding company and of any federally-chartered resulting association or acquiree association are approved pursuant to paragraph (c)(1) of this section due to failure of the Office to disapprove a Reorganization Notice within the time prescribed in § 575.3(b) of this part, such approval shall be subject to the condition that such charter(s) and bylaws shall conform in every particular to the model charter(s) and bylaws for mutual holding companies and/or federal stock savings associations, as the case may be, as set forth in the Office's regulations.

(3) Promptly after approval of the amendment of the charter of a reorganizing association to read in the form of a mutual holding company charter pursuant to paragraph (c)(1) of this section, the Office shall issue an executed copy of such charter to the reorganizing association. Such charter shall not become effective until consummation of the Reorganization Plan, at which point in time it shall replace and nullify the charter of the reorganizing association. The charter of the reorganizing association shall be surrendered to the Office within five days after consummation of the Reorganization Plan. If the Reorganization Plan is terminated for any reason, the charter of the mutual holding company shall become immediately null and void and shall be returned to the Office within five days.

(4) Promptly after approval of any federal charter for a resulting association pursuant to paragraph (c)(1) of this section or approval of the amendment of any federal charter of an acquiree association pursuant to paragraph (c)(1) of this section, the Office shall issue an executed copy of such charter(s) to the reorganizing association and/or the acquiree association, as the case may be.

(i) Prior to consummation of the Reorganization Plan, the resulting association (whether chartered under federal or state law) shall constitute an interim savings association subsidiary of the reorganizing association and shall not accept any deposits or engage in any other business activities except for those activities necessary to consummate the Reorganization Plan. If the Reorganization Plan is terminated for any reason, the charter of the resulting association shall immediately become null and void and, if the resulting association is federally chartered, the charter shall be returned to the Office within five days.

(ii) Any amended charter issued to an acquiree association (whether by the Office or the appropriate state authority) shall not become effective until consummation of the Reorganization Plan, at which point in time it shall replace and nullify the prior charter of the acquiree association. The prior charter of any federally-chartered acquiree association shall be surrendered to the Office within five days after consummation of the Reorganization Plan. If the Reorganization Plan is terminated for any reasons, the amended charter of the acquiree association shall become immediately null and void and, if the acquiree association is federally chartered, the amended charter shall be returned to the Office within five days.

(5) Approval of the amendment of the charter and bylaws of the reorganizing association to read in the form of the charter and bylaws of a mutual holding company and of any acquiree association to read in the form of a stock association and approval of the organization of any resulting association and of its charter and bylaws pursuant to paragraph (c)(1) of this section shall be subject to any conditions subsequent that the Office may impose in connection therewith or with its notice of intent not to disapprove the reorganization.

§ 575.10 Acquisition and disposition of savings associations, savings and loan holding companies, and other corporations by mutual holding companies.

(a) *Acquisitions.*—(1) *Stock savings associations.* A mutual holding company may acquire control of a savings association that is in the stock form, provided the necessary approvals are obtained from the Office, including (without limitation) approval pursuant to part 574 of this subchapter and, if the acquisition involves a merger or transfer of assets or liabilities, approval pursuant to §§ 552.13, 563.22, and 571.5 and part 546 of this chapter, as appropriate.

(2) *Mutual savings associations.* A mutual holding company may acquire a savings association in the mutual form by merger of such association into any subsidiary savings association of such holding company from which the holding company draws members or into an interim savings association subsidiary of the mutual holding company, provided:

(i) The proposed acquisition is approved by a majority of the board of directors of the mutual association;

(ii) The proposed acquisition is submitted to the mutual assiciation's

members pursuant to a proxy statement authorized for use by the Office and such acquisition is approved by a majority of the total votes of the association's members eligible to be cast at a meeting held at the call of the association's directors in accordance with the procedures prescribed by the association's charter and bylaws;

(iii) The necessary approvals are obtained from the Office, including (without limitation) approval pursuant to part 574 of this subchapter and §§ 552.13, 563.22, and 571.5 and part 546 of this chapter, as appropriate, and any approvals required to form an interim association, to amend the charter and bylaws of the association being acquired, and/or to amend the charter and bylaws of the mutual holding company consistent with 575.6(a) of this part; and

(iv) The approval of the members of the mutual holding company is obtained, if the Office advises the mutual holding company in writing that such approval will be required.

(3) *Mutual holding companies.* A mutual holding company may acquire control of another mutual holding company by merging with or into such company, privided the necessary approvals are obtained from the Office, including (without limitation) approval pursuant to part 574 of this subchapter. The approval of the members of the mutual holding companies shall also be obtained if the Office advises the mutual holding companies in writing that such approval will be required.

(4) *Stock holding companies.* A mutual holding company may acquire control of a savings and loan holding company in the stock form, provided the necessary approvals are obtained from the Office, including (without limitation) approval pursuant to part 574 of this subchapter. The acquired holding company may be held as a subsidiary of the mutual holding company or merged into the mutual holding company.

(5) *Non-controlling acquisitions of savings association stock.* A mutual holding company may acquire non-controlling amounts of the stock of savings associations and savings and loan holding companies subject to the restrictions imposed by 12 U.S.C. 1467a (e) and (q) and §§ 574.8 and 584.4 of this chapter.

(6) *Other corporations.* A mutual holding company may acquire control of, and make non-controlling investments in the stock of, any corporation other than a savings association or savings and loan holding company only if:

(i) (A) Such corporation is engaged exclusively in activities that are permissible for mutual holding companies pursuant to § 575.11(a) of this part; or

(B) It is lawful for the stock of such corporation to be purchased:

(*1*) By a federal savings association under § 545.74 of this chapter or by a state savings association under the law of any state where any subsidiary savings association of the mutual holding company has its home office; and

(*2*) Such purchase is permissible under 12 U.S.C. 1828(m)(3); and

(ii) Such corporation is not controlled, directly or indirectly, by a savings association subsidiary of the mutual holding company.

(b) *Dispositions.* (1) A mutual holding company may not at any time, directly or indirectly, transfer any of the stock which it holds in a resulting association, an acquiree association, or any subsidiary savings association that was in the mutual form when acquired by the mutual holding company, except for stock transferred in connection with a pledge pursuant to § 575.11(b) of this part. Nor may a mutual holding company cause or permit the transfer of all or a substantial portion of the assets or liabilities of any such association.

(2) A mutual holding company may, subject to applicable laws and regulations, transfer any or all of the stock or cause or permit the transfer of any or all of the assets and liabilities of:

(i) Any subsidiary savings association that was in the stock form when acquired, provided such association is not a resulting association or an acquiree association;

(ii) Any subsidiary savings and loan holding company acquired pursuant to paragraph (a)(4) of this section; or

(iii) Any corporation other than a savings association or savings and loan holding company.

(3) A mutual holding company may, subject to applicable laws and regulations, transfer any stock acquired pursuant to paragraph (a)(5) of this section.

(4) No transfer authorized by paragraph (b)(2) or (b)(3) of this section may be made to any insider of the mutual holding company, any associate of an insider of the mutual holding company, or any tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company.

§ 575.11 Operating restrictions.

(a) *Activities restrictions.* A mutual holding company may engage in any business activity specified in 12 U.S.C. 1467a(c)(2)(A) or (c)(2)(C) through (c)(2)(G). In addition, the business activities of subsidiaries of mutual holding companies may include the activities specified in § 575.10(a)(6) of this part.

(b) *Pledging stock.* (1) No mutual holding company may pledge the stock of its resulting association, an acquiree association, or any subsidiary savings association that was in the mutual form when acquired by the mutual holding company unless the proceeds of the loan secured by the pledge are infused into the association whose stock is pledged. Any amount of the stock of such association may be pledged for this purpose. Nothing in this paragraph shall be deemed to prohibit the payment of dividends from a subsidiary savings association to its mutual holding company parent to the extent otherwise permissible.

(2) Within ten days after any pledge of stock pursuant to paragraph (b)(1) of this section, a mutual holding company shall provide written notice to the District Director regarding the terms of the transaction (including the amount of principal and interest, repayment terms, maturity date, the nature and amount of collateral, and the terms governing seizure of the collateral) and shall include in such notice a certification that the proceeds of the loan have been transferred to the subsidiary savings association whose stock has been pledged.

(3) Any mutual holding company that fails to make any payment on a loan secured by the pledge of stock pursuant to paragraph (b)(1) of this section on or before the date on which such payment is due shall, on the first day after such payment is due, provide written notice of nonpayment to the District Director.

(c) *Restrictions on stock repurchases.* No subsidiary savings association of a mutual holding company that has any stockholders other than the association's mutual holding company shall repurchase any share of stock within three years of its date of issuance, unless the repurchase:

(1) Is part of a general repurchase made on a *pro rata* basis pursuant to an offer approved by the Office and made to all stockholders of the association (except that the association's mutual holding company may be excluded from the repurchase with the Office's approval);

(2) Is limited to the repurchase of qualifying shares of a director; or

(3) Is a purchased in the open market by a tax-qualified or non-tax-qualified employee stock benefit plan of the association in a amount reasonable and appropriate to fund such plan.

(d) *Restrictions on waiver of dividends.* No mutual holding company

may waive its right to receive any dividend declared by a subsidiary unless either:

(1) The Office approves such waiver; or

(2) No insider of the mutual holding company, associate of an insider, or tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company holds any share of stock in the class of stock to which the waiver would apply. The Office shall approve a waiver if the mutual holding company demonstrates that such waiver would be in the best interests of its members.

(e) *Restrictions on issuance of stock to insiders.* No subsidiary of a mutual holding company that is not a saving association shall issue stock to any tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company, any insider of the mutual holding company, or any associate of an insider of the mutual holding company. Subsidiary savings associations may issue stock to such persons only in accordance with § 575.7 of this part.

(f) *Restrictions on indemnification.* The provisions of § 545.121 of this chapter shall apply to mutual holding companies in the same manner as if they were federal savings associations.

(g) *Restictions on employment contracts.* The provisions of § 563.39 of this subchapter and any policies of the Office thereunder shall apply to mutual holding companies in the same manner as if they were savings associations.

(h) *Reports on transactions with insiders.* Within 120 days of the close of each fiscal year, a mutual holding company shall submit a report to the District Director containing the information specified in 17 CFR 229.402 (executive compensation) and 17 CFR 229.404 (a), (b), and (d) (certain relationships and related transactions). The term *registrant,* as used in 17 CFR 229.402 and 229.404, shall be deemed to refer to the mutual holding company. Information provided pursuant to 17 CFR 229.402 shall be in lieu of the information required pursuant to Items 4(b), 4(c), and 4(e) of Form H-(b)11, 12 CFR 584.1(a)(2). Any transaction reported pursuant to Item 5 or Item 6 of Form H-(b)12, 12 CFR 584.1(a)(3), need not be reported again to the Office pursuant to 17 CFR 229.404 (a), (b), or (d).

(i) *Applicability of rules governing savings and loan holding companies.* Except as expressly provided in this part, mutual holding companies shall be subject to the provisions of 12 U.S.C. 1467a and 3201 *et seq.* and parts 563e, 574, 583, and 584 of this chapter.

§ 575.12 Conversion or liquidation of mutual holding companies.

(a) *Conversion.* A mutual holding company may convert to the stock form in accordance with the rules and regulations set forth in part 563b of this chapter.

(b) *Involuntary liquidation.* (1) The Office may file a petition with the federal bankruptcy courts requesting the liquidation of a mutual holding company pursuant to 12 U.S.C. 1467a(o)(9) and title 11, United States Code, upon the occurrence of any of the following events:

(i) The default of the resulting association, any acquiree association, or any subsidiary savings association of the mutual holding company that was in the mutual form when acquired by the mutual holding company;

(ii) The default of the mutual holding company; or

(iii) Foreclosure on any pledge by the mutual holding company of subsidiary savings association stock pursuant to § 575.11(b) of this part.

(2) Except as provided in paragraph (b)(3) of this section, the net proceeds of any liquidation of any mutual holding company shall be transferred to the members of the mutual holding company in accordance with the charter of the mutual holding company.

(3) If the FDIC incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company and that mutual holding company is liquidated pursuant to paragraph (b)(1) of this section, the FDIC shall succeed to the membership interests of the depositors of such savings association in the mutual holding company, to the extent of the FDIC's loss.

(c) *Voluntary liquidation.* The provisions of § 546.4 of this chapter shall apply to mutual holding companies in the same manner as if they were federal savings associations.

§ 575.13 Procedural requirements.

(a) *Proxies and proxy statements.*—(1) *Solicitation of proxies.* The provisions of §§ 563b.5 and 563b.6 of this subchapter (exclusive of § 563b.6 (c)(2)(iii), (d), and (e)) shall apply to all solicitations of proxies by any person in connection with any membership vote required under this part. All proxy materials utilized in connection with such solicitations shall be authorized for use by the Office and shall be in the form and contain the information specified in § 563b.5(d) of this subchapter and Form PS, 12 CFR 563b.101, to the extent such information is relevant to the action that members are being asked to approve, with such additions, deletions, and other modifications as are necessary or appropriate under the disclosure standard set forth in § 563b.5(g) of this subchapter. Proxies and proxy statements shall be filed in accordance with § 563b.5(e) of this subchapter and shall be addressed to the Corporate and Securities Division—Legal, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. For purposes of this paragraph (a)(1), the term *conversion* as it appears in the provisions of part 563b cited above in this paragraph (a)(1) shall be deemed to refer to *the reorganization* or *the stock issuance*, as appropriate.

(2) *Use of "running" proxies.* Whenever a mutual savings association or mutual holding company is required by this part to obtain membership approval for a transaction, the association or company may make use of any proxy conferring general authority to vote on any and all matters at any meeting of members, provided that the member granting such proxy has been furnished a proxy statement regarding the transaction and the member does not grant a later-dated proxy to vote at the meeting at which the transaction will be considered or attend such meeting and vote in person.

(b) *Applications pursuant to §§ 575.8(a)(12), 575.11 (c), (d), and (g), and 575.12(c).* Any application for approval required pursuant to §§ 575.8(a)(12), 575.11 (c) or (d), or 575.12(c) of this part shall be in letter form, shall contain all information relevant to the approval being requested, and shall be filed in accordance with § 500.32(c)(3) of this chapter.

(c) *Miscellaneous certifications and notices.* Any certification or notice required to be filed with the District Director pursuant to §§ 575.4(d)(4), 575.11(b), or 575.11(f) of this part shall be filed in accordance with § 500.32(c)(5) of this chapter.

(d) *Reorganization Notices and stock issuance applications.*—(1) *Contents.* Each Reorganization Notice submitted to the Office pursuant to § 575.3(b) of this part and each application for approval of the issuance of stock submitted to the Office pursuant to § 575.7(a) of this part shall be in the form and contain the information specified by the Office.

(2) *Filing instructions.* Any Reorganization Notice submitted pursuant to § 575.3(b) of this part shall be filed in accordance with § 500.32 (c)(3) and (c)(8) of this chapter. Any stock issuance application submitted pursuant to § 575.7(a) of this part shall be filed in accordance with § 500.32(c)(4) of this chapter.

(3) *Public notice, agency reports, and related matters.* (i) Paragraphs (d)(2), (d)(3), and (d)(4), of § 563.22 of this subchapter shall apply to all mutual holding company reorganizations.

(ii) Public notice published pursuant to paragraph (d)(3)(i) of this section shall be published in a manner that is conspicuous to the average reader and shall be made substantially in the form indicated below. Such notice shall also be prominently posted in each office of the association for a period beginning on the date of the newspaper notice and ending on the date of the association's membership meeting.

Announcement of Filing of Notice of Mutual Savings and Loan Holding Company Reorganization

This is to inform the public that _____, located in _____, filed [intends to file] application materials with the Office of Thrift Supervision (the "Office") on _____ [insert date] advising the Office of its intent to reorganize into the mutual holding company format pursuant to 12 CFR part 575 ("Reorganization Notice").

This public notice will appear at approximately one-week intervals over a thirty [ten] day period beginning _____ (insert date) and ending _____ (insert date).

Anyone may submit written comments in favor of or against the proposed reorganization and in so doing may submit such information as he or she deems relevant. Such comments and information must be sent the District Director at the following address: _____. Three additional copies of such comments and information must also be sent to the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. Such comments and information must be submitted within thirty (ten) calendar days of the date on which this public notice was first published, as indicated in the preceding paragraph. Up to an additional ten calendar days may be granted by the District Director to submit such comments and information upon a showing of good cause if a written request is received by the District Director within the initial thirty [ten] day period specified above. Failure to submit written comments on a timely basis objecting to the Reorganization Notice may preclude the pursuit of any administrative or judicial remedies.

You may inspect the non-confidential portions of the Reorganization Notice and non-confidential portions of all comments and information filed by the public in response to the Reorganization Notice by contacting the District Director or the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. If you have any questions concerning these procedures, contact the District Director at (__) ___ or the Information Services Division at (202) 906-____.

(iii) Promptly after publication, the association shall file copies of each notice and a publisher's affidavit of publication in the same manner as specified in paragraph (d)(2) of this section.

(iv) If any Reorganization Notice includes an acquiree association, the publication requirements of paragraph (d)(3) of this section shall be fulfilled both by the reorganizing association and by the acquiree association and the first paragraph of the form of notice set forth in paragraph (d)(3)(ii) of this section shall be replaced with the following paragraph.

This is to inform the public _____, located in _____, and _____, located in _____, filed (intend to file) application materials with the Office of Thrift Supervision (the "Office") on _____ (insert date) advising the Office of their intent to join together to reorganize into the mutual holding company format pursuant to 12 CFR part 575 ("Reorganization Notice").

(v) Upon receipt of a Reorganization Notice, the Office shall notify persons whose request for announcements under § 563e.6 of this subchapter have been received in time for such notification. The Office may also notify any other persons who might have an interest in the proposed reorganization.

(vi) Disclosure of any part of a Reorganization Notice or any comments by the public thereon shall be made only in accordance with paragraph (g) of this section.

(4) *Public comment.* Comments by the public shall be submitted only as provided in this paragraph or as requested by the Office. Within thirty (or, if an emergency exists within the meaning of § 563.22(d)(3) of this subchapter, ten) calendar days of the date of publication of the first notice required by paragraphs (d)(3) (i) and (ii) of this section, or up to forty (or, if an emergency exists, twenty), calendar days after such date if within the initial period an extension is requested in writing for good cause shown, anyone may file comments in favor of or against a Reorganization Notice and in so doing may submit such information as he or she deems relevant. Comments received after the comment period, unverified accusations, or materials pertaining to a Reorganization Notice or public comment that the commenter is unwilling to have disclosed to the party making such submission shall not be part of the record and need not be considered by the Office. Comments shall be filed in the manner and in the locations provided in paragraph (d)(3)(ii) of this section.

(e) *Amendments.* Any association or mutual holding company may amend any notice or application submitted pursuant to this part or file additional information with respect thereto upon request of the Office or upon the association's or mutual holding company's own initiative.

(f) *Time-frames.* All Reorganization Notices and applications filed pursuant to this part shall be processed in accordance with § 571.12 of this subchapter. Any related approvals requested in connection with Reorganization Notices or applications for approval of stock issuances (including, without limitation, requests for approval to transfer assets to resulting associations, to acquire acquiree associations, and to organize resulting associations or interim associations, and requests for approval of charters, bylaws, and stock forms) shall be processed pursuant to the procedures specified in this section in conjunction with the Reorganization Notice or stock issuance application to which they pertain, rather than pursuant to any inconsistent procedures specified in elsewhere in this chapter. The approval standards for all such related applications, however, shall remain unchanged.

(g) *Disclosure.* The rules governing disclosure of any notice or application submitted pursuant to this part, or any public comment submitted pursuant to paragraph (d)(4) of this section, shall be the same as set forth in § 574.6(f) of this subchapter for notices, applications, and public comments filed under part 574 of this subchapter.

(h) *Supervisory cases.* The provisions of paragraphs (d)(4) and (g) of this section may be waived by the Office in connection with transactions approved, or not disapproved, by the Office for supervisory reasons.

(i) *Appeals.* Any party filing a notice or an application under this part may appeal any decision made by an official of the Office pursuant to authority delegated by the Director of the Office to disapprove or conditionally approval such notice or application in accordance with the following procedures. Within thirty days after notification of the decision, the association or mutual holding company must file a written request for review by the Director. The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the action is contended to be erroneous. The request shall be filed as specified in § 500.32(c)(3) of this chapter. The Corporate Activities Division shall forward to the Director the record, or a copy thereof, used as a basis for the decision being appealed, together with any other information deemed to be useful in reviewing that decision. If a party does not file a request for review

within the time permitted under this paragraph (i), any objection to a decision made by delegated authority is waived. A timely filing of a request for review in accordance with the provisions of this paragraph (i) shall be mandatory for securing judicial review of such a decision.

Dated: October 1, 1990.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 91-386 Filed 1-10-91; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101, 104, and 105

[Docket Nos. 85N-0061, 84N-0153, 90N-0134, 90N-0135, and 90N-0165]

Food Labeling; Health Messages and Label Statements; Definitions of the Terms Cholesterol Free, Low Cholesterol, and Reduced Cholesterol; Reference Daily Intakes and Daily Reference Values; Mandatory Status of Nutrition Labeling and Nutrient Content Revision; Serving Sizes

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA), recognizing that the recently enacted Nutrition Labeling and Education Act of 1990 has raised questions about how the agency will proceed with the Department of Health and Human Services' (DHHS) Food Labeling Initiative, is publishing this notice to announce its plans. This notice also advises the public of the agency's response to requests that it extend or reopen the comment periods on its pending food labeling proposals, or that it withdraw those proposals, in light of the new legislation.

FOR FURTHER INFORMATION CONTACT:

F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFF-200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1561.

SUPPLEMENTARY INFORMATION: This year, in response to a directive from Louis W. Sullivan, Secretary of DHHS, FDA has undertaken an initiative whose goal is to improve the food label. As part of this initiative, the agency has published five documents. On February 13, 1990, FDA published a reproposed regulation on health messages, the comment period for which closed on April 16, 1990. On July 19, 1990, the agency published a tentative final regulation on cholesterol labeling, the comment period for which closed on September 20, 1990. Also on July 19, 1990, FDA published three proposed regulations (mandatory nutrition labeling, serving sizes, and Reference Daily Intakes (RDI's)/Daily Reference Values (FRV's) with the comment periods for all three documents closing on November 16, 1990.

On November 9, 1990, the President signed into law the Nutrition Labeling and Education Act of 1990 (Pub. L. 101-535). This legislation, although its goals and many of its provisions are consistent with FDA's initiative, will have a significant impact on FDA's pending rulemaking proceedings. As a result of the passage of this legislation, FDA received a number of requests to extend or to reopen and extend the comment periods for the pending rulemakings. For the reasons explained below, FDA has denied these requests. However, because of the great interest in how the agency intends to proceed with the food labeling initiative given the requirements of the new legislation, the agency has decided to provide this general notice of its rulemaking plans.

I. Health Messages (Docket No. 85N-0061)

The agency recognizes that some of the provisions of the reproposed rule on health messages in the **Federal Register** of February 13, 1990 (55 FR5176), may have to be amended to be consistent with the new legislation. However, the agency believes that the intent of Congress in passing the health messages provisions of the new legislation and the intent of FDA in proposing regulations on health messages are entirely consistent—to ensure that any health messages that appear on food labels are truthful and not misleading. Moreover, the Nutrition Labeling and Education Act of 1990 removes any questions about FDA's authority to regulate health messages on food labels. Therefore, to conform its regulations to the legislation and to make clear that its rulemaking is based, at least in part, on its enhanced authority, FDA intends to seek comments in some form on health messages before issuing a final rule. The agency intends to take into account, as appropriate, the comments that it received in response to the reproposal of February 13, 1990, as well as the entire administrative record leading up to that reproposal, in developing any new document. Given this fact, FDA found no basis to either withdrew or to reopen and extend the comment period on the reproposal.

II. Cholesterol Descriptors (Docket No. 84N-0153)

The tentative final rule on cholesterol descriptors that FDA published in the **Federal Register** of July 19, 1990 (55 FR 29456), will also be reproposed in some form to ensure that any regulations that the agency adopts are consistent with the requirements of, and reflect the legal authority granted by, the new legislation. However, the agency believes that the intents of Congress and of FDA coincide sufficiently, so that any reproposal under the new legislation can build on the tentative final rule. FDA intends to consider the comments that it received in response to the tentative final rule, as well as all appropriate parts of the administrative record leading up to that tentative final rule, in responding to the legislation. Therefore, FDA saw no advantage in either withdrawing or reopening and extending the comment period on the tentative final rule and denied the requests to do so.

III. Reference Daily Intakes and Daily Reference Values (Docket No. 90N-0134)

Although the new legislation does not alter FDA's authority to provide for RDI's, it enhances FDA's authority to establish DRV's. RDI's and DRV's, in some form, are likely to be a part of any nutrition labeling regulation. Therefore, FDA intends to consider the comments that it received on the proposed rule published in the **Federal Register** of July 19, 1990 (55 FR 29476). FDA intends, however, to provide in some form for the submission of additional comments before issuing a final regulation. Consequently, the agency concluded that to reopen the comment period on the proposal on RDI's and DRV's at this time would unnecessarily delay the rulemaking process.

IV. Mandatory Nutrition Labeling (Docket No. 90N-0135)

The vast majority of the provisions of the new legislation that deal with nutrition labeling are entirely consistent with the agency's proposal published in the **Federal Register** of July 19, 1990 (55 FR 29487). The legislation confirms FDA's authority to mandate nutrition labeling on food labels. The few provisions of the legislation that differ from FDA's proposal are not so significant as to require that the agency issue a completely new proposal. Rather, the agency intends to issue a supplementary proposal in some form that addresses those areas of difference

between the July 19, 1990, proposal and the new legislation. FDA will consider the comments that it received in response to a supplementary proposal along with the comments that it has received on the existing mandatory nutrition labeling proposal before issuing a final regulation.

V. Serving Sizes (Docket No. 90N–0165)

The new legislation confirms FDA's authority to establish serving sizes. Further, nothing in the new act materially alters any provision of the proposed serving size regulation published in the **Federal Register** of July 19, 1990 (55 FR 29517). The legislation mandates standardized serving sizes, as established by FDA, as a part of any nutrition labeling regulation. FDA intends to consider all the comments that it received on its serving size proposal; however, the agency also will provide in some form for the submission of additional comments before issuing a final regulation. Thus, the agency finds that to reopen the comment period on the serving size proposal at this time would unnecessarily delay the agency's rulemaking process on standardized serving sizes.

FDA points out that the proposals on serving sizes, mandatory nutrition labeling, and RDI's and DRV's provided for a 120-day comment period. The agency believes that all interested persons thus were provided with sufficient time to formulate their views on these proposals.

FDA notes that the Nutrition Labeling and Education Act of 1990 mandates extremely tight deadlines for FDA to propose and make final an extraordinarily large number of major food labeling regulations. The agency is committed to meeting all of the deadlines set by Congress. FDA believes that if it were to withdraw the pending proposed, reproposed, or tentative final regulations or were to extend, or reopen and extend, the comment periods in these rulemaking proceedings at this time, it would unnecessarily increase the chances that it would not be able to meet these deadlines.

FDA intends to provide for full public participation in all rulemaking proceedings under the new legislation. To meet the deadlines imposed by the new legislation, however, FDA must move forward with its food labeling reform rulemaking efforts. The only way the agency can do so is by evaluating the legislation and by evaluating the comments that it received on the current proposals to ensure that subsequent food labeling documents are sound and reflect both the intent of Congress and the provisions of the new legislation. Therefore, for all the aforementioned reasons, FDA has denied the requests to extend or to reopen and extend the comment periods for the food labeling proposals, reproposal, and tentative final rule described above. The agency intends to issue, in the near future, new documents that will advance the agency's goals of completing the food labeling initiative and effectuating the new legislation.

Dated: January 4, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91–630 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–90–18]

Special Local Regulations; International Bay City River Roar, Saginaw River, Bay City, MI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish special local regulations for the International Bay City River Roar. This event will be held on the Saginaw River on the 12th, 13th, and 14th of July 1991, with an alternate date of 15 July 1991 if the weather is inclement on 14 July 1991.

DATES: Comments must be received on or before February 25, 1991.

ADDRESSES: Comments should be mailed to Commander (osr), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060. The comments will be available for inspection and copying at the Search and Rescue Branch, room 2007A, 1240 East 9th Street, Cleveland, Ohio. Normal office hours are between 7:30 a.m. and 4:30 p.m. (EDT), Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, Search and Rescue Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 09–90–18) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, project officer, Search and Rescue Branch and M. Eric Reeves, Lieutenant Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Proposed Regulations

The International Bay City River Roar will be conducted on the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge on the 12th, 13th, and 14th of July 1991. This event will have an estimated 70 hydroplanes which could pose hazards to navigation in the area. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station, Saginaw River, MI).

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation 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. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation 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

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of title 33, Code of Federal Regulations as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding temporary § 100.35–T0918 to read as follows:

§ 100.35–T0918 International Bay City River Roar, Saginaw River, Bay City, MI

(a) *Regulated Area:* That portion of the Saginaw River from the Liberty Bridge on the north to the Veterans Memorial Bridge on the south.

(b) *Special Local Regulations:* (1) The above area will be closed to navigation and anchorage, except when expressly authorized by the Coast Guard Patrol Commander, from 9:30 a.m. (e.d.s.t.) until 4 p.m. (e.d.s.t.) on 12 July 1991, from 9:30 a.m. (e.d.s.t.) until 4:30 p.m. (e.d.s.t.) on 13 July 1991, and from 8:30 a.m. (e.d.s.t.) until 5:30 p.m. (e.d.s.t.) on 14 July 1991.

(2) If the weather on 14 July 1991 is inclement, the river closure will be postponed until 8:30 a.m. (e.d.s.t.) until 5:30 p.m. (e.d.s.t.) on 15 July 1991. If postponed, notice will be given on 14 July 1991 over the U.S. Coast Guard Radio Net.

(3) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel, not authorized to participate in the event, desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Transiting vessels will be operated at bare steerageway, and will exercise a high degree of caution in the area.

(4) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(5) The Patrol Commander may establish vessel size and speed limitations, and operating conditions.

(6) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(7) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: December 21, 1990.

G.A. Penington,

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

[FR Doc. 91–677 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300208; FRL–3686–5]

Calcium Hypochlorite and Chlorine Gas; Exemptions from Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that exemptions from the requirement of a tolerance be established for residues of calcium hypochlorite and chlorine gas when applied preharvest or postharvest in solution to raw agricultural commodities.

DATES: Written comments, identified by the document control number (OPP-300208), must be received on or before February 11, 1991.

ADDRESSES: By mail submit comments to: 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: Registration Division (H7505C), Environmental Protection Agency, Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document 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 record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments 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: By mail: Walter C. Francis, Acting Product Manager (PM) 32, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703-557-3964.

SUPPLEMENTARY INFORMATION: In February 1986, EPA issued a document entitled, "Guidance for the Registration and Reregistration of Pesticide Products Containing Sodium and Calcium Hypochlorite as the Active Ingredient." In that document, EPA stated that the provisions of the Federal Food, Drug, and Cosmetic Act require the establishment of a tolerance or exemption from the need for a tolerance for the use of calcium hypochlorite on mushroom pins (preharvest), sweet potatoes (postharvest), pimento seeds, tomato seeds, and pecans (postharvest). EPA also stated that it would propose to issue an exemption from the requirement of a tolerance for these uses. EPA is now proposing to exempt from the requirment of a tolerance residues of calcium hypochlorite applied preharvest or postharvest in solution to raw agricultural commodities. This exemption would not apply to use of calcium hypochlorite during food processing or as a food-contact surface sanitizer since these uses are under the jurisdiction of the Food and Drug Administration.

Several clearances already exist for the calcium and sodium salts of hypochlorite. Calcium hypochlorite is exempted from the requirement of a tolerance when used postharvest on potatoes (40 CFR 180.1054). Sodium hypochlorite is generally recognized as safe for use on any raw agricultural commodity (40 CFR 180.2(a)). Calcium hypochlorite is an approved inert ingredient in pesticide products when added to a formulation as a sanitizing and bleaching agent (40 CFR 180.1001). Both calcium and sodium hypochlorite are cleared by the Food and Drug

Administration when used as a rinse on food-contact surfaces (21 CFR 178.1010). Sodium hypochlorite is approved by FDA for washing or assisting in the lye peeling of fruits and vegetables when followed by a potable water rinse (21 CFR 173.315).

When added to water, both calcium and sodium hypochlorite react to form hypochlorous acid, a pesticidally active chemical which kills bacteria on the surface of the commodity to which it is applied. Hypochlorous acid is consumed when it reacts with bacteria and other organic matter. Sodium and calcium react with chlorine and ultimately bind to organic matter. Because of the rapidity with which calcium hypochlorite degrades, there is no reasonable expectation that residues of calcium hypochlorite will remain in eggs, meat, milk, or poultry in accordance with 40 CFR 180.3. The residues which do remain are not of toxicological significance.

EPA is also proposing to exempt from the requirement of a tolerance residues of chlorine gas applied preharvest or postharvest in solution to raw agricultural commodities. This exemption would not apply to use of chlorine gas during food processing or as a food-contact surface sanitizer since these uses are under the jurisdiction of the Food and Drug Administration.

When added to water, chlorine gas reacts to form hypochlorous acid, a pesticidally active chemical which kills bacteria on the surface of the commodity to which it is applied. Hypochlorous acid is consumed when it reacts with bacteria and other organic matter. Because of the rapidity with which chlorine gas dissolves into water and hypochlorous acid degrades, there is no reasonable expectation that residues of chlorine gas will remain in eggs, meat, milk, or poultry in accordance with 40 CFR 180.3. The residues which do remain are not of toxicological significance.

No clearances exist for residues of chlorine gas applied in water to raw agricultural commodities. However, several clearances exist for the calcium and sodium salts of hypochlorite, which also generate hypochlorous acid when added to water. These clearances have been discussed previously in this preamble.

As discussed above, sodium hypochlorite is exempted from the requirement of a tolerance. Because chlorine gas and calcium and sodium hypochlorite react in the same manner in water and the resulting residues are not of toxicological concern, the Agency proposes to exempt from the requirement of a tolerance residues of calcium hypochlorite and chlorine gas on raw agricultural commodities resulting from preharvest or postharvest applications of a solution of calcium hypochlorite or chlorine gas.

Based on the information considered above, the Agency has concluded that the proposed exemptions from the requirement of the tolerance discussed above would protect the public health. Therefore, it is porposed that the exemptions be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that contains these ingredients may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number (OPP-300208). All written comments filed in response to this proposal will be available for inspection in the Public Information Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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.

Dated: December 21, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be 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. Section 180.1054 is revised to read as follows:

§180.1054 Calcium hypochlorite; exemptions from the requirement of a tolerance.

Calcium hypochlorite is exempted from the requirement of a tolerance when used preharvest or postharvest in solution on all raw agricultural commodities.

3. Section 180.1095 is added to read as follows:

§180.1095 Chlorine gas; exemptions from the requirement of a tolerance.

Chlorine gas is exempted from the requirement of a tolerance when used preharvest or postharvest in solution on all raw agricultural commodities.

[FR Doc. 91-691 Filed 1-10-91; 8:45 am]
BILLING CODE 6560-50-F

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40 CFR Part 372

[OPTS-400046; FRL-3737-3]

Toxic Chemical Release Reporting; Community Right-To-Know; Sunset Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a regulation pertaining to the "sunset" provision of 40 CFR 372.30(e), the rule that implements section 313 of the Emergency Planning and Community Right-to-Know Act. Sunset provisions are deliberately designed to lapse after a certain period of time, unless explicitly extended. The range reporting option on the section 313 reporting form--allowing releases of less than 1,000 pounds of section 313 chemicals to be reported within specified ranges (e.g., 0 to 499 pounds) rather than as a specific number--will sunset after the 1989 reporting year if no action is taken. The proposed rule would retain range reporting with only minor modifications. The preamble to the section 313 final rule also committed EPA to review the benefits of optional reporting on pollution prevention; this document contains this review, and commits EPA to further action on pollution prevention data collection in the near future.

DATES: Written comments must be submitted on or before February 11, 1991.

ADDRESSES: Written comments should be submitted in triplicate to: OTS Docket Clerk, TSCA Public Docket Office (TS–793), Environmental Protection Agency, Room NE–G004, 401 M St., SW., Washington, DC 20460, Attention: Docket Control Number OPTS–400046.

FOR FURTHER INFORMATION CONTACT: Anning Smith, Jr., Sunset Project Manager, Office of Toxic Substances (TS–779), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone (202) 382–3576 or, The Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, In Washington, DC, and Alaska, 202–479–2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This proposal is issued under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499, "SARA" or "the Act"). Title III of SARA is also referred to as the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

B. Background

The final rule that implemented the toxic chemical release reporting form (EPA Form R) under section 313 (40 CFR part 372) and the reporting instructions contained a range reporting provision that will lapse after 1989 reporting unless EPA takes specific action to retain it.

The range reporting option (40 CFR 372.30(e)) provides an alternative means of reporting relatively small quantities of chemical releases. Releases to the environment or off-site transfers of less than 1,000 pounds may be reported in ranges (0 pounds, 1 to 499 pounds, 500 to 999 pounds) rather than as specific estimates. Specifically, Part III, questions 5.1 to 5.5 on EPA Form R provide range reporting options for environmental releases of less than 1,000 pounds, while questions 6.1 and 6.2 allow range reporting for transfers to publicly-owned treatment works and other off-site locations.

The sunset provision was included to insure Agency review of the utility of the range reporting option. In addition, theAgency also committed to reviewing another provision of the toxic chemical releases reporting form, the collection of optional pollution prevention data. Submitters of Form R may supply data on the impacts of their pollution prevention practices as they affect releases reported on the toxic chemical release reporting form. The optional question 8 on Form R allows submitters to indicate the type of pollution prevention modification undertaken, the amount of change (in pounds or as a percent) in waste quantity, a production index, and the reason for taking pollution prevention actions.

II. Range Reporting

A. Description

Range reporting provides an option for releases of less than 1,000 pounds to be reported as a check-off in one of three columns, 0 pounds, 1 to 499 pounds, or 500 to 999 pounds, rather than as a specific estimate of the release amount. Range reporting is available on Form R for all environmental releases, for discharges to publicly-owned sewage treatment works, and for other off-site transfers of wastes. The range reporting option was added to the final rule as the preferred option from the Regulatory Flexibility Act analysis to provide burden reduction for small businesses. The benefit was not, however, limited to small businesses.

EPA agreed to review the beneficial aspects of range reporting as an alternative to specific estimates. If significant benefits were identified, EPA could take action to make range reporting permanent. In the absence of such action, the provision would lapse after the sunset time period of 3 years (see 40 CFR 372.30(e)).

EPA conducted a statistically valid survey of facilities that used the range reporting option to determine the relative benefits to submitters. The survey also asked facilities for recommendations for improving the range reporting option. The results of the survey are available for review in the public docket. For 1987 Toxics Release Inventory (TRI) data, 11,600 facilities (out of 19,278) used the range reporting option for at least one non-zero estimate. The availability of range reporting saved facilities that used it an estimated 9.5 hours per facility. For some companies, the availability of the range reporting option offered significant benefits by freeing them from the obligation of the time-consuming steps of collating their data and estimating small-quantity releases. Others arrived at specific estimates, but elected to use range reporting nonetheless.

It should be noted that not all facilities exercised their option to report in ranges; instead, a substantial number provided specific numbers for releases of less than 1,000 pounds. These reports are thought to be from facilities that routinely performed release calculations and that had a high degree of confidence in their data, thereby having little to gain from using range reporting.

Range reporting does not appear to significantly affect use of the TRI data. Although range reporting is identified as such in the data base, the data appears as the mid-point of the range, and is readily incorporated in numerical calculations. EPA did not identify any adverse effects for users of the TRI data base of having range reporting included in this fashion. EPA welcomes comments on this issue.

B. Options

EPA identified a number of possible options pertaining to range reporting. These are:

Option 1: Allow range reporting to lapse. If no action is taken by EPA, the range reporting option will cease as of the 1990 reporting year. This would represent a minimal amount of effort on the part of EPA. However, loss of the range reporting would impose an additional burden on reporters as they would be required to develop and report a specific estimate for releases of less than 1,000 pounds per year.

Option 2: Retain range reporting as is. This has the benefit of simplicity and continuity, while retaining the recognized benefits of range reporting.

Option 3: Modify range reporting by altering the range sizes. Current ranges cover about a 500–pound range. The ranges could be set in different increments, e.g., 100 pounds. Some facilities indicated that a narrowing of ranges would give them an added level of comfort in the reporting. On the other hand, narrower ranges would increase the burden involved in determining a more specific number. Several of the reporting facilities surveyed suggested that EPA add a "low-end" range which would allow range reporting of releases of just a few pounds, without requiring a specific number, and without creating the impression that the release may be as large as 499 pounds.

EPA is proposing to retain range reporting essentially as is, with one modification. An option would be added to report releases of from 1 to 10 pounds, in order to capture small releases without the implication that they may be as large as 499 pounds. The options for range reporting would then be: 1 to 10 pounds, 11 to 499 pounds, and 500 to 999 pounds.

Note that the "zero" has been dropped as a "range". The current range reads "0 to 499". However, facilities that are confident that they have zero emissions would report them specifically as a "0"

rather than in the range options. Where there is no possibility of release of the chemical to a particular environmental media, the facility is currently instructed to enter "NA" in the release section. EPA has determined that a facility may round to "0" any releases of less than 0.5 pound per year that would be reported in any line items in the release and off-site transfer sections of Form R.

Modification of the range reporting to include a 1 to 10 pound range would incorporate one of the key recommendations to arise from the survey of range reporters as to how the question could be improved. EPA requests comment on the issue of retaining the range reporting option and the proposed modification of current ranges.

III. Optional Pollution Prevention Reporting

Form R provides submitters with the option to report waste minimization data as a means of documenting the pollution prevention practices at a facility. The optional question includes data on the degree of waste minimization (either pounds reduced or percent reduction) as well as information on the type of pollution prevention activity, the reason for undertaking it, and changes in production levels that might account for increases or decreases in chemical releases. EPA agreed to examine the benefits of this pollution prevention data, particularly with regard to other types of pollution prevention data collected by EPA.

Ten percent of TRI facilities (1,940) provided pollution prevention data in 1988; about the same proportions reported for 1987. Facilities reporting actual pounds of reductions between 1987 and 1988 averaged a 22 percent facility-wide reduction through pollution prevention, a figure that increases to 38 percent when the impact of increased production is factored into the analysis. Recycling was a commonly reported pollution prevention method that, along with equipment changes, achieved the largest amounts of waste reduction. The reasons frequently reported for undertaking pollution prevention were either self-initiated review to identify pollution prevention opportunities and/or cost reduction. However, it is unclear to what extent facilities reporting self-initiated reviews as their reason for undertaking pollution prevention were motivated by the desire to control costs.

EPA is continuing its evaluation of the pollution prevention reporting. The information is clearly limited by the optional nature of the question. This information must be interpreted with care because it is not representative either of the universe of TRI reporters or technical or economic feasibility of pollution prevention activities. Only facilities for which pollution prevention activities were cost effective would likely have engaged in such activities and found it worthwhile to answer the optional question. Therefore, this data cannot be used to create representative numerical pictures of the types and extent of pollution prevention occurring amongst the entire community of TRI reporters. Nevertheless, EPA believes that the pollution prevention data provided by section 313 reporting serve several important functions for the Agency, for industry, and for the general public.

The data represent the first multimedia look at the impact of pollution prevention practices on toxic chemical releases, and allow examination of which industries, areas of the country, or chemicals have been most frequently reported.

The optional data also provide a level of detail not previously available in areas such as the impacts of particular pollution prevention practices. For instance, TRI data for 1988 reveal that "improved housekeeping" is the most commonly practiced form of pollution prevention, accounting for 20 percent of all reports of pollution prevention. However, the activity classified as "equipment changes", although less common, had a much larger impact overall in terms of reducing waste generation. "Housekeeping" achieved a 2.3 million pound reduction in waste generation (from 12.7 to 10.4 million pounds, an overall reduction of 18.5 percent), while "equipment changes" reduced wastes by more than 15 million pounds (from 37.3 to 21.7 million pounds, an overall reduction of 41.8 percent).

The data may also allow a comparison over time of facilities that report pollution prevention in more than one reporting year.

Finally, the data helps EPA identify examples of technologies and other ideas that EPA can then disseminate throughout the industrial community as a means of encouraging additional pollution prevention.

These uses may provide perspective to EPA's pollution prevention program. As the program matures, it will be increasingly important for EPA to utilize its limited resources in areas where those resources can be most cost effectively used in reducing waste generation. Access to current and future data resulting from the optional pollution prevention reporting could assist EPA in identifying those areas where its resources can best be used.

The data serves some industry interests as well, as evidenced by the fact that 10 percent of all facilities reporting to TRI (and 16 percent of the large-volume facilities) elected to provide the optional pollution prevention data. Some of the facilities that responded to optional question mentioned some of the uses of the collection to EPA. However, these examples are largely anecdotal. EPA would like to receive additional comments on this issue.

The data may also serve a broad public interest by providing information on pollution prevention to communities. Here, too, EPA would like comments regarding public use of pollution prevention data.

Another aspect of the TRI pollution prevention data is that it complements other sources of data already available to EPA; in this sense, the optional pollution prevention data is similar to mandatory TRI data collection, in that the latter has also significantly augmented EPA's existing data collection systems. In particular, pollution prevention data collected through biennial reports required under the Resource Conservation and Recovery Act (RCRA), although overlapping in some respects with TRI data, serve very different purposes than TRI data.

RCRA biennial report data focuses on hazardous wastes as intended by RCRA's mandate; its coverage of wastewaters is incomplete and it has virtually no information on air emissions. TRI, on the other hand, provides a picture of releases, and of pollution prevention practices, that is multimedia in scope--air emissions, wastewater discharges, underground injection, and land disposal data are all included. RCRA reports contain data on entire waste streams while TRI focuses on specific toxic chemical constituents (for instance, 1,000 pounds of benzene dissolved in 1,000,000 pounds of water would be reported as 1,001,000 pounds of RCRA wastes, and 1,000 pounds of benzene wastes under TRI). Because of the inherently distinct focuses of these two data collection systems, they are viewed by EPA as complimentary rather than redundant. The Agency is examining the possibilities of coordinating these two data collection systems, although it recognizes that fundamental differences in objectives, collection mechanisms, and data distribution may limit any action in this regard.

Based on these uses of the pollution prevention data by EPA and others, EPA believes that the data submitted in

response to this optional question has been and could continue to be useful in governmental analyses, industry pollution prevention efforts, and community right-to-know efforts. Therefore, EPA proposes to retain the optional pollution prevention question on Form R. However, EPA requests comment on whether the optional pollution prevention question should be retained on Form R.

In particular, EPA requests comment on how this data is being used and the value of that data to its users. Are the patterns observed in this data meaningful and, if so, what can be learned from them? EPA is particularly interested in the uses of this data by industry and the general public. EPA is also interested in the uses of this data by other Federal agencies and State and local governments. EPA is also interested in any known misuse or inappropriate applications of the data that may attempt to draw erroneous inferences from the data.

Finally, EPA is interested in knowing if this is the least burdensome way to gather the information. Are there any less burdensome collections through which EPA could gather the same or substantially similar information? Is this type of information available to interested parties through professional journals, conferences, or privately maintained data bases? Are those sources, if any, of comparable quantity and detail to the optional questions on Form R?

IV. Removal of EPA Form R and Instructions from the CFR

The Agency is also proposing to remove EPA Form 9350–1 (Form R) and instructions from the rule. The form and instructions are codified in 40 CFR § 372.85. The Agency is proposing to amend the rule by substituting a notice of availability of the most current form and reporting instructions plus generic language that describes the form's reporting elements.

EPA is proposing this amendment for two basic reasons. First, as codified, the form and instructions must be printed every year in the CFR, taking up approximately 25 pages. Removing the form and instructions from the CFR will result in a significant cost savings for the Agency over time. Not printing the full text of final forms and instructions in the CFR has become a standard Agency practice as evidenced in rules implementing a number of reporting and recordkeeping requirements under the Toxic Substances Control Act (TSCA). One particular example is the 140–page form associated with the Comprehensive Information Reporting Rule (CAIR) (40 CFR part 704) under section 8 of TSCA. In general, the Agency has determined that it is not legally obligated to publish forms in full text. Under the Administrative Procedures Act (APA), 5 U.S.C. 552 (a)(1)(c), the Agency is obligated to describe forms and give a source of availability.

The second reason for removing the form from the CFR has to do with both the practical availability of the form and being able to provide submitters with the most current version of the form and reporting instructions. The form that appears in the CFR has been photo reduced and cannot be used in a practical sense by those who must comply with the reporting requirements. More importantly, however, the Agency has continued to implement editorial refinements to the form and instructions since they were first published as part of the final rule. These refinements are intended to clarify reporting requirements. They do not represent substantive changes to the reporting requirements. Any substantive removal or addition of reporting elements will be accomplished by notice and comment rulemaking. Also the Agency has each year attempted to expand and upgrade the instructions that accompany the form. These documents incorporate the most current list of chemicals that must be reported plus an ongoing compilation of rule clarifications and interpretations. Thus, the form and instructions that appear in the CFR are not the most current documents that the Agency wishes the reporting facilities to use.

Removing the form and instructions will also provide the Agency with clear flexibility to make necessary editorial changes to the form and instructions. For example, as the Agency moves toward more advanced data entry technology such as optical character recognition, a specifically designed and printed form will have to be used by submitters. Also the Agency is encouraging subject facilities to submit their data using magnetic media (computer disk or tape). EPA has developed a set of instructions for creating such magnetic media submissions. Commercially available software also is available that will create such magnetic media submissions for the facility. The Agency requests comment on the removal of the form and instructions from the CFR.

V. Rulemaking Record

The record supporting this rule is contained in docket control number OPTS–400046. All documents are available to the public in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

VI. Request for Public Comment

The Agency requests comments on all analyses conducted for this review on the Agency's proposal to retain the range reporting and pollution prevention provisions of the toxic chemical release reporting form plus removal of the form and instructions from the CFR. All comments must be submitted on or before [insert 30 days from date of publication in the **Federal Register**].

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more.

This proposed rule would have no significant impact on the section 313 reporting requirements for covered facilities since it essentially retains the status quo with only minor changes to the range reporting option. Therefore, this is a minor rule under Executive Order 12291.

This proposed rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected. Because the proposed rule retains the status quo, the Agency certifies that small entities will not be significantly affected by the rule.

C. Paperwork Reduction Act

This proposed rule retains the existing reporting provisions previously cleared by the OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. under control number 2070–0093.

List of Subjects in 40 CFR Part 372

Chemicals, Community right-to-know, Environmental protection, Pollution prevention, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: December 30, 1990.

F. Henry Habicht,

Acting Administrator.

Therefore, it is proposed that 40 CFR part 372 be amended as follows:

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

2. Section 372.30 is amended by revising paragraphs (a), (b)(3)(i), (b)(3)(iv), and deleting paragraph (e).

§ 372.30 Reporting requirements and schedule for reporting.

(a) For each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in § 372.25 at its covered facility described in § 372.22 for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350–1) in accordance with the instructions referred to in subpart E of this part.

(b) * * *

(3)(i) If the owner or operator knows the specific chemical identity of the toxic chemical and the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility and shall combine that with the weight of the toxic chemical manufactured (including imported), processed, or otherwise used at the facility other than as part of the mixture or trade name product. After combining these amounts, if the owner or operator determines that the toxic chemical was manufactured, processed, or otherwise used in excess of an applicable threshold in § 372.25, the owner or operator shall report the specific chemical identity and all releases of the toxic chemical on EPA Form R in accordance with the instructions referred to in subpart E of this part.

* * * * *

(iv) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical and knows the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility. Since the owner or operator does not know the specific identity of the toxic chemical, the owner or operator shall make the threshold determination only for the weight of the toxic chemical in the mixture or trade name product. If the owner or operator determines that the toxic chemical was imported, processed, or otherwise used as part of the mixture or trade name product in excess of an applicable threshold in § 372.25, the owner or operator shall report the generic chemical name of the toxic chemical, or a trade name if the generic chemical name is not known, and all releases of the toxic chemical on EPA Form R in accordance with the instructions referred to in subpart E of this part.

* * * * *

3. Section 372.85 is revised to read as follows:

§ 372.85 Toxic chemical release reporting form and instructions.

(a) Availability of reporting form and instructions. The most current version of EPA Form R (EPA Form 9350–1 and subsequent revisions) and the instructions for completing this form may be obtained by writing to the Section 313 Document Distribution Center, P.O. Box 12505, Cincinnati, OH 45212. EPA also encourages facilities subject to this part to submit the required information to EPA by using magnetic media (computer disk or tape) in lieu of Form R. Instructions for submitting using magnetic media may also be obtained from the address given in this paragraph.

(b) Form elements. Information elements reportable on EPA Form R or equivalent magnetic media format include the following:

(1) An indication of whether the report:

(i) Claims chemical identity as trade secret.

(ii) Covers the entire facility or part of a facility.

(2) Signature of a senior management official certifying the following: "I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report."

(3) Facility name and address including the toxic chemical release inventory facility identification number if known.

(4) Name and telephone number for both a technical contact and a public contact.

(5) The four-digit SIC code(s) for the facility or establishments in the facility.

(6) Latitude and longitude coordinates for the facility.

(7) The following facility identifiers:

(i) Dun and Bradstreet identification number.

(ii) EPA Identification Number (RCRA I.D. Number).

(iii) NPDES Permit Number.

(iv) Underground Injection Well Code (UIC) Identification Number.

(8) The name(s) of receiving stream(s) or water body to which the chemical is released.

(9) Name of the facility's parent company and its Dun and Bradstreet Identification number.

(10) Name and CAS number (if applicable) of the chemical reported.

(11) If the chemical identity is claimed trade secret, a generic name for the chemical.

(12) A mixture component identity if the chemical identity is not known.

(13) An indication of the activities and uses of the chemical at the facility.

(14) An indication of the maximum amount of the chemical on site at any point in time during the reporting year.

(15) Information on releases of the chemical to the environment as follows:

(i) An estimate of total releases in pounds per year (releases of less than 1,000 pounds per year may be indicated in ranges) from the facility plus an indication of the basis of estimate for the following:

(A) Fugitive or non-point air emissions.

(B) Stack or point air emissions.

(C) Discharges to receiving streams or water bodies including an indication of the percent of releases due to stormwater.

(D) Underground injection on site.

(E) Releases to land on site.

(ii) [Reserved]

(16) Information on transfers of the chemical in wastes to off-site locations as follows:

(i) For transfers to Publicly Owned Treatment Works (POTWs):

(A) The name and address (including county) of the POTW.

(B) An estimate of the amount of the chemical transferred in pounds per year (transfers of less than 1,000 pounds per year may be indicated as a range) and an indication of the basis of the estimate.

(ii) For transfers to other off-site locations:

(A) The name, address (including country), and EPA identification number of the off-site location, including an indication of whether this location is owned or controlled by the reporting facility or its parent company.

(B) An estimate of the amount of the chemical transferred in pounds per year (transfers of less than 1,000 pounds may

be indicated in ranges) of the chemical in wastes to any off-site location and an indication of the basis for the estimate.

(17) The following information relative to waste treatment:

(i) An indication of the wastestream containing the reported chemical.

(ii) The treatment method.

(iii) An indication of the concentration of the chemical in the wastestream prior to treatment.

(iv) An estimate in percent of the efficiency of the treatment plus an indication of whether the estimate is based upon operating data.

(18) Pollution prevention data (reporting is optional) which includes the type of pollution prevention modification, quantity of the chemical in the wastes prior to treatment and disposal (for both the current and prior reporting year), a production index, and the reason for the pollution prevention action.

[FR Doc. 91-695 Filed 1-10-91; 8:45 a.m.]

BILLING CODE 6560-50-F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Rights in Technical Data

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical data advanced notice of proposed rulemaking; additional public hearing.

SUMMARY: The Department of Defense, General Services Administration and the National Aeronautics and Space Administration published an advanced notice of proposed rulemaking on Technical Data on October 15, 1990, (FR 41788). We are scheduling an additional public hearing. This document changes the public hearing schedule to add a public hearing.

DATES: A public hearing will be held at 9:00 a.m. January 25, 1991.

ADDRESSES: U.S. Chamber of Commerce, Herman Lay Room, 1615 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda W. Neilson, telephone (703) 697-7266.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Linda E. Greene,

Deputy Director, Defense Acquisition Regulatory System.

[FR Doc. 91-693 Filed 1-8-91; 2:12 pm]

BILLING CODE 6820-JC-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition To List the Pacific Fisher as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding; 90-day petition finding for the Pacific fisher.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to add the Pacific fisher (*Martes pennanti pacifica*) in California, Oregon and Washington to the List of Endangered and Threatened Wildlife. The Service finds that the petition has not presented substantial information indicating that the requested action may be warranted.

DATES: The finding announced in this notice was made on October 23, 1990. Comments and materials related to this petition finding may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Information, comments, or questions concerning the Pacific fisher petition may be submitted to the Field Supervisor, Sacramento Field Station, U.S. Fish and Wildlife Service, 2800 Cottage Way, room E-1803, Sacramento, California 95825-1846. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Spangle at the above Sacramento, California, Field Station address (telephone 916/978-4866 or FTS 460-4866).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) (16 U.S.C. 1531-1544), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

On June 5, 1990, the Service received a petition from Mr. Eric Bechwitt, Forest Issues Task Force, Sierra Biodivesity Project, to list the Pacific fisher (*Martes pennanti pacifica*) as an endangered species in California, Oregon, and Washington. Co-sponsors of the petition include the National Audubon Society and seven of its local chapters, the California Wilderness Coalition, the Greater Ecosystem Alliance, the Northcoast Environmental Center, and the Oregon Natural Resources Council. The petition was dated May 29, 1990.

This finding is based on numerous documents, including published and unpublished studies, agency documents, literature syntheses, and field sighting records. Interviews with researchers, wildlife managers, personnel from other Region 1 field offices, and others familiar with North American furbearers were conducted. In addition, field station staff met with the petitioner to discuss the petition and the listing process, and obtain copies of letters and documents cited in the petition. This information was promptly supplied by Mr. Beckwitt. All documents on which this finding is based are on file in the Sacramento Fish and Wildlife Enhancement Field Station.

A species that is in danger of extinction throughout all or a significant portion of its range may be declared an Endangered Species under the Act. The term "species" is defined by the Act to include "subspecies * * * and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." (16 U.S.C. 1532 (16)). Thus, the first deliberation was whether or not the Pacific fisher is a recognized subspecies or distinct population that interbreeds.

Controversy exists as to whether the Pacific fisher is distinct subspecies, as named by Rhoads (1898). Hagmeier (1959) questioned whether subspecific status is appropriate based on a lack of distinguishing morphological characteristics. However, based on an analysis by Jones (1990), it appears that the Pacific fisher is probably genetically, though not morphometrically, distinct from the Rocky Mountain form.

Jones cites Chesser (1983) as listing three factors that may act as barriers to continuous disperal and consequently reduce gene flow between subpopulations: (1) Geographic distance; (2) ecological distance; and (3) behavioral distance. Jones concluded that, based on his ongoing study in north-central Idaho that showed

avoidance of open-canopied habitat by fishers, the presence of the Okanogan Valley "effectively reduces the likelihood of any migration occurring between the two populations in the continental United States." He adds that the Snake and Columbia Rivers also act as effective barriers except for the rare instances when the rivers freeze. Thus, any genetic exchange would have to occur in central to northern British Columbia. The large geographic distance from the Pacific States to central British Columbia, then to Idaho, in conjunction with the ecological barrier presented by the relatively open Okanogan Valley, led Jones to conclude that genetic exchange between the Rocky Mountain and Pacific fishers is "extremely low". Thus, it is our determination that, while genetic information is insufficient to determine whether subspecific status is approriate, that the Pacific fisher represents a distinct population that interbreeds. The Pacific fisher is therefore a "species" within the meaning of the Act.

The petition states that fishers prefer large, contiguous blocks of mature and old growth coniferous or mixed deciduous/coniferous forest. The petitioners provide strong evidence that such habitat has declined substantially in the past because of extensive logging in the three Pacific States. The reduction of this type of habitat is well documented in numerous assessments made in the last several years during reviews of the status of the northern spotted owl (*Strix occidentalis caurina*). However, the petitioners do not provide substantive evidence that fishers prefer later seral stage vegetation in the Pacific States. Indeed, the petition states that fishers may be found in a "broad range" of forest types.

Requisite to making an appropriate determination as to the degree of destruction or modification that a species' habitat has undergone, one must determine the species' habitat preferences and requirements in that portion of the range under consideration. Only one study (Buck *et al.* 1983) has examined fisher habitat use in the Pacific States. That study, conducted on the Shasta-Trinity National Forest in the Coast Range of northern California, showed that fishers showed some preference for mature, closed-canopied stands; that open areas were avoided in some cases (but received significant use in others); and that multi species stands are preferred. Differences in habitat preference between age classes, sexes, and geographic subareas of the study were also noted.

The study by Buck *et al.* (1983) involved a relatively small number of animals (21), relatively few radio locations of each specimen (only 3 were relocated 50 or more times), significant biases in habitat preference analyses, inaccurate telemetry data inherent in sampling from the ground in steep canyons, and several other problems readily admitted by the authors. Although their data may contribute significant insights into the biology of the fisher in that small portion of the species' range, the authors advise that land managers proceed with caution when using these data in formulating management strategies for fishers.

Contrary to the scarcity of fisher habitat use data in the Pacific States, considerable study has occurred in the Eastern States, the Lake States, and in Canada. Although habitat use by a species in one part of its range may lend insights into its habitat use elsewhere, such inferences must be drawn very cautiously. That is particularly true where the population being examined is far removed geographically from the populations that were the source of the data. Moreover, habitat preferences in populations other than the Pacific States are quite varied, further confounding any attempt to extrapolate data from one population to another.

Some authors report a strong preference for later seral stage vegetation by fishers, but others noted significant use of relatively young stands of timber, including former agricultural land reverting to forest. Some authors report avoidance of openings, while others report that open areas may be an important source of abundant prey. Two recent literature syntheses of habitat use data (Douglas and Strickland 1987, Banci 1989) illustrate the disparities in habitat use reported by different authors. Both reports state that ecotones, such as those provided by small, irregularly shaped openings in timber stands, may provide prey diversity important to fishers, which have an unusually diverse diet for a mustelid.

The petitioners stated the fishers have apparently disappeared from portions of their former range, based on an absence of recent sightings in those areas. However, sighting data must be interpreted cautiously, since many factors can influence the number of sightings reported in a given area. Such factors include rates of human use, the ability of persons to identify animals, and a lack of knowledge that sightings may be important. For example, the petitioners state that no recent sightings have been reported in the Coast Range of California south of Trinity County. While this may have been true at the time the petition was written, at least five sightings have occurred in 1989–90 in Tehama and Mendocino Counties (USFS 1990).

The petitioners expressed concern that forest and fire management practices have resulted in a risk of catastrophic events, such as wildfire and windthrow, that may threaten the remaining blocks of suitable fisher habitat. However, as stated previously, little evidence exists as to habitat preferences of the Pacific fisher. It has not been demonstrated that large, contiguous blocks of late seral stage habitat are required for maintenance of viable fisher populations. Therefore, an assessment of the risk posed by catastrophic events is premature. In summary, insufficient information exists in the literature to draw reliable conclusions regarding habitat preferences by Pacific fishers and, more importantly, to assess what impact alteration of forest habitat within the subspecies' range has had on population viability.

Extensive fur trapping in the early part of this century resulted in considerable taking of Pacific fishers, and may have resulted in localized extirpation in small portions of its range. Because of observed declines in capture rates noted by State agencies monitoring fur trappers, commercial harvest of fishers became illegal in California in 1046 (Gould, pers. comm.), in Oregon in 1037 (Posey, pers. comm.), and in Washington in 1033 (McAllister, pers. comm.). Although some trapping of fishers probably occurs incidentally to legal trapping for other furbearers, the amount of such mortality is unknown. Marshall (pers. comm.) stated that such incidental mortality is probably rare in Oregon due to the relative rarity of the animal itself.

Recovery of fisher populations (both naturally and with the aid of reintroductions) in areas where they were decimated by trapping is well documented in other areas of the country. However, few data exist in the Pacific States to determine whether recovery is needed and, if so, in what areas. Since it is unknown how common fishers were before extensive trapping occurred, and no hard data exists on current fisher densities, assessment of the effect of trapping on the population, and the extent of any recovery that may be occurring, is speculative. Given the protected status in all three states, commercial overutilization is not likely occurring.

The petition states that, due to high predation rates, Pacific fishers are not recovering in areas where populations were decimated by trapping. The petition states that Roy (1990) speculates that a lack of predation in the northeastern United States may be the primary reason that fishers persist in highly fragmented forest and farmland habitats, and that the presence of predators in the Pacific States may render fragmented forests incapable of supporting fishers populations over time. Three studies that reported predation in the Western states are cited. Buck *et. al.* (1983) suspected that 4 of 21 fishers in his study died as a result of predation. Roy (1990) reported that Jones lost 3 of 15 radioed fishers to predation in Jones' Idaho study, and Roy (1990) lost 10 of 32 fishers to predation in his study in Montana. However, Roy (pers. comm.) was monitoring reintroduced animals, and stated that he suspects that may have been contributory to the high predation rate he observed.

Although Roy's results seem to show a high rate of predation, those results are somewhat tainted because the animals were not native to the area. Predation rates in Buck's and Jones' studies lend little support to the argument that predation is a significant threat to fisher population viability, since little is known about population sizes and trends, birth rates, death rates, or other demographic parameters necessary to determine the significance of a single mortality factor. Such demographic data, as well as an assessment as to whether forest fragmentation contributes to predation, needs to be addressed before the risk of predation to the fisher population can be properly determined.

Based on the foregoing analysis, we believe that there may be reason for concern for a population that has undergone significant habitat alteration throughout the majority of its range. However, without better information of the habitat needs, population size and trends, and demographic parameters of the Pacific fisher population, insufficient scientific information exists to determine whether regulatory protection under the Act may be justified. Several studies designed to acquire such data are in the formative stages, but the data necessary to properly conduct a status review will not be available for at least two years. In addition, a number of other studies need to be initiated and completed before a scientifically credible determination can be made as to the status of the fisher in the Pacific States.

A task force convened by the Forest Service earlier this year, made up of scientists and land managers from that agency who are most familiar with the current state of knowledge surrounding the fisher, concluded that there are significant gaps in our understanding of the species' status and management needs in the Pacific States. The task force listed information needs that will be required before a management strategy for the species can be formulated. Based on a review of the literature and extensive discussion with researchers and agency biologists, the Service concurs with the task force's assessment.

Based on the best scientific and commercial information currently available, the Service finds that the petition to list the fisher does not present substantial information indicating the requested action may be warranted.

References Cited

Banci, V. 1989. A fisher management strategy for British Columbia. B.C. Ministry of Environment: Victoria, B.C. Wildlife Bulletin No. B–63.

Buck, S., Mullis, C., and A. Mossman. 1983. Final report: Corral Bottom—Hayfork Bally fisher study. Unpublished manuscript. From a cooperative study conducted by the U.S. Forest Service, California Department of Fish and Game and Humboldt State University.

Douglas, W. D., and M. A. Strickland. 1987. Chapter 40: Fisher. In: Wild furbearer management and conservation in North America. (Ontario, Canada: Ministry of Natural Resources).

Hagmeier, E. M. 1959. A re-evaluation of the subspecies of fisher. Can. Field Natur., 73:185–197.

Jones, J. L. 1990. Letter from Jeffrey L. Jones, Wildlife Biologist, Wisdom, MT to Mr. Charles H. Lobdell, Fish and Wildlife Service, Boise, ID dated August 9, 1990.

Rhoads, S. N. 1898. Contributions to a revision of the North American beavers, otters, and fisher. Trans. Amer. Philos. Soc., New Ser., 19:417–439.

Roy, K. 1990. Letter from Kevin Roy, graduate student, Wildlife Biology Office, School of Forestry, University of Montana, Missoula, MT, 59812, to Eric Beckwitt regarding the draft fisher petition. May 7, 1990. (K. Roy's Thesis on fishers in low abundance areas in Montana will shortly be completed).

USFS. 1990. Mendocino National Forest unpublished sighting map.

Author

This notice was prepared by Steve Spangle of the Sacramento, California Fish and Wildlife Enhancement Field Station (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting, Recordkeeping requirements, and Transportation.

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: December 21, 1990.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 91–623 Filed 1–10–91; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 901247–0347]

Atlantic Sea Scallop Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NOAA proposes to amend the regulations implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) by clarifying the language and intent of 50 CFR 650.21 (a) and (b). In these paragraphs, the word "presumed" would be replaced with the word "deemed."

DATES: Comments on the proposed rule must be received on or before February 11, 1991.

ADDRESSES: Comments may be mailed to Richard Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on the Scallop Regulations."

Copies of the Regulatory Impact Review, Environmental Impact Statement, and Regulatory Flexibility Analysis may be obtained from the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Management Specialist, 508–281–9273.

SUPPLEMENTARY INFORMATION: .

Background

Regulations implementing the FMP (50 CFR part 650) require that Atlantic sea scallops meet specified meat-count and shell-height standards up to and including the first transaction after the scallops have been harvested. In § 650.21, paragraphs (a) and (b) state that if a sample group of scallops in possession does not meet the standard, "the total amount of scallops in possession will be presumed in violation

of this regulation * * *." Various Federal district courts have rendered differing interpretations of that language. One interpretation is that the word "presumed" gives rise to a rebuttable presumption; another is that the presumption is an irrebuttable one. This rule is to clarify that the latter interpretation is the correct one and, therefore, any evidence of independent sampling of Atlantic sea scallops would be inadmissible.

Proposed Action

In light of the conflicting court decisions regarding the word "presumed," NOAA believes that it is necessary to change the language of § 650.21 (a) and (b) to clarify the intent of those paragraphs. In these paragraphs, the word "presumed" would be replaced by the word "deemed."

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is consistent with the FMP.

The Assistant Administrator has determined that this proposed rule, which would implement a revision to the language in the regulations implementing the FMP, as amended, does not alter the scope or intent of the FMP or the conclusions arrived at in the Regulatory Impact Review, the Environmental Impact Statement, or the Regulatory Flexibility Analysis for the FMP, as amended, or implementing regulations. Copies of these documents may be obtained from the New England Fishery Management Council (see **ADDRESSES**).

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

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

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator for Fisheries has determined that this proposed rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: January 7, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 650 is proposed to be amended as follows:

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for part 650 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 650.21 [Amended]

2. In § 650.21, paragraphs (a) and (b), the word "presumed" is removed, and the word "deemed" is added in its place.

[FR Doc. 91–710 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 8
Friday, January 11, 1991

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

Farmers Home Administration

Rural Housing Program Loans; Meeting

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration (FmHA) published a proposed rule amending its Guaranteed Rural Housing Loans regulation in the **Federal Register** on January 3, 1991 in Volume 56, No. 2, page 202. The 1991 Agriculture appropriations act provides $100 million for this program; $70 million for moderate-income borrowers and $30 million for low-income borrowers. FmHA will hold a meeting on Thursday, January 17, 1991 in room 107A in the Administration Building, Department of Agriculture, Washington, DC. The meeting is scheduled to begin at 1:30 p.m. and will end at 3:30 p.m. At that time, FmHA will explain the salient points of the program and will also be available to answer questions. The Agency is also interested in public comments pertaining to the Guaranteed Rural Housing Loan program. Oral statements may be made; however, to be considered as a comment to the proposed rule, any comments may be submitted in writing by February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Michael S. Feinburg, Senior Loan Specialist, at Farmers Home Administration, USDA, room 5334–S, South Agriculture Building, 14th and Independence SW., Washington, DC 20250, Telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: FmHA has published a proposed rule implementing an interest assisted guaranteed rural housing loan program for low income borrowers. FmHA has also substantially revised its existing regulation for moderate income borrowers. This action is FmHA's proposal for the implementation of the Cranston-Gonzalez Affordable Housing Act.

FmHA is soliciting the views of borrowers, lenders, Realtors, and home builders experienced and knowledgeable regarding housing in rural areas. FmHA is interrested in implementing a program that is attractive to borrowers, lenders, and secondary markets. FmHA wants to implement this program in a cost-effective manner and in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

Dated: January 4, 1991.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–671 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Smeads Rice Timber Sales and Associated Projects; Kootenai National Forest, Sanders County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA will prepare an environmental impact statement (EIS) for three proposed timber sales and associated activities. The EIS will tier to the final EIS and Forest Plan for the Kootenai National Forest.

The proposed projects are located, wholly or in part, in the Lone Cliff Smeads Roadless Area #674. The major drainages within the area are Smeads Creek, Rice Draw, and Deer Creek. The project analysis area is located approximately 5 miles northwest of Noxon, Montana. The proposed projects would be implemented between fiscal years 1994 through 1996.

The specific projects include: (1) Harvest of timber with three timber sales; (2) development of associated road systems; and (3) post harvest activities including slash abatement, site preparation, reforestation, and monitoring. The proposed projects will be in compliance with the direction in the Kootenai Forest Plan which provides the overall guidance for management of the area and the proposed projects.

The Kootenai National Forest invites written comments and suggestions on the scope of the analysis in addition to comments already received as a result of local public participation activities. The agency also gives notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by March 1, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to James I. Mershon, District Ranger, Cabinet Ranger District, 2693 Highway 200, Trout Creek, Montana 59874.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed actions and environmental impact statement to David Wischer, Project Coordinator, Cabinet Ranger District, 2693 Highway 200, Trout Creek, Montana 59874. (Phone: (406) 827–3533.

SUPPLEMENTARY INFORMATION: The proposed actions include the following:

Fiscal year	Sale name	Legal description PMM	Harv ac.	Volume MMBF	Road miles		Harvest method	Yarding system
					C	R		
1994	Smeads Rice	T26N, R33W	460	5	8.1	12.7	ST/SW GP Sel	Tractor 48%. Skyline 52%.
1995	Chop-sticks	T26N, R33W	400	4	8.5	4.9	ST/SW GP Sel	Tractor 27%. Skyline 73%.

Fiscal year	Sale name	Legal description PMM	Harv ac.	Volume MMBF	Road miles		Harvest method	Yarding system
					C	R		
1996	Lone Deer	T26N, R33W T26N, R34W	325	3	0.0	0.0	ST/SW GP Sel	Helicopter 100%.

Abbreviations used above

Harv: Harvest; Ac.: Acres; PMM: Principal Meridian Montana; C: Construction; R: Reconstruction; T: Township; R: Range; ST: Seed Tree; SW: Shelterwood; GP SEL: Group Selection.

This EIS will tier to the Final EIS and Kootenai Forest Plan (September 1987). The Forest Plan provides goals and objectives, forest-wide standards and guidelines, management area standards and guidelines, and management area prescriptions for the various lands on the Forest. This direction provides for management practices that will be utilized during the implementation of the Forest Plan.

the Smeads-Rice area contains approximately 9,900 acres. It is allocated to the following management Areas (MA):

MA 10 comprises 3 percent of the area. This area is to be managed for big game winter range.

MA 11 comprises 11 percent of the area. This area is to be managed for big game winter range while producing a programmed yield of timber, and maintaining the viewing resource in areas of high visual significance.

MA 12 comprises 74 percent of the area. This are is to be managed to maintain or enhance nonwinter big game habitat and produce a programmed yield of timber.

MA 13 comprises 5 percent of the area. This area is to be managed to provide the special habitat necessary for old-growth dependent wildlife.

MA 18 comprises 1 percent of the area. This area is distinguished by the difficulty in establishing coniferous regeneration after timber harvest. The management objective is to maintain existing vegetation until techniques and practices are available to ensure that timber harvested areas can be regenerated within 5 years of harvest.

MA 19 comprises 6 percent of the area. This area occurs on steep slopes and breaklands over 60 percent. The management objective of this area is to ensure soil stability and water quality by maintaining the vegetation in a healthy condition and by minimizing surface disturbance.

The analysis will consider a range of alternatives. Along with the proposed actions and all reasonable action alternatives, the analysis will consider a "No Action" alternative for each proposed timber sale.

Public participation will be requested at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies and other individuals or organizations who may be interested in or affected by the proposed projects. This input will be used in preparation of the Draft EIS.

The scoping process includes:

—Identifying potential issues.
—Identifying major issues to be analyzed in depth.
—Identifying issues which have been covered by a relevant previous environmental analysis.
—Exploring additional alternatives based on themes which will be derived from issues recognized during scoping activities.
—Identifying potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
—Determining potential cooperating agencies and task assignments.

Public participation to this point involved the presentation of the project at a public open house at the Noxon School and personal contacts with local residents by the Project Coordinator. Future public participation will include continued public meetings, personal contacts, and contact through the media and written material. The following potential issues have been identified through the scoping efforts that have occurred to date:

—What effect would the proposal have on the soils of the area?
—What effect would the proposal have on wildlife?
—Can wildlife security be maintained?
—Can the cover/forage of the area be improved?
—What effect would the proposal have on the roadless character of Roadless Area #674? What are the important attributes of Roadless Area #674?
—What effect would the proposal have on recreational use of the area?
—Could we maintain/improve the biodiversity of the area?
—What effect would the proposal have on the watersheds of the area?
—Could we maintain timber production on a sustained basis in the area while contributing to meet the Forest ASQ volume?
—Is there any need to change management allocations of the area?
—What effect would the project have on air quality?
—What would be the effects on the visual quality objectives for the area?
—Are there any sensitive, threatened, or endangered plant or animal species in the area? How would this project affect them if they are present?
—What would be the effect to private land, and private uses of federal lands, in the area?

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by July, 1991. At that time EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of public participation and of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* v. *Hodel*, 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the

alternatives discussed (see Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

The final EIS is scheduled to be completed by September, 1991. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 U.S. Hwy. 2 West, Libby, Montana, 59923, is the Responsible Official. As the Responsible Official he will decide which, if any, of the proposed projects will be implemented. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Dated: January 2, 1991.

Robert L. Schrenk,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 91–644 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–11–M

Western livestock grazing fees

AGENCY: Forest Service, USDA.

ACTION: Notice of 1991 grazing fees.

SUMMARY: The fee for grazing livestock on certain specified National Forest System lands in the 16 contiguous Western States will be $1.97 per head month for the 1991 grazing year.

EFFECTIVE DATE: March 1, 1991.

FOR FURTHER INFORMATION CONTACT: Edward R. Frandsen, Natural Resource Specialist, Range Management Staff, Forest Service, U.S. Department of Agriculture, P.O. Box 96090, Washington, DC 20090–6090, (202) 453–9846 .

SUPPLEMENTARY INFORMATION: Grazing fees for the use and occupancy of the National Forests and Land Utilization Projects in the 16 Western States and the Crooked River and Curlew National Grasslands are established and collected annually by the Forest Service under the authority of the Organic Act of June 4, 1897, (16 U.S.C. 473–475, 477–482, 551), the Bankhead-Jones Farm Tenant Act of July 22, 1937, (7 U.S.C. 1010–1012), and Executive Order 12548 of February 14, 1986. The 16 contiguous Western States are Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

The formula for establishing the annual grazing fee for these lands is set forth in regulations at 36 CFR 222.51. Fee adjustments are based on three indexes—private grazing land lease rates added to the price livestock producers receive for the sale of beef cattle less the cost of livestock production. Based on the application of these combined indexes to a 1966 base fair market value of $1.23 per head month, the agency will issue bills to grazing permittees in the affected States for 1991 grazing fees at a rate of $1.97 per head month, an increase from 1990 fees of 16 cents.

Dated: January 4, 1991.

David G. Unger,

Associate Deputy Chief.

[FR Doc. 91–672 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 901233–0333]

Motor Freight Transportation and Warehousing Survey; Notice of Determination

In accordance with title 13, United States Code, sections 131, 182, 224, and 225, I have determined that 1990 operating revenue and expenses are needed for the for-hire trucking and public warehousing industries to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also apply to a variety of public and business needs. These data ara not publicly available from nongovernment or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Thomas E. Zabelsky, Chief, Current Services Branch, on (301) 763–5528.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on subjects covered by the major censuses authorized by title 13, United States Code. This survey will provide continuing and timely national statistical data on freight transportation and warehousing services for the period between Economic Censuses. The next Economic Census will be conducted for 1992. The data collected in this survey will be within the general scope and nature of those inquiries covered in the Economic Censuses. The Census Bureau will select a probability sample of trucking and warehousing firms in the United States (with payroll size determining the probability of selection) to report in the 1990 Motor Freight Transportation and Warehousing Survey. The sample will provide, with measurable reliability, national level statistics on operating revenue and expenses for these industries. We will mail report forms to the firms covered by this survey and require their submission within 30 days after receipt.

This survey has been submitted to the Office of Management and Budget, in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended, and was approved under OMB Control No. 0607–0510. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Conclusion

Based upon the foregoing determination, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 4, 1991.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 91–676 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–07–M

Bureau of Export Administration

Electronic Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held February 13 and 14, 1991, 9 a.m., Herbert C. Hoover Building, room 1629, 14th and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to electronics and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Election of Chairman.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the

extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation material two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, BXA, room 1600, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: January 7, 1991.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 91–653 Filed 1–10–91; 8:45 am]

BILLING CODE 3410–DT–M

Foreign-Trade Zones Board

[Order No. 504]

Approval for Expansion of Foreign-Trade Zone 68 El Paso, Texas

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the City of El Paso, Texas, Grantee of Foreign-Trade Zone No. 68, has applied to the Board for authority to expand its general-purpose zone at four sites in El Paso, within the El Paso Customs port of entry;

Whereas, the application was accepted for filing on March 19, 1990, and notice inviting public comment was given in the **Federal Register** on April 2, 1990 (Docket 12–90, 55 FR 12244);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the El Paso, Texas, area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand the zone in accordance with the application filed on March 19, 1990. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 3rd day of January, 1991.

Francis J. Sailer,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91–713 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–DS–M

[Order No. 501]

Resolution and Order Approving the Application of the Liberty County Economic Development Corporation for a Foreign-Trade Zone in Liberty County, TX

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Liberty County Economic Development Corporation, a Texas non-profit corporation, filed with the Foreign-Trade Zones Board on February 28, 1990, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in Liberty County, Texas, within the Houston Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes the authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue an appropriate Board Order.

Grant of Authority to Establish, Operate, and Maintain a Foreign-Trade Zone in Liberty County, Texas Within the Houston Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Liberty County Economic Development Corporation, a Texas non-profit corporation (the Grantee), has made application (filed February 28, 1990, FTZ Docket 9–90, 55 FR 10269, 3/20/90) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Liberty County, Texas, within the Houston Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the

Board's regulations (15 CFR part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 171, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 4th day of January, 1991, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Robert A. Mosbacher,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91-714 Filed 1-10-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-421-060]

Animal Glue and Inedible Gelatin from the Netherlands; Revocation of Antidumping Finding

AGENCY: International Trade Administration Import Administration/ Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce is revoking the antidumping finding on animal glue and inedible gelatin from the Netherlands because it is no longer of any interest to interested parties.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/ 3601.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 49930) its intent to revoke the antidumping finding on animal glue and inedible gelatin from the Netherlands (42 FR 64415, December 22, 1977).

Additionally, as required by 19 CFR 353.25(d)(4)(ii), the Department served written notice of its intent to revoke this finding on each interested party on the service list. Interested parties who might object to the revocation were provided the opportunity to submit their comments not later than thirty days from the date of publication.

Scope of the Finding

Imports covered by the review are shipments of animal glue and inedible gelatin. Through 1988, such merchandise was classifiable under item numbers 445.4000 and 445.4200 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedules (HTS) item number 3503.00.00. The TSUSA and HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of any interest to interested parties. We conclude that there is no interest in an antidumping finding when no interested party has requested an administrative review for four consecutive review periods (19 CFR 353.25(d)(4)(i)) and when no interested party objects to revocation.

In this case we have received no requests for review for five consecutive review periods. Furthermore, no interested party has expressed opposition to revocation. Based on these facts, we have concluded that the antidumping finding covering animal glue and inedible gelatin from the Netherlands is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

This revocation applies to all unliquidated entries of animal glue and inedible gelatin from the Netherlands entered, or withdrawn from warehouse, for consumption on or after December 3, 1990. Entries made during the period December 1, 1989 through December 2, 1990, will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 3, 1990, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries.

This notice is in accordance with 19 CFR 353.25(1990).

Dated: January 4, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-650 Filed 1-10-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-479-063]

Animal Glue and Inedible Gelatin From Yugoslavia; Revocation of Antidumping Finding

AGENCY: International Trade Administration Import Administration/ Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce is revoking the antidumping finding on animal glue and inedible gelatin from Yugoslavia because it is no longer of any interest to interested parties.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S.

Department of Commerce, Washington, DC 20230, telephone: (202) 377–8312/3601.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 49930) its intent to revoke the antidumping finding on animal glue and inedible gelatin from Yugoslavia (42 FR 64416, December 22, 1977).

Additionally, as required by 19 CFR 353.25(d)(4)(ii), the Department served written notice of its intent to revoke this finding on each interested party on the service list. Interested parties who might object to the revocation were provided the opportunity to submit their comments not later than thirty days from the date of publication.

Scope of the Finding

Imports covered by the review are shipments of animal glue and inedible gelatin. Through 1988, such merchandise was classifiable under item numbers 445.4000 and 445.4200 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedules (HTS) item number 3503.00.00. The TSUSA and HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of any interest to interested parties. We conclude that there is no interest in an antidumping finding when no interested party has requested an administrative review for four consecutive review periods (19 CFR 353.25(d)(4)(i)) and when no interested party objects to revocation.

In this case we have received no requests for review for five consecutive review periods. Furthermore, no interested party has expressed opposition to revocation. Based on these facts, we have concluded that the antidumping finding covering animal glue and inedible gelatin from Yugoslavia is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

This revocation applies to all unliquidated entries of animal glue and inedible gelatin from Yugoslavia entered, or withdrawn from warehouse, for consumption on or after December 3, 1990. Entries made during the period December 1, 1989 through December 2, 1990, will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 3, 1990, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries.

This notice is in accordance with 19 CFR 353.25(1990).

Dated: January 4, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91–651 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–433–064]

Railway Track Maintenance Equipment From Austria; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 5, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on railway track maintenance equipment from Austria. The review covers one manufacturer/exporter of this merchandise to the United States and the period February 1, 1989 through January 31, 1990.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results remain unchanged from the preliminary results of review, where we found no shipments and zero margins.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–8312/3601.

SUPPLEMENTARY INFORMATION:

Background

On November 5, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 46541) the preliminary results of its antidumping duty administrative review of the antidumping finding on railway track maintenance equipment from Austria (43 FR 6937, February 17, 1978). We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are limited to ballast regulators and tamping machines, two specific types of railway track maintenance equipment, which are currently classifiable under Harmonized Tariff Schedules (HTS) item number 8604.00.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of this merchandise to the United States, Plasser and Theurer, GmbH and the period February 1, 1989 through January 31, 1990.

There were no shipments to the United States of Austrian ballast regulators or tamping machines during the period February 1, 1989 through January 31, 1990.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The final results of our review remain unchanged from the preliminary results of review, and we determine that Plasser's margin remains at zero percent.

Further, as provided for by section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required.

These deposit requirements are effective for all shipments of Austrian railway track maintenance equipment entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c) (1990).

Dated: January 4, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–715 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–DS–M

[A-485-602]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Republic of Romania; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On February 28, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from the Republic of Romania. This review covers the sole exporter of such merchandise to the United States and the period February 6, 1987 through May 31, 1988. Subsequent to the preliminary results, the Department of Commerce extended the comment period and postponed the hearing to enable the Government of Romania to submit corrected per capita gross national product data for the period of review, as the previous government allegedly had provided false economic statistics to the International Monetary Fund. These statistics were the basis for choosing Portugal for the purposes of the preliminary results. Based on the new data, we identified a new list of potential surrogate countries. We solicited comments from interested parties on the surrogate selection issue. Based on our analysis of the corrected gross national product data and the comments received, we have chosen Yugoslavia as the surrogate country for the purposes of the final results. The final dumping margin is 13.89 percent.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Karin Schrottke-Price or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 7017) the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished ("TRBs"), from Romania (52 FR 23320, June 19, 1987). We preliminarily found a margin of 23.72 percent using the factors of production of Tehnoimportexport ("TIE"), the sole Romanian manufacturer/exporter, as valued with cost data from Portugal, the Department's chosen surrogate at the time of the preliminary results.

We scheduled a hearing for April 16, 1990, with pre-hearing briefs due on March 30, 1990. On March 8, 1990, the Government of Romania requested a postponement of at least 60–90 days to allow sufficient time to gather and submit corrected per capita gross national product ("GNP") statistics for the period of review. At that time, the government believed that the former government had provided false economic statistics to the International Monetary Fund ("IMF"), data which ultimately led to the Department's choice of Portugal as the surrogate country for valuation purposes.

At that time, the government of Romania requested the IMF and the World Bank to assist in calculating more accurate national income data for the earlier period. Given the unique circumstances that occurred in Romania during the review period and the possibility that falsified GNP data could affect significantly the results of this review, the Department granted a 90-day extension until July 2, 1990, for the submission of corrected economic data and pre-hearing briefs. We rescheduled the hearing for July 16, 1990.

Subsequently, the IMF did determine that the previous GNP data were erroneous and published corrected GNP data in the September 1990, issue of *International Financial Statistics*, an IMF publication. The Department reopened its inquiry as to the potential surrogate countries that would be appropriate for the purposes of the final results. On October 3, 1990, the Department determined that Yugoslavia, Algeria, Malaysia, South Africa, Brazil, and Mexico were potential surrogates for the purposes of the final results, given the corrected GNP data provided for Romania for the period of review. On October 15, 1990, the Department attempted to solicit cost data from each of the named surrogate countries. On November 21, 1990, the Department solicited comments from the parties to the proceeding with respect to such data and the surrogate selection issue. Having reviewed all surrogate data on the record, as well as the parties' comments, the Department has chosen Yugoslavia as the surrogate country for the purposes of the final results. For a further discussion of the Department's selection for the purposes of the final results, please refer to the discussion in the *Foreign Market Value* section.

We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of tapered roller bearings and parts thereof, finished or unfinished, from Romania. During the review period, this merchandise was classifiable under items 680.30, 680.39, 681.10, and 692.32 of the Tariff Schedules of the United States ("TSUS"). This merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") items 848.22.00, 848.29.10, 848.29.93, 848.32.04, 848.33.04, and 848.39.02. The TSUS and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers the sole Romanian exporter, Tehnoimportexport, and the period February 6, 1987 through May 31, 1988.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, f.o.b. price to unrelated purchasers in the United States. We deducted the respondent's packing expenses and, as best information available, added surrogate packing expenses based on packing cost data from bearings producers in Thailand and Singapore. We made deductions for foreign inland freight and handling, based on Yugoslavian surrogate information. No other adjustments were claimed or allowed.

Foreign Market Value

In the most recent review of this order, the Department treated Romania as a state-controlled economy country. None of the parties to the proceeding are contesting such treatment in this review, so we have calculated foreign market value in accordance with section 773(c) of the Tariff Act and § 353.8 of the applicable Commerce Regulations (1988).

Based upon the corrected GNP for Romania, the Department identified Yugoslavia, Algeria, Malaysia, South Africa, Brazil, and Mexico as potential surrogate countries for these final results. These countries are middle-income countries and represent similar levels of development based on per capita incomes and labor distributions. We would have been unable to obtain appropriate sales or constructed value data from any of the selected countries; see January 3, 1991 memorandum to the

file from Karin Price. Therefore, we used the factors of production approach to calculate foreign market value. Of the six potential surrogates, we have chosen Yugoslavia as the surrogate for Romania because it is the most comparable to Romania in terms of economic development, and we were able to obtain sufficient factors valuation data for Yugoslavia.

We used the following information to value the factors of production:

- We based the values for steel used to manufacture the inner and outer rings (AISI 4118), the rollers and some rings (SAE 52100), and the cages (DIN 1623) on official Eurostat data for Yugoslavian imports of these types of steel from the European Community;
- In the absence of reliable data from the surrogate countries, as best information available, we based scrap value on the Eurostat data for world exports of alloy scrap steel to Portugal;
- We based labor rates on data published by the International Labour Office ("ILO") for Yugoslavia;
- We based freight costs on public rates obtained from Yugoslavia;
- As best information available, we based overhead and indirect labor costs on the costs of a bearing company in Portugal;
- We used the statutory minimum of ten percent of the sum of materials and fabrication costs for general expenses;
- We used the statutory minimum of eight percent of the sum of material costs, fabrication costs, and general expenses for profit;
- We added U.S. packing to the constructed value, in accordance with section 773(e)(1)(c) of the Tariff Act. For U.S. packing, we used the best information available, as described in the *United States Price* section of this notice.

Currency Conversion

We made currency conversions in accordance with § 353.60(a) of the Department's regulations (19 CFR 353.60(a)(1990)). Normally, we use certified exchange rates furnished by the Federal Reserve Bank of New York, but no certified rates were available for Yugoslavia. Therefore, all currency conversions were made using monthly average exchange rates published by the IMF, as best information available.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. At the request of petitioner, we held a hearing on July 16, 1990, and received pre-hearing and rebuttal briefs from respondent, TIE, and petitioner, The Timken Company. After we identified the new list of potential surrogates, we solicited comments on the surrogate selection issue.

Comment 1

Petitioner argues that factual submissions filed after the preliminary results or later than 180 days after initiation of the review should have been rejected and returned to respondent in accordance with 19 CFR 353.31(a).

Department's Position

We disagree. The Department's regulations (19 CFR 353.31(b)) provide an exception to the time limits outlined in section (a) when the Department requests the submission of factual information. On March 21, 1990, the Department agreed that, given the unique circumstances surrounding this review, the Department would consider the corrected economic statistics, if the data was submitted within 90 days.

Comment 2

Petitioner argues that Portugal is the correct surrogate country for Romania. There exists more complete publicly available data pertaining to Portugal than for any other potential surrogate country with a comparable economy. Moreover, petitioner argues that Portugal has been chosen as a surrogate for every other review of TRBs and antifriction bearings from both Hungary and Romania, including the preliminary results of this review.

Petitioner argues that Yugoslavia is not an appropriate choice as there is an outstanding antidumping duty order on TRBs from Yugoslavia. Further, there is evidence of dumping of relevant steel products from Yugoslavia into the European Community, as well as evidence of subsidization of some steel products in Yugoslavia. Moreover, Yugoslavia has pursued a steady policy of currency devaluation throughout the 1980's, distorting export prices. Petitioner notes that South Africa, although comparable in terms of GNP, would be difficult to use as a surrogate because of the apartheid system in that country and various trade embargos which would make it difficult to accurately determine production factor data. Petitioner claims that Brazil and Mexico would not be good choices since their steel industries are highly subsidized, and information from Algeria is unreliable due to the state-controlled method of management in that country.

Respondent objects to the choice of Portugal as the surrogate country for Romania, given the revised IMF statistics which show that Portugal is not comparable to Romania in terms of level of economic development. Respondent argues that the Department is required to initiate the surrogate selection process for each administrative review independently from earlier surrogate determinations. Moreover, respondent claims that, since Portugal is not a significant producer of comparable merchandise, it would not be a good surrogate for Romania.

Respondent believes that Mexico would be the best surrogate country, and that Yugoslavia would be the next most appropriate choice. Both are close to Romania in terms of per capita GNP, both have significant development in the industry producing such or similar merchandise, and both have a wide variety of publicly available data. Respondent claims that Mexico is the better choice since its per capita GNP is more equivalent to Romanian GNP when Romanian GNP is converted to U.S. currency based on the recently devalued exchange rates rather than at rates existing at the time of the period of review. (See Comment 4.) Respondent distinguishes between the use of TRB sales prices and surrogate factor information, arguing that factors data are appropriate despite evidence of dumping which would typically prevent the Department from using sales prices of TRBs. Respondent argues that export prices of steel are preferable to import prices, because Romania produces its own steel and import prices would be upwardly biased. There is no evidence that either Malaysia or Algeria are significant producers of bearing quality steel. Brazil is inappropriate because of its hyperinflation and the relationship between one of the major bearing producers in Brazil and the petitioner. South Africa also is not a good choice due to distortions in data resulting from the apartheid system in that country.

Department's Position

As discussed in the *Foreign Market Value* section, we have determined that Yugoslavia should be the surrogate country for the purpose of the final results. We have chosen Yugoslavia because it is the country most comparable to Romania, in terms of economic development, and we were able to obtain sufficient factors valuation data for that country. We agree with petitioner that the Department normally does not use sales data of TRBs from a country subject to an antidumping or countervailing duty order because of the potential distortion in prices. An antidumping or countervailing duty order on TRBs does

not, however, preclude the use of factor price data.

With respect to factor price data for Yugoslavia, the subsidization of steel products to which the petitioner refers involved export subsidies only, not domestic production of steel. Therefore, the Department first attempted to obtain domestic prices of steel, the major raw material input. Unable to obtain such data, the Department then turned to the question of whether to use official import or export data for Yugoslavian steel inputs. Because of the export subsidies mentioned above, as well as several antidumping proceedings in the European Community, we relied on import prices of steel rather than export prices.

With respect to respondent's concern that import prices of steel could be upwardly biased, we note that import prices represent the price of steel available to domestic producers of TRBs, and there is no reason to believe that these prices are significantly greater than those for domestically produced steel.

Comment 3

Petitioner argues that the Department should reject TIE's entire questionnaire response and use the best information available because the response was inaccurate and the Department was unable to verify all data submitted. The Department was denied access to the Alexandria plant at verification. Further, TIE did not allow verification of direct and indirect labor factors or overhead information at the Brasov plant. Moreover, certain direct labor components were omitted from the submitted labor factors, and TIE misinformed the Department regarding the types of steel used in bearing production, the bearing weights, and the amount of scrap generated through the manufacturing process.

Respondent argues that, since the Department verified similar factors at the Alexandria plant during a previous verification, another verification at that plant was not necessary. Moreover, the Alexandria plant was not producing TRBs for export to the United States at the time of the verification. The Brasov plant accounted for more than 95 percent of all exports during the period of review. Respondent claims that TIE did permit verification of direct and indirect labor at the Brasov factory and supplied data for all labor components.

Department's Position

We disagree with petitioner. The minor discrepancies found at verification at the Brasov plant do not warrant rejecting the entire questionnaire response. The Department elected not to verify information submitted by the Alexandria production facility. Sales from the Alexandria plant account for an insignificant portion of total U.S. sales. We noted the discrepancies in submitted direct labor amounts and have adjusted our calculations accordingly. Also, we have applied surrogate overhead and indirect labor rates as best information available. For both the preliminary and final results, we used the standard weights for steel submitted by respondent. We verified these weights against actual weights, and found that in almost all cases, standard weights resulted in slightly overstated costs. Therefore, we accepted the submitted standard weights. For scrap, we adjusted for any discrepancies found at verification in both the preliminary and final results.

Comment 4

Respondent claims that the Department's calculation of GNP is incorrect and overstates the actual GNP for Romania. While the Department used corrected GNP figures submitted by the new government for this review period, the Department has converted these figures to dollars using the exchange rate set by the previous government. Respondent argues that, just as the GNP statistics under the old regime were overstated and suspect, the 14–15 lei/dollar exchange rate set during that time exaggerates the value of the lei by approximately 250 percent, and should be disregarded in favor of the new exchange rate set by the present Romanian government (35 lei/dollar).

Petitioner argues that the Department used the correct exchange rate and that the new government's recent devaluation of the currency is not relevant to this review period.

Department's Position

We agree with petitioner. Unlike the 1988 GNP figures reported by the former government, which were factually incorrect, the 14–15 lei/dollar exchange rate used by the Department reflects the actual rate used to convert currency during the 1987–1988 review period.

Concerns about overvaluation are irrelevant. Even in market economy cases, there is no way to objectively determine to what extent a currency is overvalued or undervalued. What matters is the actual rate of conversion during the time period under consideration. Therefore, we have used the 14–15 lei/dollar exchange rate.

Comment 5

Respondent claims that the Department neglected to take into account purchasing power differences in the various economies and levels of infrastructure in determining the primary surrogate country for Romania According to respondent, there is a wealth of publicly available evidence which suggests that Romania has, by far, the lowest standard of living in Eastern Europe. For example, the number of automobiles or telephones per capita is lower in Romania than in many other Eastern European countries. Given this lower standard of living, it is clear that Mexico is the best surrogate country.

Department's Position

After considering broad measures of economic development such as per capita GNP and the distribution of labor between industry and agriculture, the Department found that Yugoslavia was more comparable than Mexico to Romania. The Department considers per capita GNP to be a broader, and, therefore, more accurate measure of comparability than the number of telephones or automobiles per capita.

The Department is unaware of any current statistics on purchasing power differences between Romania and its possible surrogates, and the respondent has submitted no data in this regard. Therefore, we are unable to make purchasing power comparisons for the purposes of determining surrogates in this review.

Comment 6

Respondent claims that the Department relied on the wrong steel classification in valuing hot-rolled alloy steel bar. TIE uses AISI 4118, a low carbon steel, to produce the inner and outer rings (i.e., cups and cones) of the great majority of its tapered roller bearings, while the Department relied on the price of high-carbon steel to value this factor. Respondent also argues that the Department should have used actual 1988 data to value steel, rather than using proportional increases between 1986 and 1987 prices to calculate 1988 prices.

Petitioner believes that the Department used the correct type of steel to value steel factors but agrees with respondent that actual 1988 prices should have been used.

Department's Position

We agree with respondent that steel grade AISI 4118 was incorrectly valued and have used prices for a low-carbon alloy steel to value such steel for these

final results. We have also used actual 1988 prices to value 1988 steel data.

Comment 7

Petitioner argues that the Department should value labor based on fully loaded, skill-specific labor rates, so as not to understate full labor costs. Petitioner also claims that data published by the ILO do not include fringe benefits.

Respondent argues that ILO labor rates are fully loaded and that the Department should not distinguish between skilled and unskilled labor.

Department's Position

Since ILO and Bureau of Labor Statistics' data, as well as TIE's questionnaire response, do not distinguish between skilled and unskilled labor rates, it was impossible for the Department to value Romanian labor on the basis of skill-specified labor rates. We agree with respondent that ILO labor rates are fully loaded, as confirmed with the ILO.

Comment 8

Petitioner argues that the factory overhead rate of 22.6 percent used for the preliminary results is understated because it is based on summary pages from a Portuguese bearing producer's financial statement and does not account for indirect labor costs. Mexican industry information submitted by TIE does not relate specifically to TRB production and is unsubstantiated. Petitioner prefers the overhead rate submitted by the U.S. Embassy in Portugal because it better captures all overhead expenses. The producer who supplied these data has available to it the full financial record and can better determine the actual overhead rate.

Respondent objects to use of the overhead rate derived from the financial statement; it is inaccurate because the Portuguese producer who provided the financial statement may import its raw materials from a related company using transfer pricing, which would overstate overhead as a percentage of cost of manufacturing by understating materials costs. Moreover, this Portuguese bearing producer is related to a company which is covered by an antidumping duty order. Respondent also objects to the use of the overhead rate reported by the U.S. Embassy in Portugal because it is from an unidentified source without any classification of expenses. Respondent argues that the Department should use the overhead rate of 15.4 percent determined in the investigation of TRBs from Romania or use the overhead rate of 25 percent for Mexico that respondent submitted.

Department's Position

As best information available, we have calculated an overhead rate of 24.3 percent based on depreciation, utility costs, and miscellaneous product costs using the 1987 financial statement of the Portuguese bearing company. Because the overhead rate does not account for indirect labor, and should have, we have included, also as best information available, an additional 15 percent of total labor costs to the 24.3 percent to account for indirect labor. This figure was provided by the U.S. Embassy in Portugal and is the only indirect labor figure available. When the 24.3 percent overhead rate is adjusted to include indirect labor, we find, on average, an effective overhead rate of approximately 30 percent.

While we recognize respondent's concern regarding the potential overstatement of overhead due to transfer prices, the Portuguese data are better documented than any other data on record and represents the best information available. Except for the indirect labor component, we have not relied on the overhead rate reported by the U.S. Embassy in Portugal in February 1990, because no source documentation was provided to support it. However, we note that when we adjust the 24.3 percent overhead rate to include indirect labor, the adjusted figure is close to that reported by the U.S. Embassy in Portugal in February 1990, which does include indirect labor.

Comment 9

Respondent argues that the use of packing costs from a Swedish company related to a company subject to an antidumping duty order and based on proprietary information from another proceeding without that company's consent is inappropriate. Moreover, Swedish packing costs would be higher than packing costs in Romania since Swedish packing methods are more sophisticated. The Department should use actual Romanian packing costs or Thai or Singapore packing costs from the investigations of antifriction bearings from Thailand and Singapore.

Petitioner claims that packing costs were determined correctly for the preliminary results of this review.

Department's Position

We agree with respondent that this information should not have been used since it was based on proprietary data, and, for these final results, have used packing costs obtained from bearing producers in Thailand and Singapore. This information is the only packing data from bearing manufacturers available for the period covered by our review. Moreover, Thailand and Singapore are more comparable to Romania than is Sweden in terms of economic development.

Comment 10

Petitioner argues that the Department should reduce U.S. price for credit costs incurred by TIE. These credit costs should be calculated based on the time period between the date of invoice (when U.S. customers received title to the product) and the date of actual payment, and on the average discount rate prevailing in the surrogate country throughout the review period.

Respondent argues that the Department did deduct credit expenses from the U.S. price for the preliminary results and that the interest rate in effect in Romania at the time of the review is appropriate for such a calculation.

Department's Position

When U.S. price is based on purchase price, adjustments for differences in circumstances of sale, such as differences in credit expenses, are made to foreign market value, in accordance with § 353.56 of the Commerce regulations. In this case, there are not enough home market or surrogate country data to enable us to determine differences in credit expenses between U.S. sales and constructed value. Therefore, we are unable to adjust for any such differences.

Comment 11

Petitioner has noted that the Department should have included in this review all products within the scope of the order that are admitted to a foreign trade zone ("FTZ") or subzone, regardless of whether "privileged" or "non-privileged" status has been elected for such products upon their entry to the zone.

Department's Position

To the extent that any of TIE's sales during the review period were "non-privileged" merchandise upon admittance into an FTZ and were subsequently transformed into merchandise not covered by this order (e.g., automobiles) before entering the U.S. Customs territory, the Department would have no basis to assess dumping duties on such merchandise. Concerns about the assessment and collection of dumping duties on FTZ-destined merchandise have been addressed in the Department's proposed FTZ Regulations which were most recently published November 20, 1990. Section 400.33, for example, proposes that all merchandise

subject to an antidumping or countervailing duty order shall be placed in "privileged" status upon admission into a zone or subzone and subject to duties or suspension of liquidation upon entry for consumption in the United States. This proposal was designed, among other things, to prevent zones from being used to circumvent the antidumping and countervailing duty laws. See 55 FR 48446, 48450–48451.

To the extent that any of TIE's sales during the review period were placed in "privileged" status or were placed in "non-privileged" status and transformed into merchandise still covered by the TRB order (e.g., parts transformed into bearings), prior to entering U.S. Customs territory, Customs would have suspended liquidation, and will assess duties, as appropriate.

Comment 12

Petitioner argues that the Department should average the economic statistics over three to five years in identifying the potential surrogate countries. Petitioner calls attention to the Department's October 3, 1990, memorandum, which suggested "that a three to five year average of production cost figures may provide better estimates of factor costs." Based upon petitioner's derivation of a 1985–1988 average of various economic data, petitioner advises that Uruguay, Argentina, and Portugal should be added to the Department's list of potential surrogates, given the comparability of their levels of economic development to that of Romania.

Department's Position

We disagree. The Department generally limits its review of data to the period of review and looks outside the review period only when circumstances warrant such analysis. See memorandum from Erik Heitfield to Karin Price of December 19, 1990. At the time the Department identified the potential surrogates for the final results of this review, the IMF had only published one year of corrected GNP data for Romania (1988 data). As a result, we limited our review of the economic data of 1988, even though this review covers the period February 6, 1987 through May 31, 1988.

Final Results of the Review

As a result of our review of the comments received, we have determined the margin to be:

Manufacturer/exporter	Review period	Margin (percent)
Tehnoimportexport	02/06/87–05/31/88	13.89

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated dumping duties based on the above margin shall be required on entries of this merchandise from TIE. For any entries of this merchandise from a new exporter, whose first shipments occurred after May 31, 1988, and who is unrelated to TIE, a cash deposit of 13.89 percent shall be required. These deposit requirements are effective for all shipments of TRBs from Romania entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until the publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 353.22 of the Department's regulations (19 CFR 353.22 (1990)).

Dated: January 4, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administation.

[FR Doc. 91–652 Filed 1–10–91; 8:45 am]

BILLING CODE 3510–DS–M

[C–549–501]

Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain circular welded carbon steel pipes and tubes from Thailand. We preliminarily determine the total bounty or grant for the period January 1, 1987 through December 31, 1987 to be 2.05 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 11, 1991.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1988, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (53 FR 29754) of the countervailing duty order on certain circular welded carbon steel pipes and tubes from Thailand (50 FR 32751; August 14, 1985). On August 31, 1988, the petitioners, the standard pipe subcommittee of the Committee on Pipe and Tube Imports and its individual producer members, requested an administrative review of the order. We initiated the review, covering the period January 1, 1987 through December 31, 1987 on September 27, 1988 (53 FR 37618). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act). This is the first administrative review since the publication of the order.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of circular welded carbon steel pipes and tubes, with an outside diameter of 0.375 inches or more but not over 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A–120, A–53, and A–135. During the review period, such merchandise was classified under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256,

610.3258, and 610.4925, of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under HTS item numbers 73.04.1010, 73.04.2050, 73.04.2070, 73.04.3100, 73.04.3900, 73.04.9050, 73.05.1010, 73.05.1110, 73.05.1210, 73.05.1910, 73.05.3140, 73.05.3910, 73.05.9010, 73.05.2060, 73.06.3010, 73.06.3050, 73.06.6050, and 73.06.9010. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and nine programs.

Analysis of Programs

(1) Tax Certificates for Exports

Under the Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act of 1981 (Tax and Duty Act), the Government of Thailand issues tax certificates to the exporter of record to rebate indirect taxes and import duties on inputs used to produce exports. The rebate rates are computed on the basis of an input/output (I/O) study initially published in 1980 based on 1975 data, and updated in 1985 using 1980 data.

The Thai Ministry of Finance used the I/O study to compute the value of total inputs (both imports and local purchases) used in a discrete range of sector-specific products at ex-factory prices. The Ministry then calculates the import duties and indirect taxes on each input, and two rebate rates. The "A" rate rebates import duties and indirect domestic taxes (import sales tax and business taxes). The "B" rate rebates only the business taxes. The "B" rate is used by exporters that receive duty drawback, import duty exemptions on raw materials or when the firms do not use imported raw materials in their production process. The "A" or "B" rate is then applied to the total F.O.B. value of the export to determine the amount of the rebate.

The rebates are paid to companies by tax certificates which can be used to pay various tax liabilities or they can be transferred or sold to other companies. The rebate rates in effect during the review period were set forth in the "Notification of the Committee on Tax Rebates, No. Or. 2/2529," effective February 5, 1986. The calculation of these rates was based on the updated I/O study published in 1985. The "A" rate for sector I/O 106, which includes circular welded carbon steel pipes and tubes, is 8.11 percent, and the "B" rate is 4.98 percent.

In Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Apparel from Thailand (50 FR 9818; March 12, 1985), we examined Thailand's rebate system under the Tax and Duty Act. We found that the program was intended to rebate indirect taxes and import duties and that the rebate rates had been reasonably calculated. In subsequent investigations involving products from Thailand, including the investigation in this proceeding, we reaffirmed this determination. Because this program is available only to exporters, it is countervailable to the extent that it confers an overrebate of import duties and indirect taxes.

The value of all domestically-produced finished goods, as shown in the I/O tables, is an ex-factory value. Because the rebate is applied to the F.O.B. value of export, we adjusted the ex-factory value to reflect an F.O.B. value. The I/O tables do not separate wholesale margin and transportation costs applicable solely to domestically-produced finished goods. Therefore, we divided the wholesale margin and transportation costs for all finished goods in the I/O 106 sector, including imports, by the ex-factory value of imported and domestically-produced finished goods in the sector. We then multiplied the ex-factory value of all domestically-produced finished goods in the sector by this ratio. We added the result to the ex-factory value of domestically-produced finished goods in order to obtain the F.O.B. adjusted value.

In order to obtain the allowable rebate rates, we divided the import duties and tax incidence on all items physically incorporated into I/O 106 sector products by the F.O.B. adjusted value of all domestically produced finished goods in the sector. We then compared the authorized rebate rate of 8.11 percent, which is based on both physically and non-physically incorporated inputs, to the allowable rebate rate and found that there is an excessive remission of import duties and indirect taxes to exporters of pipes and tubes. The difference between the "A" rate and the allowable rebate is 0.81 percent. To calculate the overrebate of the "B" rate, we followed the same procedure outlined above, except that we divided the domestic taxes by the F.O.B. adjusted value and compared the result to the authorized rebate rate of 4.98 percent. The difference between the "B" rate and the allowable rebate is 0.51 percent.

All four exporters of pipes and tubes to the United States received tax certificates during the period of review. Saha Thai and Siam Steel only used the "B" rate. Thai Hong and Thai Union used both the "A" and the "B" rates. To calculate the benfits received by Thai Hong and Thai Union, we calculated weighted-averages of the rates applicable to their exports of the subject merchandise to the United States. We then weight-averaged each company's benefit by its share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.54 percent *ad valorem*.

(2) Export Packing Credits

Export packing credits (EPCs) are short-term pre-shipment and post-shipment export loans. Exporters apply to commercial banks for EPCs and the commercial banks, in turn, submit the applications to the Bank of Thailand (BOT) for approval. Under the "Regulations Governing the Purchase of Promissory Notes Arising from Exports" (B.E.2528), effective January 2, 1986, the BOT repurchases promissory notes issued by creditworthy exporters through commercial banks. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, usance bill or warehouse receipt. The notes are available for a maximum of 180 days and interest is payable on the due date of the loan.

The BOT charges the commercial bank account for the principal amount plus five percent interest per annum on repurchased packing credits issued in connection with exports in categories one and two of the "Notification of the Board of Investment No. 40/2521." If the terms of the loan are not met, the BOT charges the commercial bank a penalty, retroactive to the first day of the loan, at an eight percent interest rate. The commercial bank then charges the exporter's account for the principal amount plus seven percent interest on the due date of the loan. If the exporter has not met the terms of the loan, the commerical bank passes on the additional eight percent penalty charge over the term of the loan.

If the exporter can prove that shipment of the goods took place within 60 days after the due date (in the case of pre-shipment loans), or the foreign currency was received within 60 days after the due date (in the case of post-shipment loans), the penalty is refunded to the commercial bank by the BOT. If only a portion of the goods was shipped or only a portion of the foreign currency was received by the due date, the

exporter receives only a partial refund, proportional to the value of the goods shipped or the foreign currency received. The purpose of the penalty charge is to ensure that companies are using the EPCs to finance export sales.

We verified that, during 1987, commercial banks financed either the full amount of the promissory note or sold a portion of the promissory note to the BOT. We verified at the BOT that Saha Thai, Siam Steel, Thai Hong, and Thai Union received and paid interest on EPC loans for exports of the subject merchandise to the United States during the review period. Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates.

For our benchmark interest rate, we used the weighted-average interest rate charged by commercial banks on domestic loans, bills, and overdrafts. This is the benchmark we have used in all previous Thai cases. We calculated a benchmark rate of 9.85 percent for 1987.

To calculate the benefit from the EPC loans on which interest was paid during 1987, we compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate. We were unable to adequately verify EPCs received by Siam Steel and Thai Hong. As a result, we used "best information available" to calculate the benefits bestowed to these two companies. We applied the highest company EPC rate calculated in this review to both companies. We then weight-averaged each company's benefit by its share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 1.29 percent *ad valorem.*

(3) Electricity Discounts for Exporters

The three electricity generating authorities of Thailand, the Electricity Generating Authority of Thailand (EGAT), the Metropolitan Electricity Authority (MEA), and the Provincial Electrical Authority (PEA), provide discounts on electricity rates charged to producers of export products. All exporters that are eligible to receive tax certificates qualify for the electricity discounts.

Once the export transaction has been completed, the exporter may apply for the discount by presenting to the electricity authority from which it receives its electricity bill the appropriate documents to verify that an export shipment has been made. The discount is calculated based on the rebate rate in effect and consumption by the company, and the discount is credited on a subsequent electricity bill.

Thai Union was the only exporter that applied for and received electricity discounts based on exports during the review period. Because electricity discounts are available only to exporters, we preliminarily determine that they are countervailable.

To calculate the benefit, we divided the total amount of electricity discounts received by Thai Union during the review period by its total export sales. We then weight-averaged this benefit by Thai Union's share of exports of the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.22 percent *ad valorem.*

(4) Other Programs

We also examined the following programs and preliminarily determine that the exporters of the subject merchandise did not use them during the review period.

A. Tax and Duty Exemptions Under Section 28 of the Investment Promotion Act (IPA)
B. Repurchase of Industrial Bills
C. Export Processing Zones
D. International Trade Promotion Fund
E. Reduced Business Taxes for Producers of Intermediate Goods for Export Industries
F. Additional Incentives under the IPA
- Income tax exemption
- Goodwill and royalties tax exemption
- Tax deduction of foreign marketing expenses and foreign taxes
- Exemption of sales tax for promoted industries
- Exemption from payment of import duties and business taxes on machinery
- Exemption on export duties and business taxes on products produced or assembled by promoted firms
- Deduction from assessable income of an amount equal to 5 percent of the increase over the previous year of income derived from exports

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 2.05 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

The Department intends to instruct the Customs Service to assess countervailing duties of 2.05 percent of the f.o.b. invoice price on all shipments of the subject merchandise exported on or after January 1, 1987 and on or before December 31, 1987.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 2.05 percent of the F.O.B. invoice price on all shipments of the subject merchandise from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculations methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with § 355.38(e) of the Commerce regulations. Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 19 CFR 355.22.

Dated: January 4, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-716 Filed 1-10-91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the

Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90–00018." A summary of the application follows.

Summary of the Application

Applicant: National Hydropower Association (NHA), 555 13th Street NW., suite 900–E, Washington, DC 20004.

Contact: Arthur John Armstrong, Counsel, telephone: (202) 452–6972.

Application no.: 90–00018.

Date deemed submitted: December 27, 1990.

Members (in addition to applicant): Acres International Corporation, Amherst, NY; Benham-Holway Power Group, Tulsa, OK; EWI Engineering Associates, Inc., Middleton, WI; Ossberger Turbines, Inc., Richmond, VA; Synergics, Inc., Annapolis, MD; Tacoma Public Utilities, Tacoma, WA.

Export Trade

Products

Equipment, instrumentation, and supplies for (1) Reservoir/resource assessment; (2) environmental assessments; (3) environmental monitoring; (4) production and power generation systems, such as hydraulic turbines and generators, speed increasers and gears, power distribution and specialty transformers, switch gears, pumps and pumping equipment, overhead cranes, hoists, monorail systems, radiotelephone communications, electrical apparatus and equipment, wiring, and miscellaneous ancillary equipment and supplies; (5) transmission and distribution systems; (6) general and technical hydropower information and publications; and (7) all other products related to hydropower development and production (including heavy duty transportation equipment and specialty construction equipment such as stress relief equipment and tunneling equipment).

Services

Engineering, design, and other services related to (1) Identification, conceptual prefeasibility, and feasibility reservoir/resource assessment; (2) engineering studies and final designs; (3) environmental assessment and studies; (4) construction and project management; (5) plant management and operations; (6) financing, such as construction and long-term debt technical support; (7) servicing, training, and other services related to the sale, use, maintenance rehabilitation, or upgrading of Products or to projects that substantially incorporate Products; and (8) all other services related to hydropower development and power production.

Export Trade Facilitation Services (as They Relate to the Export of Products, Services, and Technology Rights)

Consulting; international market research; marketing and trade promotion; trade show participation; trade missions and reverse trade missions; insurance; legal assistance; accounting assistance; services related to compliance with customs requirements; transportation; trade documentation and freight forwarding; communication and processing of sales leads and export orders; warehousing; foreign exchange; financing; liaison with U.S. and foreign government and multinational agencies, trade associations, and banking institutions; and taking title to goods.

Technology Rights

Patents; trademarks; service marks; trade names; copyrights; trade secrets; technical expertise; utility models; hydrologic and hydraulic physical and computer modeling; industrial designs; and computer software protection associated with Products, Services, or Export Trade Facilitation Services.

Export Markets

The Export Markets include all parts of the world, except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, NHA and/or one or more of its Members may:

1. Engage in joint selling arrangements for the sale of Products and/or Services in Export Markets, such as joint marketing negotiation, offering, bidding, and financing, and allocating sales resulting from such arrangements.

2. Establish export prices for sales of Products and/or Services by the Members in Export Markets.

3. Discuss and agree on interface specifications, engineering, and other technical Product and/or Service requirements of specific export customers or Export Markets.

4. Refuse to quote prices for, or to market or sell, Products and/or Services in Export Markets.

5. Solicit non-Member Suppliers (a) To sell their Products and/or Services, or (b) to offer their Export Trade Facilitation Services through the certified activities of NHA and/or its Members.

6. Coordinate the development of projects in Export Markets, such as exploration, product identification, scientific and/or technical assessment, engineering, design, construction and/or delivery, installation and construction, project ownership, project operation and transfer of project ownership, establishing joint warranty service centers; and establishing operation and maintenance services for hydropower facilities and/or related support services, parts warehousing, and training centers.

7. Engage in joint promotional activities aimed at developing existing or new Export Markets, such as advertising, demonstrations, field trips, trade missions, reverse trade missions, and conferences; and bring together, from time to time, groups of Members to plan and discuss how to fulfill the technical Product and Service requirements of specific export customers or particular Export Markets.

8. Establish and operate joint ventures and other jointly owned entities, such as for-profit and not-for-profit corporations and partnerships and/or other joint venture entities, owned exclusively by Members, for the purpose of engaging in the Export Trade Activities and Methods of Operation herein described.

9. Provide Export Trade Facilitation Services as an exclusive or non-exclusive Export Intermediary for the Members:

(a) Arrange to have non-Member Suppliers to provide, and/or establish

an entity owned jointly and exclusively by Members to provide Export Trade Facilitation Services as an exclusive or non-exclusive Export Intermediary for the Members;

(b) Enter into agreements with an exclusive Export Intermediary such that a non-exclusive Export Intermediary may not represent any non-Member Supplier of Products and/or Services in specified Export Markets; and Members may agree that they will not export independently into specified Export Markets, either directly or through any other Export Intermediary or other party;

(c) Impose requirements as to pricing and other terms and conditions of sub-licensees as to fields of use, or maximum sales or operations, in Export Markets;

(d) Restrict licensees and sub-licensees as to fields of use, or maximum sales or operations, in Export Markets;

(e) Impose territorial restrictions relating to any Export Market on foreign licensees and sub-licensees;

(f) Require the assignment back or exclusive or non-exclusive grantback to the licensor Member of rights in Export Markets to all improvements in Technology Rights, whether or not such improvements fall within the field of use authorized in such license;

(g) Require package licensing of Technology Rights; and

(h) Require products and/or services (including, but not limited to, Products and Services) to be used, sold, or leased as a condition of the license of Technology Rights.

10. Agree that any information obtained pursuant to this Certificate shall not be provided to any non-Member.

11. Act as a shipper's association to negotiate favorable transportation rates and other terms with individual ocean common carriers and individual shipping conferences.

12. Jointly establish and/or negotiate with purchasers regarding specifications for Products and/or Services, on a country-by-country basis for the Export Markets.

13. Exchange and discuss the following types of information about Export Trade, Export Markets, Export Trade Activities and Methods of Operation, and the agreements related thereto:

(a) Information (other than information about Technology Rights; costs; output; capacity; inventories; domestic prices; domestic sales; domestic orders; terms of domestic marketing or sale; or United States business plans, strategies, or methods) that is already generally available to the trade or public;

(b) Information about sales, marketing, and opportunities for sales of Products and/or Services in Export Markets; selling strategies for Export Markets; prices and pricing; projected demands (quality and quantity); customary terms of sale; the types of Products and/or Services available from competitors for sale; market strengths; and economic and business conditions in the Export Markets;

(c) Information about the export prices, quality, quantity, sources, available capacity to produce, and delivery dates of Products available from Members for export;

(d) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by Members;

(e) Information about joint bidding, selling, or servicing arrangements for Export Markets, and allocation of sales resulting from such arrangements among the Members;

(f) Information about expenses specific to exporting Products and Services to Export Markets, such as expenses relating to transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;

(g) Information about domestic and foreign legislation, regulations, policies, and executive actions affecting the sales of Products and/or Services in Export Markets, such as, U.S. Federal and State programs affecting the sales of Products and/or Services in Export Markets or foreign policies which could affect the export of Products or Services;

(h) Information about Members' export operations, such as sales and distribution networks established by the Members in Export Markets, and prior export sales by Members, such as export price information;

(i) Information necessary to the conduct of Export Trade, Export Trade Activities and Methods of Operation in the Export Markets; and

(j) Information on the organization, governance, financial condition, and membership of the NHA.

14. Forward inquiries to the appropriate individual Members concerning requests for information, received from a foreign government or its agent, such as that Member's domestic or export activities (such as prices and/or costs). If such Member elects to respond, that Member may respond directly to the requesting foreign government or its agent.

15. Forward inquiries and responses to the appropriate individual Member's request for information which has been transmitted to and/or received from a foreign government or its agent, such as foreign policy related to privatization or rural electrification.

16. Individually license and sub-license Technology Rights in Export Markets to non-Members. Such licenses and sub-licenses may:

(a) Convey exclusive or non-exclusive rights in the Export Markets;

(b) Impose requirements as to the prices at which Products and/or Services incorporating, manufactured, or produced, using Technology Rights may be sold or leased in Export Markets;

(c) Impose requirements as to pricing and other terms and conditions of sub-licenses of Technology Rights in Export Markets;

(d) Restrict licenses and sub-licenses as to fields of use, maximum sales, or operations in Export Markets;

(e) Impose territorial restrictions relating to any Export Market on foreign licensees and sub-licensees;

(f) Require the assignment back or exclusive or non-exclusive grantback to the licensor Member of rights in Export Markets to all improvements in Technology Rights, whether or not such improvements fall within the field of use authorized in such license;

(g) Require package licensing of Technology Rights; and

(h) Require products and/or services (including, but not limited to, Products and Services) to be used, sold, or leased as a condition of the license of Technology Rights.

17. Refuse to provide Export Trade Facilitation Services or participation in Export Trade, Export Trade Activities and Methods of Operation to non-Members.

18. Individually purchase Products and/or Services for export to Export Markets.

19. Enter into agreements whereby one or more Members, or an entity owned jointly and exclusively by Members, will provide for transportation services to Members, such as the chartering and space chartering of vessels, the negotiation and utilization of through intermodal rates with common and contract carriers for inland freight transportation for export shipments to a domestic export terminal, port, or gateway.

20. Meet to engage in the Export Trade, Export Trade Activities and Methods of Operation certified herein.

Definitions

1. *Export Intermediary* means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. *Supplier* means a person who produces, provides, or sells a Product, Service, Technology Right, and/or Export Trade Facilitation Service, whether a Member or non-Member.

3. *Member* means a person who has membership in NHA and who has been certified as a "Member" within the meaning of § 325.2(1) of the Regulations.

Dated: January 7, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-620 Filed 1-10-91; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to the Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products, Produced or Manufactured in India

January 8, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending export visa requirements.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Lori Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and India is being amended to permit entry of merchandise produced or manufactured in India and entered on or after January 1, 1991 which are accompanied by visas issued by the Embassy of India, Commerce Wing, in Washington, DC.

The Government of India may issue replacement visas from Washington, DC, for shipments which are required to be visaed under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement. A Textile Export Visa/Invoice, along with facsimiles of the stamp and signatures of authorized issuing officials, is published as an enclosure to the letter to the Commissioner of Customs which follow this notice.

A description of the textile categories in terms of HTS number is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 47546, published on November 15, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

January 8, 1991

Commissioner of Customs

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive to you on November 29, 1979, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns export visa requirements for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India.

Effective January 1, 1991, you are directed to amend further the November 26, 1979 directive to accept entry of merchandise accompanied by visas issued by the Embassy of India, in Washington, DC, for merchandise produced or manufactured in India and entered on or after January 1, 1991. The replacement visa shall consist of a Textile Export Visa/Invoice form bearing an official Indian Embassy embossed stamp on the front in box number 7, along with the signature of an authorized official of the Government of India. The embossed stamp must be placed on an original textile Export Visa/Invoice form. This form will include among other things identified in the visa arrangement, the correct category and quantity, and the standard 9 digit visa number with the correct year of export. A sample Textile Export Visa/Invoice form and facsimiles of the stamp and signatures of officials authorized to issue replacement visas are enclosed.

Shipments accompanied by replacement visas which are entered on or after January 1, 1991 shall be denied entry if the replacement visa form is illegible or if there have been any cross outs or alterations. All previous export visa requirements shall be retained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-M

EMBASSY OF INDIA
COMMERCE WING
2536 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008
TELEPHONE 939-9806

TEXTILE EXPORT VISA/INVOICE	VISA NO(s): DATE OF ISSUE:
1) EXPORTER:	6) CATEGORY / QUANTITY / UNIT / U.S.VALUE TOTAL
2) CONSIGNEE:	7)
3) INVOICE NO(s):	
4) AWB/BILL OF LADING/ENTRY NO:	
5) DESCRIPTION	

SAMPLE PROFORMA

SIGNING AUTHORITY

EITHER (1) D.P. SRIVASTAVA
First Secretary (Commerce)

OR (2) _____
VIKRANT RATTAN
Attache (Commerce)

[FR Doc. 91-712 Filed 1-10-91; 8:45 am]
BILLING CODE 3510-DR-C

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from the Procurement List commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 11, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On November 2 and 16, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 46239 and 47905) of proposed additions to and deletion from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Deck Covering
7220–00–205–0389

Toothbrush
8530–01–293–1387
8530–01–293–1388

Services

Commissary Warehouse Service
Nellis Air Force Base, Nevada

Janitorial/Custodial
Federal Building and U.S. Courthouse
550 West Fort
Boise, Idaho

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

Accordingly, the following commmodity is hereby deleted from the Procurement List:

Creeper, Mechanic's
4910–00–106–7834

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–682 Filed 1–10–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from the Procurement List commodities to be produced and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 11, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Governmenmt will be required to procure the commodities and services listed below from workshops for the blind and other severely handicapped.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Strap, Webbing
5340–00–494–8240
5340–01–107–3382
5340–01–156–8148
5340–01–190–2472

Duplicate Diazo Microfiche
7690–00–NSH–0019

Clip, End, Strap
8315–00–753–3933

Skirt, Woman's
8410–01–279–7730
8410–01–279–7731
8410–01–279–7732
8410–01–279–7733
8410–01–279–7734
8410–01–279–7735
8410–01–279–7736
8410–01–279–7737
8410–01–279–7738
8410–01–279–7739
8410–01–279–7740
8410–01–279–7741
8410–01–279–7742
8410–01–279–7743
8410–01–279–7744
8410–01–279–7745
8410–01–279–7746
8410–01–279–7747
8410–01–279–7748
8410–01–279–7749
8410–01–279–7750
8410–01–279–7751
8410–01–279–7752
8410–01–279–7753

Canteen, Water, Plastic
8465–01–115–0026
(Remaining Government Requirement)

Services

Janitorial/Custodial
Federal Building, U.S. Post Office and Courthouse
Pine Bluff, Arkansas

Janitorial/Custodial
Federal Building
St. Maries, Idaho

Janitorial/Custodial
U.S. Army Reserve Center
Spartanburg, South Carolina

Janitorial/Custodial
Fort Story
Virginia Beach, Virginia

Deletion

It is proposed to delete the following commodity from the Procurement List:

Strap, Mail Tray
P.S. Item 01067

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–683 Filed 1–10–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; Additions; Correction

In notice document 90–29368, appearing on pages 51462–51463 in the issue of Friday, December 14, 1990, the following language, which was intended to appear as a separate paragraph between the first and second paragraphs of the section entitled "Supplementary Information" in that notice, was inadvertently omitted:

"Comments were received from a firm which is not the current contractor. That firm alleged that it could manufacture the items being proposed for addition to the Procurement List, and objected to their being removed from competitive bidding. It did not provide any data concerning the impact of the proposed additions on it or other contractors, nor did it address any of the other factors which the Committee considers in deciding whether to add items to the Procurement List."

That language addresses comments received in response to the proposal to add the following commodities to the Procurement List:

Bag, Storage
1430–01–133–8435
(Remaining Government Requirement)

Strap, Webbing
1430–01–174–5095
4935–00–922–2480
(Remaining Government Requirement)

Strap Set, Webbing
4935–00–824–5469
(Remaining Government Requirement)

Strap, Set
9435–00–888–7208
(Remaining Government Requirement)

Strap Assembly
4935–00–888–7207
(Remaining Government Requirement)

Accordingly, the effective date for addition of these commodities to the Procurement List is changed to February 11, 1991.

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–684 Filed 1–10–91; 8:45 am]

BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information: Methylene Chloride Exposure Survey

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey of consumers concerning certain categories of consumer products that contain methylene chloride ("DCM"). The requested expiration date is August 31, 1991.

The purpose of the information collection is to obtain information from consumers regarding their use of and exposure to DCM–containing products. On August 6, 1990, the Commission issued a General Order to obtain information from manufacturers, importers, packagers, and private labelers concerning the labeling and marketing of products containing 1% or more of DCM. The Commission staff's preliminary analysis of the results from the General Order indicates that, generally, the number of products containing DCM has declined. However, the Commission staff is examining the exposure potential for three product categories because of the concentration of DCM in these products and the products' volume of sales. These categories are (1) paint strippers and removers, (2) non-automotive spray paints, and (3) wallpaper and floor tile adhesive removers. The exposure survey will be concerned with these three product categories. The information collected by the survey will be used by the Commission to assess the risks to consumers from use of products in these categories and will enable the Commission to determine what, if any, additional steps are needed to protect consumers.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Methylene Chloride Exposure Survey.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Households.

Total number of respondents: Approximately 1730 individuals.

Hours per response: Approximately .10 hours.

Total hours for all respondents: Approximately 173 hours.

Comments: Comments about this request for approval of a collection of information should be addressed to Elizabeth Harker, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

Dated: January 8, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91–707 Filed 1–10–91; 8:45 am]

BILLING CODE 6335–01–M

[CPSC Docket No. 91–C0004]

Century Products Company, a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Century Products Company, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 26, 1991.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission,

Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION: (attached)

Dated: January 7, 1991.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between Century Products Company, a corporation (hereinafter, "Century"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. Century is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located in Macedonia, Ohio.

3. The "Staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

II. Jurisdiction

4. Century manufactured certain Roadster Baby Walkers, Model No. 3676, identified further in paragraphs 6 and 7 below (hereinafter, "baby walkers"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. These baby walkers are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. Century manufactured and sold these baby walkers to a variety of retailers throughout the United States. Century, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (4) and (11).

III. The Product

6. Century manufactured approximately 48,000 baby walkers between April and September 1987.

7. The baby walkers are constructed in the shape of an automobile and include a steering wheel which contains a horn made of a soft polyethylene material.

IV. Staff Allegations Concerning the Baby Walkers and of a Failure by Century to Comply With the Reporting Requirements of Section 15(b) of the CPSA

8. The baby walkers have a steering wheel horn that can be bitten or broken off by an infant into small pieces. The staff alleges that these pieces could be aspirated or ingested, thereby presenting a potential choking hazard.

9. Century first became aware of the alleged defect on November 16, 1987, when an employee reported that her child chewed off a piece of the horn.

10. Shortly thereafter, Century requested its horn supplier to modify the horn by increasing its thickness.

11. On November 30, 1987, Century received a second complaint from a consumer who reported that the horn was ripping.

12. On January 4 and 5, 1988, Century learned of two additional incidents in which infants had chewed off pieces of the horn.

13. On February 10, 1988, Century delivered its first shipment of baby walkers with revised horns. The general public was neither notified of the modification, nor the reasons for this action.

14. Between February 16 and April 11, 1988, Century received six more safety complaints regarding the horn. One incident involved a child who almost choked on a horn piece and whose life was saved by the quick removal of the piece from his throat.

15. On April 28, 1988, Century reported to the Commission. At the time, the firm was aware of 10 safety complaints concerning the product.

16. Century had received sufficient information significantly earlier than it reported to reasonably support the conclusion that the baby walkers described in paragraphs 6 and 7 above, contained a defect which could create a substantial product hazard. Nonetheless, the company failed to report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), until April 28, 1988 when it was aware of 10 incidents. Section 15(b) requires a manufacturer of consumer products who obtains information that reasonably supports the conclusion that its product contains a defect which could create a substantial product hazard to inform the Commission immediately of the defect.

V. Response of Century

17. Century denies the allegations set forth in paragraphs 8 through 16 and affirmatively states that its baby walkers are safe and defect free, and do not contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further denies an obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b) with respect to these baby walkers.

VI. Agreement of the Parties

18. Century and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

19. Century agrees to pay the Commission a civil penalty in the amount of fifty thousand dollars ($50,000), payable within ten (10) days after service of the Final Order of the Commission accepting this Settlement Agreement. This payment is made in settlement of allegations by the staff that Century violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to the subject walkers manufactured and sold by Century.

20. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued.

21. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

22. Upon final acceptance of this Settlement Agreement and Order by the Commission, Century knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

23. Century agrees to inform the Commission if it learns of any additional baby walker horn incidents or any other relevant information affecting the safety of these baby walkers.

24. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Century to appropriate legal action.

25. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Century Products Company.

Dated: October 10, 1990.

Calvin J. Cohen,

Vice President, Century Products Company.

The Consumer Product Safety Commission.

David Schmeltzer,

Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,

Director, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Dated: October 16, 1990.

Ronald G. Yelenik,

Trial Attorney, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby *Ordered* that Century Products Company shall pay within ten (10) days of final acceptance of this Settlement Agreement and service of this Order, a civil penalty in the sum of fifty thousand dollars ($50,000) to the Consumer Product Safety Commission.

Provisionally accepted on the 7th day of January, 1991.

By Order of the Commission.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91-708 Filed 1-10-91; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 90-88-NG]

Washington Natural Gas Co.; Order Granting Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order in FE Docket No. 90-88-NG granting authorization to Washington Natural Gas Company (Washington Natural) to import from Canada, on a firm basis, up to 15,000 MMBtu per day (14,434 Mcf/d) of natural gas through October 31, 1999. The natural gas would be imported from Canada at a point on the U.S.-Canadian border near Sumas, Washington, pursuant to a gas purchase agreement between Washington Natural and Poco Petroleums Ltd.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-703 Filed 1-10-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3896-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 24, 1990 through December 28, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-K65127-CA Rating EC2, Castle Rock Compartment Timber Sales and Road Construction, Implementation, Six Rivers National Forest, Lower Trinity Ranger District, Trinity County, CA.

Summary. EPA expressed environmental concerns that all of the action alternatives have the potential to adversely impact water quality, fisheries, wetlands and riparian resources due to road construction and timber harvesting on steep slopes and unstable soils. EPA also expressed concerns regarding project impacts to biodiversity and threatened and endangerd species, and noted that the Forest Service's preferred Alternative X would have the greatest environmental impact due to more road construction and timber harvested than other action alternatives.

ERP No. D1-AFS-L61190-OR Rating EC2, Mt. Ashland Ski Area Development Plan, Implementation, Additional Alternatives, Special Use Permit, Ashland Ranger District, Rogue River National Forest, Jackson County, OR.

Summary. EPA had environmental concerns with the proposed action. Additional water quality mitigation measures need to be evaluated. Additional information is needed on wastewater treatment feasibility, effects on wetlands, and the effects from indirect development (induced growth).

Regulations

ERP No. R-DOE-A09098-00, 10 CFR part 1021, National Environmental Policy Act Implementing Procedures (55 FR 46444)

Summary. EPA commends DOE on its efforts to expand public and state participation, provide more thorough definitions and policies and codify internal guidelines into regulations. EPA requests, clarifying language for specific items in the document and is concerned that the issuance of the proposed regulations does not impact on the broader discussion of NEPA/CERCLA applicability underway in the Executvie Branch.

Dated: January 8, 1991.

William D. Dickerson,

Deputy Dickerson, Office of Federal Activities.

[FR Doc. 91-718 Filed 1-10-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3896-7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed December 31, 1990 Through January 4, 1991, Pursuant to 40 CFR 1506.9.

EIS No. 910000, Second Final EIS, BLM, MT, Garnet Resource Area Wilderness Recommendations, Designation or Nondesignation,

Wales Creek, Hoodoo Mountain and Quigg West Wilderness Study Area, Powell and Granite Counties, MT, Due: February 11, 1991, Contact: Darrell C. Sall (406) 329–3914.

EIS No. 910001, Final EIS, FHW, CA, Bristol Street Improvement, between Warner Avenue and Memory Lane, Funding, Orange County, CA, Due: February 11, 1991, Contact: Jim Bednar (916) 551–1310.

EIS No. 910002, Draft EIS, AFS, MT, Lost Silver Timber Harvest Project, Timber Sale and Road Construction, Implementation, Flathead National Forest, Horse Ranger District, Flathead County, MT, Due: February 25, 1991, Contact: Allen Christopherson (406) 387–5243.

EIS No. 910003, Draft EIS, AFS, WA, Chenuis Creek/Cayada Mountain Timber Sale, Timber Harvest/Improvement, Implementation, Mt. Baker-Snoqualmie National Forest, Cleanwater Roadless Area, White River Ranger District, Pierce County, WA, Due: February 25, 1991, Contact: Ted Lewis (206) 825–6585.

EIS No. 910004, FINAL EIS, AFS, OR, Mt. Hood National Forest Land and Resource Management Plan, Implementation, Clackamas, Jefferson, Marion, Wasco, Multnomah, and Hood River Counties, OR, Due: February 11, 1991, Contact: Laura Ceperly (503) 666–0795.

Dated: January 8, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91–717 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50697A; FRL–3845–6]

Receipt of Application for an Extension/Expansion of Experimental Use Permit; Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an extension/expansion on the fourth experimental use permit (EUP) application (EUP No. 58788–EUP–4) from Crop Genetics International (CGI) requesting an EUP extension/expansion for a genetically engineered microbial pesticide. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before February 11, 1991.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP–50697A and be submitted to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to : Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning 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(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2690).

SUPPLEMENTARY INFORMATION: An application for an EUP extension/expansion has been received from Crop Genetics International of 7170 Standard Drive, Hanover, MD 21076. This EUP application EPA File Symbol is 58788–EUP–4. The proposed experiment involves the endophytic (plant-dwelling) bacterium *Clavibacter xyli* subspecies *cynodontis* that has been genetically engineered to contain a delta-endotoxin gene obtained from *Bacillus thuringiensis* subspecies *kurstaki*. After inoculation, the endophytic bacterium grows within the corn plants and produces the pesticidal agent which is active against the larval stages of the European corn borer (ECB).

The purpose of this EUP application is to conduct two small-scale field tests of a recombinant microorganism in the environment to evaluate the activity of Cxc/Bt construction (strain MDRI.586) against ECB, *Ostrinia nubilalis* in the States of Maryland and Nebraska; to select those corn hybrids which interact best with Cxc/Bt to produce the desired suppression of ECB; and to evaluate the segregation of this Cxc/Bt construction. The specific experiments described in this proposal will address: (1) Selection of corn hybrids which exhibit the greatest activity against ECB when inoculated with Cxc/Bt (MD and NE); (2) season-long activity of Cxc/Bt against ECB in one selected hybrid (MD only); (3) potential interaction of Cxc/Bt with ECB resistant corn genotypes for ECB suppression (MD only); (4) early season activity of Cxc/Bt in a selected sweet corn hybrid (MD only); (5) yield response of field corn due to Cxc/Bt suppression of ECB damage (MD and NE); and (6) genetic segregation of Cxc/Bt populations under field conditions (MD and NE).

CGI is proposing to test a prototype recombinant microorganism at two small-scale sites in 1991: Ingleside, Queen Anne's County, Maryland and Hastings, Clay County, Nebraska. The total test site in Maryland will occupy 99,475 ft^2 or 2.3 acres. The test plants will occupy no more than 2.2 acres of this total, with the remaining space consisting of buffer zones for separation of research plots and for movement of farm equipment. Plots treated with Cxc/Bt will occupy no more than 1.1 acres. In Nebraska, the total test site will occupy 33,520 ft^2 or 0.8 acres. Test plants will occupy no more than 0.63 acres of this total, with Cxc/Bt treated plots occupying no more than 0.32 acres. The total area involved in this testing program will be 2.83 acres of corn of which a maximum of 1.42 acres will be corn inoculated with the recombinant microorganism. Both tests will be initiated throughout the remainder of the growing season. Planting will take place between late April and late May 1991 at both locations, depending upon weather conditions. The proposed field test sites in both Maryland and Nebraska would allow the use of 0.5 kg active ingredient on seeds and plants sufficient to plant 2.83 test plot acres. The actual amount of active ingredient present in the seeds after seed inoculation is estimated to be not more than 1.5 g, and the actual amount of active ingredient used to stab-inoculate plants is estimated to be not more than 10 g. The amount of active ingredient requested per State is: less than 7 g (Maryland) and less than 4 g (Nebraska). The test sites will consist of: (1) A corn plant population arranged in six test plot areas in Maryland and two test plot areas in Nebraska; and (2) a 25–foot wide fallow zone. The zone will be maintained using tillage and/or

chemical herbicides. Plants at the two sites will be inoculated with Cxc/Bt using CGI's standard inoculation process. In the event that certain hybrids are determined based on greenhouse tests not to inoculate well using CGI's standard process, these hybrids may be stab-inoculated in the field using a Cxc/Bt suspension.

CGI's 1991 field tests are designed to determine the activity of MDRI.586 in a range of hybrids under Maryland and Nebraska conditions; and to determine hybrids compatible with Cxc/Bt.

Upon completion of the tests, all plant debris and stubble will be buried by disking. Harvested grain will be destroyed by either: (1) Grinding the harvested grain, spreading the residue onto the test site, and incorporating the residue into the soil, or (2) roasting the grain and disposing of the residue either at a landfill or by incorporating the residue into the soil in the test site. Based on previous data submitted (EUP 58788–EUP–2), no overwintering of Cxc is anticipated.

The labeling proposed by CGI that would govern the conduct of the experiment states:

> Applicator should wear protective clothing and waterproof gloves. For use only in accordance with the terms and conditions of the experimental use permit.

Following the review of the CGI application and any comments received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register.**

Dated: December 21, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–698 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–F

[OPTS–140142; FRL–3843–2]

Access to Confidential Business Information by ABT Associates and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ABT Associates (ABT), of Cambridge, Massachusetts, and its subcontractors, Dynamac (DYN), of Rockville, Maryland; Eastern Research Group (ERG), of Arlington, Virginia; Hampshire Research Associates, Incorporated (HRA), of Alexandria, Virginia; Pei Associates (PEI), of Cincinnati, Ohio; and Technical Resources, Incorporated (TRI), of Rockville, Maryland, and Washington, DC, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D0–0020, contractor ABT, of 55 Wheeler St., Cambridge, MA, and its subcontractors DYN, of 11140 Rockville Pike, Rockville, MD; ERG, of 6 Whittemore St., Arlington, VA; HRA, of 1600 Cameron St., Suite 100, Alexandria, VA; PEI, of 11499 Chester Road, Cincinnati, OH; and TRI, of 100 6th St., SW., Apt. 315, Washington, DC, will assist the Office of Toxic Substances (OTS) in preparing Health and Environmental Hazard Assessments of chemical substances to support regulatory decisionmaking.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D0–0020, ABT, and its subcontractors DYN, ERG, HRA, PEI, and TRI will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA to perform successfully the duties specified under the contract. ABT, DYN, ERG, HRA, PEI, and TRI personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 9, and 21 of TSCA that EPA may provide ABT, DYN, ERG, HRA, PEI, and TRI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters, subcontractor DYN's facility, and subcontractor TRI's Washington, DC facility only.

ABT and its subcontractors DYN, ERG, HRA, PEI, and TRI have been authorized access to TSCA CBI at DYN's and TRI's facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved DYN's and TRI's security plans and has performed the required inspections of their facilities and has found the facilities to be in compliance with the manual. Upon completing review of the CBI materials, DYN and TRI will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1993.

ABT, DYN, ERG, HRA, PEI, and TRI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: December 14, 1990.

Steve Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–700 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–F

[FRL–3896–6]

Acid Rain Advisory Committee; Open Meeting

SUMMARY: In August of 1990, the U.S. Environmental Protection Agency gave notice of the establishment of an Acid Rain Advisory Committee (ARAC) which would provide advice to the Agency on issues related to the development and implementation of the requirements of the Acid Deposition Control title of the Clean Air Act Amendments of 1990. ARAC held its first meeting on December 13 and 14, 1990.

OPEN MEETING DATES AND ADDITIONAL INFORMATION: Notice is hereby given that the Acid Rain Advisory Committee will hold an open meeting on January 28 from 9 a.m. to 5 p.m., and on January 29 from 9 a.m. to 5 p.m. at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC.

On January 28, the committee will break up into the four subcommittees established at the first ARAC meeting: Allowance trading, permits and technology, emissions monitoring, and energy conservation and renewables. The subcommittees will discuss and frame issues related to their areas of assignment. The subcommittees will meet concurrently in at least three different rooms. Seating in those rooms will be limited and publicly available on a first come, first served basis. There is no pre-meeting registration.

On January 29, the full committee will meet to hear presentations from the

subcommittees on their progress to date. It is also anticipated that the full committee agenda will include a presentation and discussion on the "WEPCO" new source review issue and several issues which were considered by one or more of the ARAC subcommittees.

INSPECTION OF COMMITTEE DOCUMENTS: All documents for this meeting, including a more detailed meeting agenda will be publicly available in limited numbers at the meeting. Thereafter, these documents together with related documents prepared for previous ARAC meetings will be available in EPA Air Docket Number A–90–39 in room 1500 of EPA headquarters, 401 M Street SW., Washington, DC. Hours of inspections are 8:30 to 12 noon and 1:30 to 3:30 p.m. Monday through Friday.

DATES OF FUTURE ARAC MEETINGS: ARAC will hold its third meeting on February 20 and 21, 1991, and will hold its fourth meeting on March 20 and 21, 1991. These meetings will be held in Washington, DC. Times and exact locations will be the subject of future **Federal Register** notices.

FOR FURTHER INFORMATION: Concerning the ARAC or its activities, please contact Mr. Paul Horwitz, Designated Federal Official to the Committee at (202) 475–9400; fax, (202) 252–0892, or by mail at USEPA, Acid Rain Division (ANR 445), Office of Air and Radiation, Washington, DC.

Dated: January 7, 1991.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 91–686 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3897–1]

Open Meeting on January 29 and 30, 1991, of the Environmental Financial Advisory Board of the National Advisory Council for Environmental Policy and Technology

Under Public Law 92–463, the Environmental Protection Agency (EPA) hereby gives notice that an open meeting of the Environmental Financial Advisory Board (EFAB) will be held on January 30, 1991 in the Parkview Room of the Hotel Washington located at 15th and Pennsylvania Avenue, NW., Washington, DC. The meeting will run from 9 a.m. to approximately 4 p.m. EPA also gives notice of meetings on January 29th, 1991 of the four standing workgroups of EFAB, at the Hotel Washington. The workgroup meetings will run from approximately 1 p.m. to 4:30 p.m.

The agenda for the EFAB meeting on January 30 includes reports from the four workgroups, discussion of draft papers of the workgroups, new appointments, and a discussion of EFAB's charter and administrative procedures.

The location of the workgroup meetings on January 29 are as follows:

1. Environmental Finance: Federal Room.
2. Private Sector Incentives: Boardroom.
3. Public Sector Financing Options: Caucus Room.
4. Small Communities Financing Strategies: Capital Room.

Members of the public who wish to make comments to EFAB or any of its workgroups may do so by submitting them in writing to Herbert Barrack, Designated Federal Official, by January 24, 1991. Please send comments to: Herbert Barrack, Assistant Regional Administrator for Policy and Management, U.S. EPA Region 2, 26 Federal Plaza, New York, NY 10278.

The meetings on January 29 and 30 will be open to the public. Seating is limited and will occur on a first come, first serve basis. For more information contact Gene Pontillo, U.S. EPA, Resource Management Division (H3304), 401 M Street, SW., Washington, DC 20460, (202) 475–7044.

Dated: January 7, 1991.

John J. Sandy,

Director, Resources Management Division.

[FR Doc. 91–687 filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–3896–9]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

ACTION: Notice of open meeting.

SUMMARY: A meeting of the National Air Pollution Control Techniques Advisory Committee will be held at the Sheraton Imperial Hotel and Convention Center, Imperial Rooms I, II, and III, I–40 Exit 282 at Page Road, Research Triangle Park, North Carolina 27709. The commercial telephone number is (919) 941–5050.

DATES: January 29, 30, and 31, 1991.

FOR FURTHER INFORMATION CONTACT: All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by January 22, 1991. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

January 29 (Tuesday)—9 a.m.

- Overview of Title III Clean Air Act Amendments, Summary of Title III Requirements for Hazardous Air Pollutants
- Definition of Source, Discussion of Alternative Definitions of "Source" and Implementation of Title III Provisions
- Petition Process, Status Report on the Development of Guidance for Petitions to Add or Delete Compounds from the List of Hazardous Air Pollutants (Title III of the Clean Air Act Amendments)
- Source Category List, Status Report on the Development of a List of Source Categories That Emit the 189 Hazardous Air Pollutants in the Amendments (Title III of the Clean Air Act Amendments)
- Early Emission Reduction, Status Report on Implementation of the Title III Provisions for Early Reductions to Defer Application of Maximum Achievable Control Technology (MACT) (Title III of the Clean Air Act Amendments)

January 30 (Wednesday)—9 a.m.

- Continuation of January 29—as Required
- National Emission Standards for Hazardous Air Pollutants (NESHAP) Based on Maximum Achievable Control Technology (MACT), Status Reports on Group I Standards (Title III of the Clean Air Act Amendments)
  - Dry Cleaning
  - Ethylene Oxide Commercial Sterilizers
  - Chromium Electroplating
  - Hazardous Organic NESHAP (HON) on Source Categories in the Chemical Industry
  - Asbestos—Comprehensive Revisions

January 31 (Thursday)—9 a.m.

- Continuation of January 30—as Required
- Municipal Waste Combustors, Status Report on the Development of Proposed Standards for Units With Capacity Greater Than 250 Tons Per Day (Section 111 and Title III of the Clean Air Act Amendments)
- Tank Vessel Standards, Presentation of Technical Background Information on Marine Tank Vessel Loading (Titles I and III of the Clean Air Act Amendments)

A Lunch Break will be Taken From 1–2 p.m. Each Day

The dockets containing material relevant to: petition process (A–90–48), source category list (A–90–49), early emission reduction (A–90–47), dry cleaning (A–88–11), ethylene oxide commercial sterilizers (A–88–03), chromium electroplating (A–88–02), hazardous organic NESHAP on source categories in the chemical industry (process vents: A–90–19, equipment leaks: A–90–20, storage: A–90–21, transfer operations: A–90–22, and wastewater: A–90–23), asbestos-comprehensive revisions (A–90–40), municipal waste combustors (A–90–45), and tank vessel standards (A–90–44), are located in the U.S. Environmental Protection Agency, Air Docket, room M1500, 1st floor-Waterside Mall, 401 M Street, SW., Washington, DC 20460. The dockets may be inspected between 8:30 a.m. and 3:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: January 8, 1991.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 91–689 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140143; FRL–3844–1]

Access to Confidential Business Information by Computer Sciences Corporation and Network Management Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Computer Sciences Corporation (CSC), of Falls Church, Virginia, and its subcontractor, Network Management Incorporated (NMI), of Fairfax, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–W0–0043, delivery order number 23, contractor CSC, of 8100 Gatehouse Road, Falls Church, VA, will assist the Office of Toxic Substances (OTS) in operating its Confidential Business Information and Document Processing Centers. Under the same delivery order, CSC's subcontractor NMI, of 11242 Waples Mill Road, Fairfax, VA, will assist OTS in operating its Chemical Search and Assistance Center, and maintaining the TSCA Chemical Directory. Under contract number 68–W0–0043, delivery order number 64, CSC will assist the Office of Compliance Monitoring (OCM) in the control and security of TSCA CBI materials.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W0–0043, CSC and NMI will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract delivery orders. CSC and NMI personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of November 14, 1990 (55 FR 47533), CSC and NMI were authorized for access to CBI submitted to EPA under all sections of TSCA. NMI's access was announced under their previous name of NMI/CRC Systems Incorporated. EPA is issuing this notice to extend CSC and NMI's access to TSCA CBI under the new contract no. 68–W0–0043.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide CSC and NMI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under these delivery orders of EPA contract number 68–W0–0043 will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under these delivery orders of EPA contract number 68–W0–0043 may continue until September 30, 1995.

CSC and NMI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: December 14, 1990.

Steve Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–701 Filed 1–10–91; 8:45 a.m.]

BILLING CODE 6560–50–F

[OPTS–53132; FRL 3842–3]

Premanufacture Notices; Monthly Status Report for JUNE 1990

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for JUNE 1990.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office, NE–G004 at the address below between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPTS–53132)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. L–100, Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division, (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB–44, 401 M St., SW., Washington, DC 20460 (202) 382–3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during JUNE; (b) PMNs received previously and still under review at the end of JUNE; (c) PMNs for which the notice review period has ended during JUNE; (d) chemical substances for which EPA has received a notice of commencement to manufacture during JUNE; and (e) PMNs for which the review period has been suspended. Therefore, the JUNE 1990 PMN Status Report is being published.

Dated: January 2, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report for JUNE 1990.

I. 197 Premanufacture notices and exemption requests received during the month:

PMN No.

P 90–1404 P 90–1416 P 90–1417 P 90–1418
P 90–1419 P 90–1420 P 90–1421 P 90–1422
P 90–1423 P 90–1424 P 90–1425 P 90–1426
P 90–1427 P 90–1428 P 90–1429 P 90–1430
P 90–1431 P 90–1432 P 90–1433 P 90–1434
P 90–1435 P 90–1436 P 90–1437 P 90–1438
P 90–1439 P 90–1440 P 90–1441 P 90–1442
P 90–1443 P 90–1444 P 90–1445 P 90–1446
P 90–1447 P 90–1448 P 90–1449 P 90–1450
P 90–1451 P 90–1452 P 90–1453 P 90–1454
P 90–1455 P 90–1456 P 90–1457 P 90–1458
P 90–1459 P 90–1460 P 90–1461 P 90–1462
P 90–1463 P 90–1464 P 90–1465 P 90–1466
P 90–1467 P 90–1468 P 90–1469 P 90–1470
P 90–1471 P 90–1472 P 90–1473 P 90–1474
P 90–1475 P 90–1476 P 90–1477 P 90–1478
P 90–1479 P 90–1480 P 90–1481 P 90–1482
P 90–1483 P 90–1484 P 90–1485 P 90–1486
P 90–1487 P 90–1488 P 90–1489 P 90–1490
P 90–1491 P 90–1492 P 90–1493 P 90–1494
P 90–1495 P 90–1496 P 90–1497 P 90–1498
P 90–1499 P 90–1500 P 90–1501 P 90–1502
P 90–1503 P 90–1504 P 90–1505 P 90–1506
P 90–1507 P 90–1508 P 90–1509 P 90–1510
P 90–1511 P 90–1512 P 90–1513 P 90–1514
P 90–1515 P 90–1516 P 90–1517 P 90–1518
P 90–1519 P 90–1520 P 90–1521 P 90–1522
P 90–1523 P 90–1524 P 90–1525 P 90–1526
P 90–1527 P 90–1528 P 90–1529 P 90–1530
P 90–1531 P 90–1532 P 90–1533 P 90–1534
P 90–1535 P 90–1536 P 90–1537 P 90–1538
P 90–1539 P 90–1540 P 90–1541 P 90–1542
P 90–1543 P 90–1544 P 90–1545 P 90–1546
P 90–1547 P 90–1548 P 90–1549 P 90–1550
P 90–1551 P 90–1552 P 90–1553 P 90–1554
P 90–1555 P 90–1556 P 90–1557 P 90–1558
P 90–1559 P 90–1560 P 90–1561 P 90–1562
P 90–1563 P 90–1564 P 90–1565 P 90–1566
P 90–1567 P 90–1568 P 90–1569 P 90–1570
P 90–1571 P 90–1572 P 90–1573 P 90–1574
P 90–1575 P 90–1576 P 90–1577 P 90–1578
P 90–1579 P 90–1580 P 90–1581 P 90–1582
P 90–1583 P 90–1584 P 90–1585 P 90–1586
P 90–1587 P 90–1588 P 90–1589 P 90–1590
P 90–1591 P 90–1592 P 90–1593 P 90–1608
Y 90–0229 Y 90–0230 Y 90–0231 Y 90–0232
Y 90–0233 Y 90–0234 Y 90–0235 Y 90–0236
Y 90–0237 Y 90–0238 Y 90–0239 Y 90–0240
Y 90–0241 Y 90–0242 Y 90–0243 Y 90–0244
Y 90–0245

II. 192 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 84–0660 P 85–0433 P 85–0619 P 86–1602
P 86–1607 P 86–1771 P 87–0105 P 87–0323
P 87–0723 P 87–1555 P 87–1760 P 87–1872
P 87–1881 P 87–1882 P 88–0083 P 88–0217
P 88–0319 P 88–0320 P 88–0353 P 88–0468
P 88–0515 P 88–0576 P 88–0636 P 88–0894
P 88–0918 P 88–1020 P 88–1021 P 88–1035
P 88–1211 P 88–1212 P 88–1473 P 88–1567
P 88–1568 P 88–1618 P 88–1619 P 88–1620
P 88–1621 P 88–1622 P 88–1630 P 88–1631
P 88–1632 P 88–1690 P 88–1761 P 88–1763
P 88–1783 P 88–1807 P 88–1809 P 88–1811
P 88–1937 P 88–1938 P 88–1980 P 88–1982
P 88–1984 P 88–1985 P 88–1995 P 88–1999
P 88–2000 P 88–2001 P 88–2100 P 88–2169
P 88–2177 P 88–2179 P 88–2180 P 88–2181
P 88–2188 P 88–2196 P 88–2210 P 88–2212
P 88–2213 P 88–2228 P 88–2229 P 88–2230
P 88–2231 P 88–2236 P 88–2237 P 88–2469
P 88–2473 P 88–2484 P 88–2518 P 88–2529
P 88–2530 P 88–2568 P 89–0089 P 89–0090
P 89–0091 P 89–0225 P 89–0254 P 89–0279
P 89–0292 P 89–0321 P 89–0326 P 89–0385
P 89–0386 P 89–0387 P 89–0538 P 89–0539
P 89–0589 P 89–0721 P 89–0764 P 89–0775
P 89–0867 P 89–0870 P 89–0924 P 89–0942
P 89–0957 P 89–0958 P 89–0959 P 89–0963
P 89–0977 P 89–0978 P 89–0979 P 89–0980
P 89–1010 P 89–1038 P 89–1058 P 89–1104
P 89–1125 P 89–1148 P 90–0002 P 90–0009
P 90–0013 P 90–0142 P 90–0158 P 90–0159
P 90–0187 P 90–0211 P 90–0220 P 90–0226
P 90–0231 P 90–0237 P 90–0248 P 90–0249
P 90–0260 P 90–0261 P 90–0262 P 90–0263
P 90–0319 P 90–0321 P 90–0331 P 90–0333
P 90–0335 P 90–0347 P 90–0360 P 90–0364
P 90–0372 P 90–0383 P 90–0384 P 90–0404
P 90–0405 P 90–0406 P 90–0440 P 90–0441
P 90–0456 P 90–0480 P 90–0489 P 90–0512
P 90–0550 P 90–0558 P 90–0559 P 90–0560
P 90–0564 P 90–0578 P 90–0581 P 90–0584
P 90–0594 P 90–0603 P 90–0608 P 90–0643
P 90–0657 P 90–0667 P 90–0668 P 90–0669
P 90–0707 P 90–1280 P 90–1285 P 90–1308
P 90–1311 P 90–1318 P 90–1319 P 90–1320
P 90–1321 P 90–1322 P 90–1337 P 90–1338
P 90–1353 P 90–1357 P 90–1358 P 90–1364
P 90–1366 P 90–1384 P 90–1393 P 90–1413

III. 329 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 85–0216 P 85–0535 P 85–0536 P 87–0197
P 87–0198 P 87–0199 P 87–0200 P 87–0201
P 88–1271 P 88–1272 P 88–1273 P 88–1274
P 89–0030 P 89–0031 P 89–0711 P 89–0750
P 89–0760 P 89–0776 P 89–0906 P 89–1072
P 90–0169 P 90–0331 P 90–0383 P 90–0385
P 90–0496 P 90–0498 P 90–0529 P 90–0530
P 90–0531 P 90–0532 P 90–0533 P 90–0534
P 90–0535 P 90–0536 P 90–0537 P 90–0538
P 90–0539 P 90–0540 P 90–0541 P 90–0542
P 90–0543 P 90–0544 P 90–0545 P 90–0546
P 90–0547 P 90–0548 P 90–0551 P 90–0552
P 90–0553 P 90–0554 P 90–0555 P 90–0556
P 90–0557 P 90–0561 P 90–0562 P 90–0563
P 90–0565 P 90–0566 P 90–0567 P 90–0568
P 90–0569 P 90–0570 P 90–0571 P 90–0572
P 90–0573 P 90–0574 P 90–0575 P 90–0576
P 90–0577 P 90–0579 P 90–0580 P 90–0582
P 90–0585 P 90–0586 P 90–0587 P 90–0588
P 90–0589 P 90–0590 P 90–0591 P 90–0592
P 90–0593 P 90–0595 P 90–0596 P 90–0597
P 90–0598 P 90–0599 P 90–0600 P 90–0601
P 90–0602 P 90–0604 P 90–0605 P 90–0606
P 90–0607 P 90–0609 P 90–0610 P 90–0611
P 90–0612 P 90–0613 P 90–0614 P 90–0615
P 90–0618 P 90–0619 P 90–0620 P 90–0621
P 90–0622 P 90–0623 P 90–0626 P 90–0691
P 90–0692 P 90–0693 P 90–0694 P 90–0695
P 90–0696 P 90–0697 P 90–0725 P 90–0726
P 90–0727 P 90–0728 P 90–0729 P 90–0730
P 90–0731 P 90–0732 P 90–0733 P 90–0734
P 90–0735 P 90–0736 P 90–0737 P 90–0738
P 90–0739 P 90–0740 P 90–0741 P 90–0742
P 90–0743 P 90–0744 P 90–0745 P 90–0746
P 90–0747 P 90–0748 P 90–0749 P 90–0750
P 90–0753 P 90–0754 P 90–0755 P 90–0756
P 90–0757 P 90–0758 P 90–0759 P 90–0760
P 90–0762 P 90–0767 P 90–0769 P 90–0772
P 90–0775 P 90–0776 P 90–0777 P 90–0779
P 90–0780 P 90–0781 P 90–0782 P 90–0783
P 90–0784 P 90–0785 P 90–0786 P 90–0787
P 90–0788 P 90–0790 P 90–0791 P 90–0792
P 90–0794 P 90–0795 P 90–0796 P 90–0797
P 90–0798 P 90–0799 P 90–0802 P 90–0806
P 90–0807 P 90–0808 P 90–0809 P 90–0810
P 90–0811 P 90–0812 P 90–0813 P 90–0814
P 90–0815 P 90–0816 P 90–0817 P 90–0818
P 90–0819 P 90–0820 P 90–0821 P 90–0822
P 90–0823 P 90–0824 P 90–0825 P 90–0826
P 90–0827 P 90–0828 P 90–0829 P 90–0830
P 90–0831 P 90–0832 P 90–0833 P 90–0834
P 90–0835 P 90–0836 P 90–0837 P 90–0838
P 90–0839 P 90–0840 P 90–0841 P 90–0842
P 90–0843 P 90–0844 P 90–0845 P 90–0846
P 90–0847 P 90–0849 P 90–0850 P 90–0851
P 90–0852 P 90–0853 P 90–0854 P 90–0855
P 90–0856 P 90–0857 P 90–0858 P 90–0860
P 90–0862 P 90–0863 P 90–0864 P 90–0865
P 90–0866 P 90–0867 P 90–0869 P 90–0870
P 90–0871 P 90–0872 P 90–0873 P 90–0874
P 90–0875 P 90–0876 P 90–0877 P 90–0878
P 90–0879 P 90–0880 P 90–0881 P 90–0882
P 90–0883 P 90–0884 P 90–0885 P 90–0886
P 90–0887 P 90–0889 P 90–0890 P 90–0891
P 90–0892 P 90–0893 P 90–0894 P 90–0895
P 90–0896 P 90–0897 P 90–0898 P 90–0899
P 90–0900 P 90–0901 P 90–0902 P 90–0903
P 90–0904 P 90–0905 P 90–0906 P 90–0907
P 90–0908 P 90–0909 P 90–0910 P 90–0911
P 90–0912 P 90–0913 P 90–0915 P 90–0917
P 90–0919 P 90–0920 P 90–0921 P 90–0922
P 90–0923 P 90–0924 P 90–0925 P 90–0926
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P 90–0943 P 90–0944 P 90–0945 P 90–0946
P 90–0947 Y 90–0137 Y 90–0211 Y 90–0212
Y 90–0213 Y 90–0214 Y 90–0215 Y 90–0216
Y 90–0217 Y 90–0218 Y 90–0219 Y 90–0220
Y 90–0221 Y 90–0222 Y 90–0223 Y 90–0224
Y 90–0225 Y 90–0226 Y 90–0227 Y 90–0228
Y 90–0229 Y 90–0230 Y 90–0231 Y 90–0232
Y 90–0233

IV. 127 Chemical substances for which EPA has received notices of commencement to manufacture.

PMN No.	Identity/Generic Name	Date of Commencement
P 81-0081	G Tetrasubstitutedphenol	April 11, 1990.
P 82-0283	T-butylated triphenyl phosphate residue	December 10, 1982.
P 83-0367	G Metal complexed substituted aromatic salt	June 5, 1990.
P 84-0660	G Substituted aryl olefin	February 9, 1988.
P 84-0710	G Copolymer of acrylates and methacrylates	April 6, 1990.
P 84-1020	G Isophthalic polyester	September 25, 1989.
P 85-0250	G Polyoxymethylene copolymer	April 12, 1990.
P 85-0766	G 4-(Trans-4-*n*-alkyl cyclohexyl)-4'-trans-4-*n*-alkyl'cyclohexyl biphenyl	March 15, 1990.
P 85-0767	G 4-*n*-Alkoxyphenyl-trans-4-*n*-alkylcyclohexyl carboxylate	May 1, 1990.
P 85-0773	G 4-(Trans-4-*n*-alkylcyclohexyl)-*n*-alkoxybenzene	March 15, 1990.
P 85-0840	(+)4-*n*-Octyloxyl 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0841	(+)4-*n*-Hexyloxy 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0842	(+)4-*n*-Decyloxy 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0843	(+)4-*n*-Dodecyloxy 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0844	(+)4-(2-Methylbutyl)phenyl 4'-*n*-octylbiphenyl carboxylate	March 15, 1990.
P 85-0845	(+)4-*n*-Propyl 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0846	(+)4-*n*-Pentyl 4'-(2-methylbutyl)-phenylbenzoate	March 15, 1990.
P 85-0847	(+)4-(2-Methylbutyl)phenyl 4'-*n*'-heptylbiphenyl carboxylate	March 15, 1990.
P 86-0352	G Zirconium iv neoalkoxy trisneodecanoato-o	July 24, 1989.
P 86-0354	G Zirconium iv neoalkoxy tris(diisooctyl)phosphato-o	July 24, 1986.
P 86-0612	G Molecular weight branched saturated polyester	June 8, 1990.
P 86-1771	G Benzotriazole derivative	August 29, 1988.
P 87-0017	G Alkylated hydroquinone	April 11, 1990.
P 87-0413	G Copolyester	March 23, 1990.
P 87-0502	G Dialkenylamide	January 26, 1988.
P 87-0633	G Amine based chelating agent	April 5, 1990.
P 87-0634	G Amine based chelating agent	April 5, 1990.
P 87-1791	G Bis-imidazolinium	April 17, 1990.
P 88-0006	4,7-Dimethyl-4-ethenyl-6-octen-3-o1	October 2, 1989.
P 88-0564	G Boric acid ester of alkanolamine	January 20, 1989.
P 88-0624	G Phenyltris(dimethylsiloxy)silane	July 14, 1989.
P 88-0691	G Nonylphenol-capped polyurethane prepolymer	July 14, 1988.
P 88-0829	G Modified liquid hydrocarbon polymer	April 4, 1990.
P 88-0831	Phenol, 4,4'-(9H-fluoren-9-ylidene)bis-	August 27, 1989.
P 88-0925	G Amino epoxy ester acrylate polymer	May 4, 1990.
P 88-0941	G Polyurethane ureas	April 6, 1990.
P 88-1003	G Epoxy resin	May 2, 1990.
P 88-1048	G Alkenyl dicarboxylic acid monoester, calcium salt	May 3, 1990.
P 88-1358	G Diazotized substituted 6-methyl-7-benzothiazole sulfonic acid	April 12, 1990.
P 88-1481	G Fluorosiloxane polymer	June 21, 1989.
P 88-1929	G Modified acrylate terpolymer	April 10, 1990.
P 88-1953	G Acrylate vinylidene chloride copolymer	May 17, 1990.
P 88-2448	G Substituted aromatic azo compound	June 28, 1989.
P 88-2538	G Polyol blend	May 16, 1990.
P 89-0303	2-Oxo-4-methyl-6-gureido pyridine	February 20, 1990.
P 89-0439	G Alkylarylpolyethoxyethyl phosphate ester	February 23, 1990.
P 89-0522	G Amino-epoxy curing agent	April 5, 1990.
P 89-0576	G Metal salt of a complex inorganic oxyacid	April 18, 1990.
P 89-0644	G Perfluoropolyether	May 24, 1990.
P 89-0651	Phenol,4,4'(-(oxybis(2,1-ethanediylthio))bis-	April 14, 1990.
P 89-0678	G Esters of a polyhydroxyspirobiindane and 2-diazo-1-naphthoquinone-5-sulfonyl chloride	August 22, 1989.
P 89-0876	G Polyester resin modified with synthetic monobasic acid	April 2, 1990.
P 89-0888	G Alkyd resin	May 3, 1990.
P 89-1013	G Olefin nitrile	December 5, 1989.
P 89-1033	G Reaction product of a carboxylic acid and a nonvoloid resin	March 14, 1990.
P 89-1100	G Iron arene antimonate complex	May 18, 1990.
P 89-1101	G Iron arene sulfonate complex	May 11, 1990.
P 89-1132	G Polymer of tetraethylenepentamine, fatty aminoamides and epoxy resins	March 26, 1990.
P 89-1150	G Rubber modified polyamide	April 4, 1990.
P 90-0016	G Lithium, *n*-Octadecyl telephthalamate	May 31, 1990.
P 90-0020	G Mono alkyl naphthalene	June 5, 1990.
P 90-0021	G Mono alkyl naphthalene	May 6, 1990.
P 90-0059	G Acrylic resin	May 9, 1990.
P 90-0063	G Modified zeolite	May 18, 1990.
P 90-0073	G Aromatic isocyanate-based urethane prepolymer	May 7, 1990.
P 90-0092	G Quarternary bromide	May 7, 1990.
P 90-0108	3,5-Dichloro-2-pyridone	May 21, 1990.
P 90-0111	G Fluorochemical urethane derivative	May 2, 1990.
P 90-0115	G Halogen substituted hexahydro pentaalkyl substituted indene	March 17, 1990.
P 90-0121	G Amines, alkyl, compounds with (2-benzothiazolythio)-butanedioic acids	April 10, 1990.
P 90-0136	G Hydroxy functional acrylic resin	May 3, 1990.
P 90-0184	G Mixed alkylene benzoates	May 18, 1990.
P 90-0201	Styrene; butyl acrylate; 2-ethylhexyl acrylate	May 22, 1990.
P 90-0255	G Zeigler catalyst precursor	May 2, 1990.
P 90-0279	G Polyorganosiloxane with acrylate groups	May 17, 1990.
P 90-0286	G Nickel polymer	May 7, 1990.

IV. 127 Chemical substances for which EPA has received notices of commencement to manufacture.—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 90–0320	G Acrylic copolymer, sodium salt	April 8, 1990.
P 90–0322	G Amino functional polyorgano siloxane derivative	March 28, 1990.
P 90–0323	G Disubstituted hydroxypolycycle	April 27, 1990.
P 90–0324	G Poly(oxyalkyl)-substituted aniline	May 23, 1990.
P 90–0325	G Poly(oxyalkylene)aniline, carboxylic acid ester	May 23, 1990.
P 90–0326	G Substituted polyoxyalkylene aniline	May 23, 1990.
P 90–0327	G Substituted polyoxyalkylene aniline	May 29, 1990.
P 90–0328	G Substituted polyoxyalkylene aniline	May 23, 1990.
P 90–0334	G Alkanedioc acid salt with tris(hydroxyalkyl)amine	April 12, 1990.
P 90–0388	G Acrylic polymer	May 12, 1990.
P 90–0391	G Substituted naphthalene sulfonic acid	April 30, 1990.
P 90–0398	G Acrylic polymer	May 12, 1990.
P 90–0427	G Acrylic acid, polymer with derivative of acrylic acid, NH4 salt	May 9, 1990.
P 90–0437	G Polymeric polyurethane dispersion	June 4, 1990.
P 90–0453	G Benzimidazo-substituted heteropolycycle	May 15, 1990.
P 90–0465	G Polyurethane based on polyisocyanates, polyols and polyamines	September 19, 1990.
P 90–0470	G Rosin, polymer with substituted phenols, formaldehyde, pentaerythritol and metal hydroxide	May 19, 1990.
P 90–0487	Poly(oxyethylene)(5)cetyl ether phosphate, sodium salt	May 30, 1990.
P 90–0488	G Poly(oxyethylene)(3)carboxylate tridecyl ether, sodium salt	May 30, 1990.
P 90–0491	G 1,3-Propanediol-2-ethyl-2-hydroxymethyl distearate	May 30, 1990.
Y 86–0164	G Copolymer of polyamide with modified acrylic elastomer	May 4, 1990.
Y 86–0183	G Acrylic resin	December 10, 1986.
Y 88–0131	G Urethane modified alkyd resin	May 8, 1990.
Y 89–0150	Triethyl amine	May 15, 1990.
Y 89–0155	G Modified polypropylene	March 27, 1990.
Y 89–0162	G Polyurethane polycarbonate	September 8, 1989.
Y 89–0163	G Polyurethane polycarbonate	September 8, 1989.
Y 89–0164	G Polyether polyurethane	September 8, 1989.
Y 89–0165	G Polyester polycarbonate polyurethane	September 8, 1989.
Y 89–0167	G Polycarbonate polyurethane	September 8, 1989.
Y 89–0168	G Polyether polyurethane	September 8, 1989.
Y 89–0169	G Polyester polyurethane	September 8, 1989.
Y 89–0181	G Aqueous acrylic copolymer and aqueous acrylic copolymer salts	May 31, 1990.
Y 89–0189	G Aqueous copolymer salts thereof	June 8, 1990.
Y 90–0024	G Saturated polyester resin	April 29, 1990.
Y 90–0036	G Polyester resin	May 9, 1990.
Y 90–0052	G Modified soya fatty solid isophthalate alkyd	April 24, 1990.
Y 90–0115	1,3-Benzene dicarboxylic acid polymer with 1,3-diisocyanotomethylbenzene; 2-(2-hydroxyethoxy)ethano; 2-ethyl-2(hydroxymethyl)-1, 3-propanediol; 1,1-((1-methylethylidene)bis(4, 1-phenyleneoxy)bis(2-propanol))	March 17, 1990
Y 90–0119	G Acrylic resin	May 6, 1990.
Y 90–0121	G Acrylic resin	April 9, 1990.
Y 90–0135	G Hydroxy functional acrylic polymer	May 11, 1990.
Y 90–0138	G Saturated polyester polyol	April 19, 1990.
Y 90–0145	G Hydroxy functional acrylic polymer	April 12, 1990.
Y 90–0172	G Hydroxy functional acrylic resin	May 4, 1990.
Y 90–0174	G Urethane modified alkyd	June 1, 1990.
Y 90–0178	G Vinyl alcohol, polymer with acrylic acid arranged as block polymer	April 25, 1990.
Y 90–0182	G Tall oil fatty acid modified alkyd	April 25, 1990.
Y 90–0183	G Carbomonocyclic carbopolycyclic polyester	April 25, 1990.
Y 90–0192	G Polyalkylarylether	May 2, 1990.
Y 90–0194	G Polyester resin	May 26, 1990.
Y 90–0200	A thermoplastic polyurethane from a polyesterglycol (m.w. 1500 from adipic acid and 3-methyl-1, 5-pentanediol), 4,4'-diphenylmethanediisocyanate and 1,4-butanediol	June 1, 1990.

V. 17 Premanufacture notices for which the Period has been suspended.

PMN No.

P 89–0764 P 90–0260 P 90–0261 P 90–0262
P 90–0263 P 90–0533 P 90–0549 P 90–0550
P 90–0564 P 90–0578 P 90–0584 P 90–0603
P 90–0608 P 90–0616 P 90–0617 P 90–1271
P 90–1272

[FR Doc. 91–702 Filed 1–10–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–887–DR]

Guam; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Territory of Guam (FEMA–887–DR), dated December 24, 1990, and related determinations.

DATED: December 28, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

The notice of a major disaster for the Territory of Guam, dated December 24, 1990, is hereby amended to add Public Assistance in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 24, 1990:

The Territory of Guam for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–659 Filed 1–10–91; 8:45 am]

BILLING CODE 6818–07–M

Guam; Notice of Major Disaster and Related Determinations

[FEMA–887–DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Territory of Guam (FEMA–887–DR), dated December 24, 1990, and related determinations.

DATED: December 24, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

Notice is hereby given that, in a letter dated December 24, 1990, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the Territory of Guam, resulting from Typhoon Russ on December 21, 1990, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Territory of Guam.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be provided at a later time, if needed. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alton S. Ray, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Territory of Guam to have been affected adversely by this declared major disaster:

The Territory of Guam for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91–660 Filed 1–10–91; 8:45 am]

BILLING CODE 6718–02–M

Mississippi; Notice of Major Disaster and Related Determinations

[FEMA–888–DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–888–DR), dated January 3, 1991, and related determinations.

DATED: January 3, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

Notice is hereby given that, in a letter dated January 3, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms, tornadoes, and flooding beginning on December 19, 1990, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be provided at a later date, if damage assessments warrant. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

The counties of Carroll, Humphreys, Leflore, Lowndes, Madison, and Warren for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91–661 Filed 1–10–91; 8:45 am]

BILLING CODE 6718–02–M

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington (FEMA–883–DR), dated November 26, 1990, and related determinations.

DATED: December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice:

Notice is hereby given that the incident period for this disaster is closed effective December 20, 1990.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91-662 Filed 1-10-91; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Filing and Effective Date of Agreements

The Federal Maritime Commission hereby gives notice that on January 3, 1991, the following agreements were filed with the Commission pursuant to section 5, Shipping Act of 1984, and were deemed effective that date, to the extent they constitute assessment agreements as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 224-000086-007/224-200063-006.

Title: Memorandum of Settlement of the Port of Greater New York and New Jersey.

Parties:

New York Shipping Association, Inc. (NYSA)

International Longshoremen's Association, AFL-CIO (ILA).

Synopsis: The Agreement extends the existing NYSA-ILA Memorandum of Settlement of the Port of New York and New Jersey (Agreement No. 224-000086) to September 30, 1994 and also continues the existing Tonnage Assessment Agreement (Agreement No. 224-200063) to September 30, 1994.

Agreement No.: 224-200063-007.

Title: NYSA-ILA Tonnage Assessment Agreement.

Parties:

New York Shipping Association, Inc. (NYSA)

International Longshoremen's Association, AFL-CIO (ILA).

Synopsis: The agreement amends the parties' previously filed manhour assessment for longshore activity at the U.S. Army Military Traffic Management Command's Military Ocean Terminal at Bayonne, New Jersey.

Dated: January 7, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-624 Filed 1-10-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Binger Agency, Inc.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 30, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. The Binger Agency, Inc., Binger, Oklahoma; to engage *de novo* in making and servicing loans, primarily consumer, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-625 Filed 1-10-91; 8:45 am]

BILLING CODE 6210-01-M

First Florida Banks, 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 Regulations 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 and 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 January 30, 1991.

A. Federal Reserve bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. First Florida Banks, Inc., Tampa, Florida, and 7L Corporation, Tampa, Florida; to acquire Mid-State Federal

Savings Bank, Ocala, Florida, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Florida.

Board of Governors of the Federal Reserve System, January 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-626 Filed 1-10-91; 8:45 am]

BILLING CODE 6210-01-M

Key Centurion Bancshares, Inc., 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 January 30, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Key Centurion Bancshares, Inc., Charleston, West Virginia; to acquire 100 percent of the voting shares of Southern Bankshares, Inc., Beckley, West Virginia, and thereby indirectly acquire Beckley National Bank, Beckley, West Virginia, and M & M Financial Corporation, Oak Hill, West Virginia, and Merchants & Miners National Bank of Oak Hill, Oak Hill, West Virginia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Agri Bancorporation, Webster City, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Agri Bank Corporation, Webster City, Iowa, and thereby indirectly acquire Farmers National Bank of Webster City, Webster City, Iowa.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Geary Corporation Employee Stock Ownership Plan, Geary, Oklahoma; to become a bank holding company by acquiring at least 51 percent of the voting shares of First Geary Corporation, Geary, Oklahoma, and thereby indirectly acquire First National Bank of Geary, Geary, Oklahoma.

2. United Missouri Bancshares, Inc., Kansas City, Missouri; to acquire 100 percent of the voting shares of Valley Bank Holding Company, Security, Colorado, and thereby indirectly acquire 91.81 percent of the voting shares of Valley Bank, Security, Colorado.

Board of Governors of the Federal Reserve System, January 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-627 Filed 1-10-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in February-March

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming meetings of the agency's advisory committees in the months of February-March 1991.

The initial review committees and advisory councils will be performing review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 210(d).

Notice of these meetings is required under the Federal Advisory Committee Act, Public Law 92-463.

Committee name: National Advisory Mental Health Council, NIMH.

Date and time: February 4-5: 9 a.m.

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, MD 20857 on Feburary 4 and National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20892 on February 5.

Status of meeting: Open—February 5: 9 a.m.–5 p.m., Closed—Otherwise.

Contact: Jane Steinberg, room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-3367.

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Committee name: National Advisory Council on Drug Abuse, NIDA.

Date and time: February 5-6: 9 a.m.

Place: National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20892.

Status of meeting: Open—February 5: 9 a.m.–1 p.m., February 6: 9 a.m.–5 p.m., Closed—Otherwise.

Contact: Sheila Gardner, room 10-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-0441.

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse on the development of new initiatives and priorities and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Committee name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH

Date and time: February 7-8: 9 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

Status of meeting: Open—February 7: 9-10 a.m., Closed—Otherwise.

Contact: Phyllis Zusman, room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-3857

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health, in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: National Advisory Council on Alcohol Abuse and Alcoholism, NIAAA.

Date and time: Feburary 7–8: 10:15 a.m.

Place: National Institutes of Health, Building 1, 3rd Floor, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20892.

Status of meeting: Open—February 7: 10:15 a.m.–5 p.m., Closed—Otherwise.

Contact: James Vaughan, room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–4375.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Committee name: Cellular Neurobiology and Psychopharmacology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and time: February 7–8: 8:30 a.m.

Place: Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD 20852

Status of meeting: Open—February 7: 8:30–9:30 a.m., Closed—Otherwise.

Contact: Camille Sookram, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3936.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to cellular neurobiology and psychopharmacology with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Psychobiology and Behavior Research Review Committee, NIMH.

Date and time: February 7–8: 9 a.m.

Place: The Inn at Foggy Bottom, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Status of meeting: Open—February 7: 9–10 a.m. Closed—Otherwise.

Contact: Debra Woods, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Behavioral Neurobiology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and time: February 7–9: 8:30 a.m.

Place: Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD 20852.

Status of meeting: Open—February 7: 8:30–9:30 a.m. Closed—Otherwise.

Contact: Gerry Perlman, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral neurobiology, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Cognition, Emotion, and Personality Research Review Committee, NIMH.

Date and time: February 7–9: 9 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037.

Status of meeting: Open—February 7: 9-10 a.m. Closed—Otherwise.

Contact: Shirley Maltz, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and time: February 11–12: 9 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 11: 9–9:30 a.m. Closed—Otherwise.

Contact: Ronald Suddendorf, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and time: February 11–13: 9 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 11: 9–10 a.m. Closed—Otherwise.

Contact: Antonio Noronha, room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–4375.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee name: Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and time: February 12: 8:30 a.m.

Place: Bethesda Hyatt Regency, Potomac and Patuxent Rooms, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Rita Liu, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and time: February 12–13: 9 a.m.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209.

Status of meeting: Open—February 12: 9–10 a.m. Closed—Otherwise.

Contact: Helen Craig, room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee name: Drug Abuse Clinical and Behavioral Research Review Committee, NIDA.

Date and time: February 12–15: 9 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 12: 9–9:30 a.m. Closed—Otherwise.

Contact: Daniel Mintz, room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee name: Drug Abuse Epidemiology and Prevention Research Review Committee, NIDA.

Date and time: February 12–15: 9 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 12: 9 a.m. Closed—Otherwise.

Contact: Raquel Crider, room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee name: Pharmacology I Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and time: February 12–15: 8:30 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Syed Husain, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee name: Pharmacology II Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and time: February 12–15: 8:30 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Gamil Debbas, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee name: Mental Health Behavioral Sciences Research Review Committee, NIMH.

Date and time: February 14–16: 9 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20036.

Status of meeting: Open—February 14: 9–9:30 a.m. Closed—Otherwise.

Contact: Barbara Gross, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral sciences with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: February 18–20: 9 a.m.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037

Status of meeting: Open—February 18: 9–10 a.m. Closed—Otherwise.

Contact: Lenore Sawyer Radloff, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee name: Biological and Neurosciences Subcommittee of the Mental Health Small Grant Review Committee, NIMH.

Date and Time: February 20–22: 9 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037

Status of meeting: Open—February 20: 9–10 a.m. Closed—Otherwise.

Contact: Monica Woodfork, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–4843.

Purpose: The Subcommittee is charged with the initial review of applications for research in all disciplines pertaining to mental health for support of research in the areas of psychology, psychiatry, the biological and neurosciences.

Committee name: Clinical and Behavioral Sciences Subcommittee of the Mental Health Small Grant Review Committee, NIMH.

Date and time: February 20–22: 9 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Status of meeting: Open—February 20: 9–10 a.m. Closed—Otherwise.

Contact: Sheri Schwartzback, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–4843.

Purpose: The Subcommittee is charged with the initial review of applications for research in all disciplines pertaining to mental health for support of research in the areas of psychology, psychiatry, the behavioral/sciences, and epidemiology.

Committee name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and time: February 20–22: 9 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Status of meeting: Open—February 20: 9–10 a.m. Closed—Otherwise.

Contact: Thomas D. Sevy, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee name: Criminal and Violent Behavior Research Review Committee, NIMH.

Date and time: February 20–22: 9 a.m.

Place: Quality Hotel Downtown, 1315 16th Street, NW., Washington, DC 20036.

Status of meeting: Open—February 20: 9–10 a.m. Closed—Otherwise.

Contact: Bernice Cherry, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the mental health aspects of antisocial, criminal, and individual violent behavior, including sexual assault and victimization, and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and time: February 21–23: 9 a.m.

Place: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Status of meeting: Open—February 21: 9–10 a.m. Closed—Otherswise.

Contact: Christine Norton, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral, research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health in the fields of child, family and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Research Scientist Development Review Committee, NIMH.

Date and time: February 21–23: 9 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Status of meeting: Open—February 21: 9–10 a.m. Closed—Otherwise.

Contact: Phyllis D. Artis, room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full-time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Small Business Research Review Committee, NIMH.

Date and time: February 25–26: 9 a.m.

Place: Washington Marriott Hotel, 1221 22nd Street NW., Washington, DC 20037.

Status of meeting: Open—February 25: 9–10 a.m. Closed—Otherwise.

Contact: Gloria Levin, room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications requesting support from the National Institute of Mental Health for small businesses involved in mental health research. Final review and recommendations are made from the National Advisory Mental Health Council.

Committee name: Clinical Biology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and time: February 25–27: 9 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue NW., Washington, DC 20036.

Status of meeting: Open-February 25: 9–10 a.m. Closed—Otherwise.

Contact: Maureen Eister, room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–1340.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Psychopathology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and time: February 27–March 1: 9 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of meeting: Open—February 27: 9–10 a.m. Closed—Otherwise.

Contact: Tammye Cross, room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–1340.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Services Subcommittee on the Epidemiologic and Services Research Review Committee, NIMH.

Date and time: February 27–March 1: 9 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.

Status of meeting: OPEN—February 27: 9–10 a.m. CLOSED—Otherwise.

Contact: Gloria Yockelson, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–0948.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee name: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and time: February 28–March 1: 9 a.m.

Place: Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD 20852.

Status of meeting: OPEN—February 28: 9–10 a.m. CLOSED—Otherwise.

Contact: Barbara Smothers, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee name: Epidemiology Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH.

Date and time: March 4–6: 9 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.

Status of meeting: OPEN—March 4: 9–10 a.m. CLOSED—Otherwise.

Contact: Gloria Yockelson, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–0948.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health of support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Diana Widner, NIAAA Committee Management Officer, room 16C–20, (301) 443–4375; Ms. Camille Holland, NIDA Committee Management Officer Room 10–42, (301) 443–2755; Ms. Joanna Kieffer, NIMH Committee Management Officer, room 9–105, (301) 443–4333. The mailing address for the above parties is: Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: January 7, 1991.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–629 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Scientific Workshop on the Health Effects of Electromagnetic Radiation on Workers; Correction

This notice corrects the time and date of a previously announced meeting.

Federal Register Citation of Previous Announcement: December 14, 1990, 55 FR 51502.

Previously Announced Time and Date: 8 a.m.–12:30 p.m., January 31, 1991.

Correction: The correct times and dates are:

8 a.m.–5 p.m., January 30, 1991

8 a.m.–12:30 p.m., January 31, 1991.

Dated: January 7, 1991.

Glenda S. Cowart,

Director, Office of Program Support Centers for Disease Control.

[FR Doc. 91–665 Field 1–10–91; 8:45 am]

BILLING CODE 4160–19–M

FAMILY SUPPORT ADMINISTRATION

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication.

(For a copy of the package, call the FSA, Report Clearance Officer 202–401–5604.)

Report of Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support—0970–0073—This information collection will be used to monitor administration of good cause and evaluate the extensiveness and reasons for usage. *Respondents:* State and local governments; *Number of respondents:* 54; *Frequency of response:* quarterly; *Estimated average burden per response:* 11.69; *Estimated annual burden:* 2,527 hours. *OMB desk officer:* Laura Oliven.

Written comments and recommendations for the proposed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: December 30, 1990.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems.

[FR Doc. 91–639 Filed 1–10–91; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 91N–0005]

Animal Drug Export; Marinil (Metomidate Hydrochloride)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Wildlife Laboratories Inc., has filed an application requesting approval for export to Canada of the animal drug Marinil (metomidate hydrochloride).

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of non-food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person below.

FOR FURTHER INFORMATION CONTACT: Gregory S. Gates, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Wildlife Laboratories Inc., 1401 Duff Dr., Suite 600, Fort Collins, CO 80524, has filed an application requesting approval for export to Canada of the animal drug Marinil (metomidate hydrochloride). The product is intended for use in sedation and anesthesia of non-food fish.

The application was received and filed in the Center for Veterinary Medicine on December 26, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 22, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: January 4, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91–637 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90D–0439]

Furazolidone and Nitrofurazone in Animal Feed; Compliance Policy Guide; Removal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the removal of Compliance Policy Guide (CPG) 7125.13 "Furazolidone and Nitrofurazone in Animal Feed" on the ground that it has been superseded by current regulations.

FOR FURTHER INFORMATION CONTACT: Edward J. Ballitch, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3336.

SUPPLEMENTARY INFORMATION: CPG 7125.12 "Furazolidone and Nitrofurazone in Animal Feed," was issued on October 1, 1980. The guide stated among other things that an approved medicated feed application (MFA) was not required for the manufacture of medicated feed containing either of these new animal drugs.

In the **Federal Register** of March 3, 1986 (51 FR 7382) FDA issued regulations which revised §§ 558.3 and 558.4 (21 CFR 558.3 and 558.4). These regulations require hat the manufacture of medicated feeds containing furazolidone or nitrofurazone be the subject of approved MFA's. Therefore, these regulations supersede the policy set forth in the guide, and the guide is hereby removed.

Dated: January 3, 1991.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91–638 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90C–0453]

Teepak, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Teepak, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of synthetic iron oxide for use in human food.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1) (21 U.S.C. 376(d)(1))), notice is given that Teepak, Inc., P.O. Box 11925, Columbia, SC 29211, has filed a petition (CAP OCO228) proposing that § 73.1200 *Synthetic iron oxide* (21 CFR 73.1200) of the color additive regulations be amended to provide for the safe use of synthetic iron oxide as a color additive in human 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: December 28, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–636 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90F–0435]

Amoco Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Amoco Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of isobutylene-butene copolymers as components of food-

contact articles and as plasticizers in polypropylene in contact with food.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4238) has been filed by Amoco Chemical Co., Chicago, IL 60601, proposing that § 177.1430 *Isobutylene-butene copolymers* (21 CFR 177.1430) be amended to provide for the safe use of isobutylene-butene copolymers as components of food-contact articles and as plasticizers in polypropylene in contact with food complying with 21 CFR 177.1520.

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: December 28, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–632 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90F–0414]

Kay-Ray/Sensall, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Kay-Ray/Sensall, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an americium 241/beryllium neutron source for food inspection or to control food processing.

FOR FURTHER INFORMATION CONTACT: George H. Pauli, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OM4202) has been filed by Kay-Ray/Sensall, Inc., 1400 Business Center Dr., Mt. Prospect, IL 60056. The petition proposes that § 179.21 (21 CFR 179.21) of the food additive regulations be amended to provided for the safe use of an americium 241/beryllium neutron source for food inspection or to control food processing.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 28, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–635 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90N–0407]

Revisions of Certain Food Chemicals Codex, 3D ed., Monographs; Opportunity for Public Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on pending changes to certain Food Chemicals Codex, 3d Ed., monographs and is soliciting specification information on proposed new monographs. For certain substances used as food ingredients, revised materials consisting of new monographs, additions, changes, and corrections in several current monographs are being prepared by the National Academy of Sciences/Institute of Medicine (NAS/IOM) Committee on Food Chemicals Codex. These revised materials will be published in the third supplement to the Food Chemicals Codex, 3d Ed.

DATES: Comments by February 21, 1991. (The NAS/IOM Committee on Food Chemicals Codex advises that comments not received by this date cannot be considered for the third supplement but will be considered for later supplements.)

ADDRESSES: Written comments to the NAS/IOM Committee on Food Chemicals Codex, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT:

Sanford W. Bigelow, Committee on Food Chemicals Codex, Food and Nutrition Board, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418, 202–334–2580.

or

Paul M. Kuznesof, Center for Food Safety and Applied Nutrition (HFF–415), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5680.

SUPPLEMENTARY INFORMATION: FDA provides research contracts to the NAS/IOM to support preparation of the Food Chemicals Codex, a compilation of specifications for substances used as food ingredients. In the **Federal Register** of January 26, 1984 (49 FR 3271), the FDA announced that the NAS/National Research Council Committee on Food Chemicals Codex was considering monographs and revisions for inclusion in the second supplement to the Food Chemicals Codex, 3d Ed., which has since been published. The public was invited to comment and to make suggestions for consideration and inclusion in that publication.

The agency now gives notice that the NAS/IOM Committee on Food Chemicals Codex is soliciting comments and information on proposed new monographs and proposed changes to certain current monographs. Information received in response to this notice will be used to develop these new monographs and for determining the necessity of making the contemplated changes to the current monographs. These changes and new monographs will be published in the third supplement to the Food Chemicals Codex, 3d Ed. Copies of the proposed changes to current monographs may be obtained from The National Academy of Sciences (NAS) at the address listed above.

FDA emphasizes, however, that it will not consider adopting any new monographs or revisions published in the third supplement to the Food Chemicals Codex, 3d Ed., until the public has had ample opportunity to comment on the changes to existing monographs and the new monographs. The opportunity for public comment on the adoption of new monographs or revisions published in the third supplement will be the subject of a separate notice published in the **Federal Register.**

The NAS/IOM Committee on Food Chemicals Codex invites comments and suggestions of specifications by all

interested parties on the proposed new monographs and proposed revisions of current monographs.

I. Proposed New Monographs

Anisyl formate
Benzyl formate
Buchu oil
Butane
Butyl stearate
Calcium sorbate
D-Camphor
L-Carveol
1-Carvyl acetate
Cinnamyl butyrate
Cinnamyl cinnamate
Cinnamyl isobutyrate
Copper sulfate
p-Cymene
Dextrose
2, 6-Dimethyl-5-heptenal
Ethylene brassylate
4-Ethylguaiacol
3-Ethyl methylthiopropionate
Ethyl oleate
Glucose syrup
Glucose syrup, dried
Glutaraldehyde
Glyceryl tripropanoate
Helium
Hexalactone, *gamma-*
3-Hexen-1-yl acetate, *cis-*
2-Hexen-1-yl acetate, *trans-*
L-Histidine
L-Histidine monohydrochloride
4-Hydroxy-2, 5-dimethyl-3(2H)-furanone
Isoborneol
Isobutane
Maltodextrin
2-Methylpentanoic acid
4-Methylpentanoic acid
2-Methyl-2-pentenoic acid
Methyl sulfide (dimethyl sulfide)
3-(Methylthio)propionaldehyde
Myristaldehyde
Neryl acetate
Nitrogen
Nitrogen-enriched air
Nitrous oxide
2-Nonanone
1-Octen-3-ol
Octyl isobutyrate
Phenylethyl anthranilate
Phenylethyl butyrate
Piperidine
Potassium benzoate
Propane
Sodium magnesium aluminosilicate

Spice Oleoresins

Angelica seed
Anise
Basil
Caraway
Cardamom
Coriander
Cubeb
Cumin
Dillseed
Fennel
Laurel leaf
Marjoram
Origanum
Parsley leaf
Parsley seed
Pimenta berries
Thyme
Tetrahydrofurfuryl alcohol
Thymol
Tolualdehydes, mixed (*o-*, *m-*, and *p-*)
p-Tolualdehyde
Trimethylamine
2-Undecanone
Urea
Valeraldehyde
Zein

II. Current Monographs in Which NAS/IOM is Proposing To Make Revisions

N-Acetyl L-methionine (assay limit/arsenic limit)
2-Acetylpyrazine (infrared spectra)
DL-Alanine (assay limit/arsenic limit)
L-Alanine (assay limit/arsenic limit)
Aluminum sodium sulfate (assay limit/neutralizing value)
Annatto extract (color intensity test method)
L-Arginine (assay limit/arsenic limit/specific rotation)
L-Arginine monohydrochloride (assay limit/arsenic limit/specific rotation)
L-Asparagine (assay limit/arsenic limit/lead limit)
DL-Aspartic acid (assay limit/arsenic limit)
L-Aspartic acid (assay limit/arsenic limit/lead limit)
Benzyl cinnamate (solidification point)
Benzyl isobutyrate (specific gravity/refractive index)
Benzyl isovalerate (specific gravity)
Black pepper oil (specific rotation)
Calcium chloride, dihydrate (magnesium and alkali salts limit)
Carbon, activated (editorial)
Carrot seed oil (refractive index)
Citric acid (arsenic limit/heavy metals limit/lead limit)
p-Cymene (infrared spectra)
L-Cysteine monohydrochloride (assay limit/arsenic limit)
L-Cystine (assay limit/arsenic limit/delete iron and nitrogen specifications)
Decalactone, *gamma-*(specific gravity/refractive index)
2,6-Dimethyl-5-heptenal (specific gravity/refractive index/acid value)
Dodecalactone, *delta-*(specific gravity/refractive index)
Estragole (assay method)
Ethoxyquin (functional use statement)
Ethyl formate (acid value)
Fennel oil (refractive index)
Ferrous fumarate (assay limit/loss on drying/lead limit)
Fructose (heavy metals limit/lead limit)
Garlic oil (specific gravity/refractive index)
L-Glutamic acid (new assay specification/arsenic limit/specific rotation)
L-Glutamic acid hydrochloride (new assay specification/arsenic limit/specific rotation)
L-Glutamine (assay limit/arsenic limit/lead limit)
Glycine (assay limit/arsenic limit/readily carbonizable substances)
L-Histidine (assay limit/arsenic limit/lead limit/specific rotation)
L-Histidine monohydrochloride (assay limit/arsenic limit/lead limit)
Invert sugar (assay/added table/arsenic limit)
Isoamyl butyrate (specific gravity)
Isoamyl formate (specific gravity/acid value)
DL-Isoleucine (description/assay limit/arsenic limit)
L-Isoleucine (assay limit/arsenic limit/specific rotation)
Isovaleric acid (specific gravity/refractive index)
Lactic acid (assay method)
DL-Leucine (description/assay limit/arsenic limit)
L-Leucine (assay limit/arsenic limit/specific rotation)
L-Lysine monohydrochloride (assay limit/arsenic limit/lead limit)
Magnesium chloride (other hydrates added)
DL-Methionine (assay limit/arsenic limit)
L-Methionine (assay limit/arsenic limit)
6-Methylocoumarin (infrared spectra)
Monoammonium L-glutamate (assay limit/arsenic limit/specific rotation)
Monopotassium L-glutamate (assay limit/arsenic limit/specific rotation)
Monosodium L-glutamate (assay limit/arsenic limit/specific rotation)
Palmarosa oil (refractive index/assay)
Perlite (added substances/pH limit)
DL-Phenylalanine (assay limit/arsenic limit/sulfate limit)
L-Phenylalanine (assay limit/arsenic limit/specific rotation)
Pinene, *alpha-* (specific gravity/optical rotation)
Pinene, *beta-*(specific gravity/optical rotation)
Potassium bicarbonate (assay limit)
Potassium chloride (addition of anticaking agents)
Potassium sorbate (editorial)
L-Proline (assay limit/arsenic limit)
DL-Serine (assay limit/arsenic limit)
L-Serine (assay limit/arsenic limit/specific rotation)
Sodium aluminosilicate (sodium dioxide limit)
Spice oleoresins (added substances)
Sulfuric acid (selenium method)

L-Threonine (assay limit/arsenic limit/specific rotation)
DL-Tryptophan (assay limit/arsenic limit/sulfate limit)
L-Tryptophan (assay limit/arsenic limit)
L-Tyrosine (assay limit/arsenic limit/specific rotation)
Undecalactone, *gamma*-(Aldehyde C–14) (specific gravity/refractive index)
L-Valine (assay limit/arsenic limit/specific rotation)
Xanthan gum (assay limit)
Zinc gluconate (description/water content)

Although a revised monograph on L-tryptophan is currently available for comment, due to the recent problem with L-tryptophan, the NAS/IOM Committee on Food Chemicals Codex will consider another revision once the nature of the problem has been fully elucidated. In addition, the NAS/IOM Committee on Food Chemicals Codex specifically seeks comments regarding the lead and heavy metals limits in some of the proposed monographs.

Two copies of written comments regarding the monographs listed in this notice are to be submitted to NAS at the address listed above. Each submission should include the statement that it is in response to the **Federal Register** notice. NAS will forward a copy of each comment to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, to be placed under Docket No. 90N–0407 for public review.

Dated: December 31, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–633 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Extension; *Title of Information Collection:* Request for Medicare Payment—Ambulance; *Form Number:* HCFA–1491; *Use:* The form is completed by beneficiaries and/or ambulance services to request payment for ambulance services; *Frequency:* On occasion; *Respondents:* Individuals/households, businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 5,840,030; *Average Hours per Response:* .16; *Total Estimated Burden Hours:* 934,405.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in BPO–52, Identification of Third Party Liability (TPL) Resources for Medical Assistance and TPL State Plan Reprint; *Form Number:* HCFA–R–107 and SP–2; *Use:* This information is collected for determining the legal liability of third parties to pay for services under the Medicaid program; *Frequency:* On occasion; *Respondents:* Individuals/households, State/local governments, and Federal agencies/employees; *Estimated Number of Responses:* Not applicable; *Average Hours per Response:* Not applicable; *Total Estimated Burden Hours:* 253,580.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements for the Third Party Liability (TPL) Action Plan as Provided for in BQC–64; *Form Number:* HCFA–R–123; *Use:* There are four States that are required to submit a TPL action plan after they have implemented a mechanized claims processing and information retrieval system. In addition, State Agencies are required to submit revisions to their TPL action plan whenever changes are made to their systems; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 50; *Average Hours per Response:* 2.52; *Total Estimated Burden Hours:* 126.

4. *Type of Request:* New; *Title of Information Collection:* Pre-clearance of Program of All-inclusive Care for the Elderly (PACE) Evaluation; *Form Number:* HCFA–P–16; *Use:* For evaluating the Congressionally-mandated PACE demonstration, data will be collected from a sample of Medicare beneficiaries who will serve as the comparison group for the PACE sites. Data collected will include health and functional status and quality of life measures; *Frequency:* Semi-annually; *Respondents:* Individuals/households; *Estimated Number of Responses:* Not applicable; *Average Hours per Response:* Not applicable; *Total Estimated Burden Hours:* 1. Additional Information or Comments: Call the Reports Clearance Officer on 301–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: January 6, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91–654 Filed 1–10–91; 8:45 am]

BILLING CODE 4120–03–M

Changes to Medicare Secondary Payer (MSP) Provisions

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

ACTION: Notice.

SUMMARY: This notice describes how subsections 6202 (b), (c), and (e) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) affect the Medicare Program

These subsections:

- Create uniform rules for computing Medicare secondary payments for all MSP situations;
- Exempt from the MSP provisions services performed for a religious order by members of the order who take a vow of poverty;
- Prohibit group health plans (GHPs) from "taking into account" that an individual is entitled to Medicare when Medicare is the secondary payer;
- Prohibit GHPs from differentiating, in the services they provide, between individuals with end-stage renal disease (ESRD) and other individuals covered by the plan;
- Require that GHPs of employers of 20 or more employees provide the same benefits under the same conditions to employees age 65 or older and employees' spouses age 65 or older as they provide to employees and spouses under age 65;
- Impose a 25 percent excise tax on contributions that employers and employee organizations make to nonconforming GHPs, i.e., plans that do not comply with the MSP provisions;
- Extend to all MSP situations the Federal Government's right to take legal action to collect double damages if a primary plan fails to comply with the Medicare secondary payment requirements of the law;
- Make the provisions for special enrollment periods for the disabled parallel to those in effect for the working aged.

The statutory changes made by subsections 6202 (b), (c), and (e) can be put into effect without first issuing regulations because it is clear on the face of the statute what the Congress intended. In fact, we have already had to implement most of these changes since they are applicable to services furnished on or after December 20, 1989 and, for one provision, to services furnished on or after October 1, 1989. This notice will help to ensure that all affected parties are aware of the new provisions. This notice is not intended to be an exhaustive list of the changes, nor is it intended to represent the complete text of subsections 6202 (b), (c), and (e). Clarifying and conforming changes in the regulations are being prepared and the public will have an opportunity for comment.

The new statutory provisions may conflict with current regulations or portions of current regulations. To the extent that they do, the provisions of the new law supersede those portions of the regulations. Other portions of the same regulations and all other regulations remain in effect.

FOR FURTHER INFORMATION CONTACT: Herbert Pollock (301) 966–4474.

SUPPLEMENTARY INFORMATION: Subsections 6202 (b), (c), and (e) of Public Law 101–239 amended section 1862(b) of the Social Security Act (the Act) to provide uniform enforcement and coordination of benefit rules for all MSP situations. We have listed the main provisions below

A. Definitions

These amendments define the following terms:

1. Active individual—An employee (as may be defined in regulations), the employer, self-employed individual (such as the employer), an individual associated with the employer in a business relationship, or a member of the family of any of such persons.

2. Group health plan—Any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

3. Large group health plan—A plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

4. Primary Plan—A group health plan, a large group health plan, a workers' compensation law or plan, an automobile or liability insurance policy or plan (including a self-insured plan) or no-fault insurance that is required to pay primary benefits in accordance with section 1862(b) (1) or (2) of the Social Security Act (the Act).

5. Nonconforming Group Health Plan—A group health plan or a large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C), or subparagraph (B), respectively, of section 1862(b)(1) of the Act. These requirements are discussed in paragraph D below.

B. Uniform Coordination of Benefits and Other Changes

These amendments—

1. Provide uniform rules for computing Medicare secondary payments for all MSP situations. The formula is the same as the one previously provided in the law for employed individuals and spouses age 65 and over. (This amendment is effective for services furnished on or after December 20, 1989.)

2. Provide that a member of a religious order, whose members take a vow of poverty, will not be considered employed or an employee based on services performed as a member of the order, it those services would be considered employment solely because the order elects social security coverage under section 3121(r) of the Internal Revenue Code. This makes Medicare primary to group health coverage provided as a result of those services. Those services may not be considered in determining whether a member of the order is "employed" under the MSP provisions for working aged, or is an "employee" under the MSP provisions for the disabled. This exemption applies only to religious functionaries who are members of religious orders whose members have taken a vow of poverty. The exemption does not apply to group health coverage based on work performed by members of religious orders for employers outside of their orders. (The exemption applies to services furnished on or after October 1, 1989.)

C. Amendments Prohibiting Discrimination Against Medicare Beneficiaries, Other Individuals Age 65 or Older, and Individuals Under Age 65 Who Have ESRD

These amendments are similar to provisions previously contained in other laws, and are effective with regard to actions taken on or after December 20, 1989. They provide as follows:

1. Prohibit GHPs from taking into account that an individual is entitled to Medicare if the individual—

- Is age 65 or older and is covered under GHP of an employer of 20 or more employees on the basis of current employment of the individual or the individual's spouse; or
- Is under age 65, entitled to Medicare solely on the basis of ESRD, and covered under a GHP, with no requirements as to number of employees. For ESRD beneficiaries, the prohibition is applicable only during the period of up to 12-months during which Medicare is secondary.

This prohibition is consistent with that enacted by section 9319 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) which provided (effective January 1, 1987) that a large group health plan (LGHP) may not take into account that a disabled "active individual" is entitled to Medicare benefits based on disability. (That prohibition is now found at § 1862(b)(1)(B).)

With respect to persons age 65 or older, the prohibition applies only if the GHP is of or contributed to by an employer that has 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

This prohibition also applies to individuals enrolled in a multiemployer or multiple employer group health plan, if the plan is of or contributed to by at least one employer that has 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year. However, a group health plan may elect to exempt from this prohibition those individuals whose coverage is by virtue of employment with an employer that does not meet the 20 or more employees requirement.

Examples of GHP actions in MSP situations that constitute noncompliance with the prohibition against taking into account that an aged individual, or one with ESRD, is entitled to Medicare include, but are not limited to, the following:

a. Failure to pay primary benefits.

b. Providing secondary or complementary coverage.

c. Terminating coverage when the individual has become entitled to Medicare.

d. Denying the individual the opportunity to enroll or reenroll in the GHP.

e. Imposing, on persons entitled to Medicare, limitations on benefits, exclusions of benefits, reductions in benefits, higher premiums, higher deductibles or coinsurance, longer waiting periods, lower annual or lifetime benefit limits, or more restrictive pre-existing illness limitations that are not applicable to individuals not entitled to Medicare.

2. Require that GHPs of employers of 20 or more employees provide employees age 65 or older, and spouses age 65 or older, whether or not entitled to Medicare, the same benefits under the plan under the same conditions as are provided to employees and spouses who are under age 65.

This means that a GHP of an employer of 20 or more employees may not impose on persons age 65 or over, whether or not entitled to Medicare, any of the limitations listed under section i.e., above, unless the GHP also imposes them on younger individuals enrolled in the plan. (A similar provision was previously in section 4(g)(1) of the Age Discrimination in Employment Act (ADEA). OBRA '89 repealed the ADEA provision and inserted a similar non-discrimination provision in section 1862(b) of the Act.)

3. Prohibit a GHP from differentiating, in the benefits it provides, between individuals with ESRD (whether or not entitled to Medicare), and individuals who do not have ESRD. The GHP may not differentiate on the basis of the existence of ESRD, the need for renal dialysis, or in any other manner. A GHP that does not cover routine maintenance dialysis or kidney transplants would be in violation of this provision. Medicare beneficiaries who have ESRD are not eligible to enroll in Medicare contract HMOs or Competitive Medical Plans (CMPs). However, if an individual already enrolled in an HMO or a CMP (under a GHP or other plan) develops ESRD, the organization may not deny the individual enrollment under the Medicare contract. (A similar non-differentiation provision was previously in section 162(i) of the Internal Revenue Code (IRC). OBRA '89 repealed the provision from the IRC and inserted the prohibition in section 1862(b) of the Act.)

D. Amendments Dealing with Enforcement

These amendments—

1. Give the Federal Government the right to take legal action to collect double damages from any entity [such as an insurer or third party administrator] that is required or responsible to pay benefits under a plan that is primary to Medicare but fails to provide for primary payment. These plans are:

- A group health plan,
- An automobile insurance plan,
- Any liability insurance policy or plan, including a self-insured plan,
- A workers' compensation plan, and
- Any no-fault insurance plan.

Prior to OBRA '89, the Federal Government could take recovery action but it had a right to collect double damages only under the MSP disability provisions. OBRA '89 makes this right uniformly applicable to primary payers under all the MSP provisions.

2. Impose on employers and employee organizations that contribute to a nonconforming group health plan, a tax equal to 25 percent of the employer's or employee organization's expenses incurred during the calendar year for each group health plan to which the employer or employee organization contributes. Under this provision, HCFA refers cases involving nonconforming GHPs and LGHPs to the IRS for imposition of the tax on employers and employee organizations that have contributed to the nonconforming plan. The tax penalty does not apply to Federal or other governmental entities. Before the OBRA '89 amendments, this tax penalty in the Act applied only to contributions to LGHPs that did not conform with the MSP for the disabled provision.

3. Authorize the Secretary to waive recovery of conditional payments in whole or in part in the case of an individual claim if the Secretary determines that the waiver is in the best interest of the Medicare program.

E. Special Enrollment Period (SEP) and Limitations on Premium Increases

Section 6202(c) also amended sections 1837(i) and 1839(b) of the Act, effective for enrollments that occur, and premium payments that are due, on or after July 1, 1990. By removing reference to "attainment of age 65," section 6202(c) benefits disabled individuals in two ways:

1. Provides an additional opportunity for the disabled individual to qualify for a SEP. Before the section 6202 amendments, a disabled individual could qualify for a SEP only if he or she lost coverage as an active individual under an LGHP. Under the amended law, the disabled individual (who by definition is under age 65), can also qualify for a SEP upon loss of GHP coverage that was based on current employment of the individual or the individual's spouse.

In addition to meeting the conditions described above, the disabled individual must meet the following requirements:

- When first eligible to enroll for SMI, the disabled individual was enrolled in a GHP on the basis of current employment or, in an LGHP, as a disabled active individual.
- For all months after the end of the initial enrollment period, when not enrolled in SMI, the individual was enrolled in a GHP based on current employment, or in an LGHP as an active individual.

2. With respect to premium increases, removal of reference to "attainment of age 65," means that months, beginning with January 1987, during which the disabled individual was covered under a GHP (on the basis of the individual's employment or the employment of the individual's spouse), are excluded in determining the amount of the premium increase. Previously, only months of LGHP coverage as an active individual were excluded.

F. Repeal of Certain Enforcement Provisions

Section 6202(b) also repealed the following provisions of other related statutes:

1. Section 162(i) of the Internal Revenue Code. This section disallowed, as a tax deduction, employer expenses for a group health plan that discriminated against individuals with end-stage renal disease. A different tax penalty (described in D2 above) was incorporated into section 1862(b)(3) of the Act and section 5000 of the IRC.

2. Section 4(g) of the Age Discrimination in Employment Act of 1967. This section required employers to offer their employees age 65 or over and the age 65 or over spouses of employees of any age, group health plan coverage under the same conditions as the employer offered to employees and employees' spouses under age 65. (This provision had been administered by the Equal Employment Opportunity Commission.) Although this provision was deleted from the Age Discrimination in Employment Act, a similar provision was added to section 1862(b)(1)(A)(i)(II) of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs No. 13.773 Medicare—Hospital Insurance; and 13.774 Medicare—Supplementary Medical Insurance)

Dated: September 20, 1990.

Editorial Note: This document was received by the Office of the Federal Register on January 7, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-547 Filed 1-10-91; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Establishment; Scientific Counselors Boards, National Institute on Deafness and Other Communication Disorders

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92–463, 86 Stat. 770–776] and section 402(b)(6), of the Public Health Service Act, as amended (42 U.S.C. 282(b)(6)), the Acting Director, National Institutes of Health (NIH), announces the establishment of the Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders.

This Committee will advise the Director and Deputy Director for Intramural Research, NIH, and the Director, National Institute on Deafness and Other Communication Disorders, concerning the Institute's intramural research programs through periodic visits to the Laboratory of Molecular Biology, the Speech and Voice Unit, and the Audiology Unit to assess research in progress, proposed research, and the productivity and performance of staff scientists.

Duration of this committee is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: January 7, 1991.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 91–720 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on February 19–21, 1991, at the Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 10 a.m. on February 19, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. until recess on Februry 19, and from 8:30 a.m. on February 20 until adjournment on February 21. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Acting Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–722 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on February 25–27, 1991, at the Holiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting will be open to the public from 8:30 a.m. to 10 a.m. on February 25, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. until recess on February 25, and from 8:30 a.m. on February 26 until adjournment on February 27. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Acting Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, room 3A10, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institues of Health)

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–723 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Allergy and Infectious Diseases; Meeting of Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on February 28 to March 1, 1991, in Building 31C, Conference Room 8, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on February 28, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6),

title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:30 a.m. until recess on February 28, and from 8:30 a.m. until adjournment on March 1. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Peter R. Jackson, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 3A06, Bethesda, Maryland 20892, telephone (301–496–8426), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–724 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Disease; National Digestive Diseases Advisory Board Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on February 10–11, 1991. The meeting will begin at 2 p.m. February 10 and recess at 7 p.m. and on February 11 will reconvene at 8 a.m. to adjourn at 4 p.m. The meeting, which will be open to the public, will be held at the San Diego Marriott-La Jolla, 4240 La Jolla Village Drive, La Jolla, California 92037. The meeting will include a conference on liver transplantation as well as discussion regarding the Board's activities and continued evaluation of the implementation of the long-range digestive diseases plan. The conference portion of the meeting will enable the Board to develop a position statement on selected issues regarding liver transplantation that will aid the Board in its subsequent recommendations. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: January 3, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–725 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on February 13–14, 1991, Conference room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public February 13, from 8:30 a.m. to 12 noon and again on February 14, from 10:30 a.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the subcommittee and full Council meeting will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on February 13, from 12 noon to 5 p.m.: Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urologic and Hematologic Diseases. The full Council meeting will be closed on February 14, from 8:30 a.m. to 10:30 a.m.

These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, room 657, Bethesda, Maryland 20892, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–726 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health (NIH)

National Eye Institute (NEI); Meeting of the National Advisory Eye Council (NAEC)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the NAEC, NEI, February 1, 1991, Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The NAEC will be open to the public from 8:30 a.m. until approximately 11 a.m. on Friday, February 1, 1991. Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute concerning Institute programs and various research assistance mechanisms. Attendance by the public at the open sessions will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting of the NAEC will be closed to the public from approximately 11 a.m. until adjournment on February 1 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

The Vision Research Program Planning Subcommittee will meet at 1 p.m. on Thursday, January 31, in the NEI conference room, Building 31, Room 6A35. The subcommittee meeting is open to the public but seating is limited to space available.

Ms. Lois DeNinno, Committee Management Officer, National Eye Institute, Building 31, room 6A08, National Institutes of Health, Bethesda, Maryland 20892 (301) 496–9110, will provide a summary of meeting, roster of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs, Nos. 13.867, Retinal and Choroidal Diseases; 13.868, Anterior Segment Diseases Research; and 13.871, Strabismus, Amblyopia and Visual Processing; National Institutes of Health)

Dated: December 20, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–721 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on February 14–15, 1991, convening at 9 a.m. on February 14 and at 8:30 a.m. on February 15 in the Board room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on February 14 will be open to the public from 9 a.m. to 10:15 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(9)(B), title 5, U.S.C., Public Law 92–463, the meeting will be closed on February 14 from 10:15 a.m. to approximately 5 p.m. and on February 15 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Executive Secretary of the Committee, and Associate director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–727 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following study sections for January through March 1991, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets for commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	January–March 1991 meetings	Time	Location
Allergy & Immunology, Mr. Howard M. Berman, Rm. A19, Tel. 301–496–7380.	February 18–20	8:30	The Vista International Hotel, Washington, DC.
Bacteriology & Mycology–1, Dr. Timothy J. Henry, Rm. 236B, Tel. 301–496–7340.	Feb. 11–13	8:30	Embassy Suites Hotel, Chevy Chase, MD.
Bacteriology & Mycology–2, Dr. William Branche, Jr., Rm. 236A, Tel. 301–496–7682.	Feb. 13–15	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Behavioral Medicine, Ms. Carol Campbell, Rm. 306B, Tel. 301–496–7109.	Feb. 6–8	8	Omni Georgetown Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Michael Knecht, Rm. 204, Tel. 301–496–7430.	Feb. 6–8	8:30	NIH, Room 10, Bldg. 31C, Bethesda, MD.
Biochemistry, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301–496–7516.	Feb. 20–22	8:30	Tamarron Resort, Durango, CO.
Bio-Organic & Natural Products Chemistry, Dr. Harold Radkte, Rm. 2A07, Tel. 301–496–8823.	Feb. 21–23	9	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Biophysical Chemistry, Dr. John Beisler, Rm 334, Tel. 301–496–7070.	Feb. 21–23	8	Diva Hotel, San Francisco, CA.
Bio-Psychology, Dr. A. Keith Murray, Rm. 325, Tel. 301–496–7058	Feb. 4–6	9	The Savoy Suites Hotel, Washington, DC.
Cardiovascular, Dr. Gordon L. Johnson, Rm. 439A, Tel. 301–496–7316.	Feb. 11–13	8	Holiday Inn, Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Anthony Chung, Rm. 353, Tel. 301–496–7901.	Feb. 11–13	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
Cellular Biology and Physiology–1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301–496–7396.	Feb. 6–8	8	American Inn, Bethesda, MD.
Cellular Biology and Physiology–2, Dr. Gerhard Ehrenspeck, Rm. 1A05, Tel. 301–496–7681.	Feb. 21–23	8:30	Holiday Inn, Bethesda, MD.

Study section	January–March 1991 meetings	Time	Location
Chemical Pathology, Dr. Edmund Copeland, Rm. 322, Tel. 301–496–7078.	Jan. 30–Feb. 1	8	Embassy Suites Hotel, Washington, DC.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 357, Tel. 301–496–7650.	Feb. 28–Mar. 2	8:30	Westin Hotel, Washington, DC.
Endocrinology, Dr. Harry Brodie, Rm. 218, Tel. 301–496–7346	Feb. 11–13	8:30	Holiday Inn, Bethesda, MD.
Epidemiology & Disease, Control–1, Dr. Scott Osborne, Rm. 203C, Tel. 301–496–7246.	Feb. 6–8	8:30	Hyatt Regency Hotel, Bethesda, MD.
Epidemiology & Disease Control–2, Dr. H.M. Stiles, Rm. 203B, Tel. 301–496–7246.	Feb. 6–8	8:30	Hyatt Regency Hotel, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 434, Tel. 301–496–7940.	Jan. 31–Feb. 2	8	Keystone Resort, Keystone, CO.
Experimental Immunology, Dr. Calbert Laing, Rm. A27, Tel. 301–496–7238.	Mar. 13–15	8:30	Holiday Inn, Georgetown, DC.
Experimental Therapeutics–1, Dr. Philip Perkins, Rm. 221, Tel. 301–496–7839.	Feb. 13–15	8:30	One Washington Circle Hotel, Washington, DC.
Experimental Therapeutics–2, Dr. Marcia Litwack, Rm. 207, Tel. 301–496–8848..	Feb. 28–Mar. 1	8:30	Holiday Inn Crowne Plaza, Rockville, MD.
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301–496–7474.	Mar. 6–8	8:30	High Sierra Casino Hotel, Lake Tahoe, NV.
General Medicine A–1, Dr. Harold Davidson, Rm. 354A, Tel. 301–496–7797.	Feb. 20–22	8:30	Vacation Village, Laguna Beach, CA.
General Medicine A–2, Dr. Mushtaq Khan, Rm. 354B, Tel. 301–496–7140.	Feb. 20–22	8	NIH, Room 6, Bldg., 31C, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, Rm. 220, Tel. 301–496–7730.	Feb. 11–13	8	Holiday Inn, Chevy Chase, MD.
Genetics, Dr. David Remondini, Rm. 225, Tel. 301–496–7271	Feb. 14–16	9	Holiday Inn, Bethesda, MD.
Genome, Dr. Cheryl Corsaro, Rm. 2A15, Tel. 301–496–7886	Feb. 25–27	9	The Georgetown Inn, Georgetown, DC.
Hearing Research, Dr. Joseph Kimm, Rm. 1A03, Tel. 301–496–7494.	Feb. 8–10	8:30	Holiday Inn, Busch Gardens, Tampa, FL.
Hematology–1, Dr. Clark Lum, Rm. 355A, Tel. 301–496–7506	Feb. 21–23	8	Hyatt Regency, Bethesda, MD.
Hematology–2, Dr. Jerrold Fried, Rm. 355B, Tel. 301–496–7508	Feb. 20–22	8:30	Guest Quarters Suite Hotel, Bethesda, MD.
Human Development & Aging–1, Dr. Teresa Levitin, Rm. 303, Tel. 301–496–7025.	Feb. 20–22	9	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Human Development & Aging–2, Dr. Louis Quatrano, Rm. 305, Tel. 301–496–7640.	Feb. 6–8	9	Holiday Inn, Bethesda, MD.
Human Development & Aging–3, Dr. Anita Sostek, Rm. 319C, Tel. 301–496–8814.	Feb. 25–27	8:30	Omni Georgetown Hotel, Washington, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 219B, Tel. 301–496–7597.	Feb. 25–26	8:30	Holiday Inn, Chevy Chase, MD.
Immunobiology, Dr. William Stylos, Rm. A27, Tel. 301–496–7780	Feb. 20–22	8:30	Holiday Inn, Chevy Chase, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt, Rm. A25, Tel. 301–496–7179.	Feb. 27–Mar.1	8:30	Marriott Hotel, Pooks, Hill, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 234, Tel. 301–402–1462.	Feb. 14–16	8:30	Holiday Inn, Bethesda, MD.
Medical Biochemistry, Dr. Alexander Liacouras, Rm. 318A, Tel. 301–496–7517.	Feb. 21–23	8:30	Hyatt Hotel, Arlington, VA.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 2A06, Tel. 301–496–7107.	Feb. 13–15	8:30	Holiday Inn, Chevy Chase, MD.
Metabolic Pathology, Dr. Marcelina Powers, Rm. 435, Tel. 301–496–5251.	Feb. 1–3	8:00	Tamarron Resort, Durango, CO.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301–496–7091	Feb. 13–15	8:30	The Georgetown Inn, Georgetown, DC.
Metallobiochemistry, Dr. Edward Zapolski, Rm. 335, Tel. 301–496–7733.	Feb. 21–23	8:30	Omni Georgetown Hotel, Washington, DC.
Microbial Physiology & Genetics–1, Dr. Martin Slater, Rm. 238, Tel. 301–496–7183.	Feb. 20–22	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Microbial Physiology & Genetics–2, Dr. Gerald Liddel, Rm. 226, Tel. 301–496–7130.	Feb. 8–10	7:30 p.m.	Ramada Inn, Taos, NM.
Molecular & Cellular Biophysics, Dr. Asher Hyatt, Rm. 326, Tel. 301–496–7060.	Feb. 21–23	8:30	Kensington Park Hotel, San Francisco, CA.
Molecular Biology, Dr. Robert Su, Rm. 233, Tel. 301–496–7830	Feb. 13–15	8:30	Holiday Inn, Chevy Chase, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301–496–7149.	Feb. 7–9	8	Holiday Inn, Crowne Plaza, Rockville, MD.
Neurological Sciences–1, Dr. Andrew Mariani, Rm. 319A, Tel. 301–496–7279.	Feb. 13–15	8	State Plaza Hotel, Washington, DC.
Neurological Sciences–2, Dr. Stephen Gobel, Rm. 304, Tel. 301–496–8808.	Feb. 19–21	8:30	Marriott Suites, Irvine, CA.
Neurology A, Dr. Joe Marwah, Rm. 303A, Tel. 301–496–7095	Feb. 20–22	8:30	Holiday Inn, Georgetown, DC.
Neurology B–1, Dr. Samuel Rawlings, Rm. 306A, Tel. 301–496–7846.	Feb. 13–15	8:30	Hotel Washington, Washington, DC.
Neurology B–2, Dr. Herman Teitelbaum, Rm. 321, Tel. 301–496–7422.	Feb. 19–22	8:30	The Savoy Suites Hotel, Washington, DC.
Neurology C, Dr. Kenneth Newrock, Rm. 232, Tel. 301–496–5591	Feb. 13–16	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Rm. 352, Tel. 301–496–0558.	Feb. 11–13	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Nutrition, Dr. Sooja Kim, Rm. 348, Tel 301–496–7178	Feb. 11–13	8:30	Omni Shoreham Hotel, Washington, DC.
Oral Biology & Medicine–1, Dr. J. Terrell Hoffeld, Rm. 219A, Tel. 301–496–7818.	Feb. 4–7	8:30	Rosslyn Westpark Hotel, Arlington, VA.
Oral Biology & Medicine–2, Dr. J. Terrell Hoffeld, Rm. 219B, Tel. 301–496–7818.	Feb. 11–14	8:30	Rosslyn Westpark Hotel, Arlington, VA.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301–496–7581.	Feb. 6–8	8:30	Hyatt Regency Hotel, Bethesda, MD.

Study section	January–March 1991 meetings	Time	Location
Pathobiochemistry, Dr Zakir Bengali, Rm. 320, Tel. 301–496–7820	Feb. 7–9	8:30	Pacific Shores Hotel, Santa Monica, CA.
Pathology A, Dr Bruce Maurer, Rm 337, Tel. 301–496–7305	Feb. 26–Mar. 1	7 p.m.	Holiday Inn, Crowne Plaza, Rockville, MD.
Pathology B, Dr Martin Padarathsingh, Rm. A26, Tel. 301–496–7244.	Jan. 31–Feb. 2	8	Tamarron Resort, Durango, CO.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301–496–7408	Feb. 20–22	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 349A, Tel. 301–496–7120.	Feb. 21–23	8:30	Handlery Union Square Hotel, San Francisco, CA.
Psychological Chemistry, Dr. Jerry Critz, Rm. 339B, Tel. 301–496–7837.	Feb. 14–16	8:30	Holiday Inn, Chevy Chase, MD.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301–496–7878	Feb. 13–15	8:30	Holiday Inn, Chevy Chase, MD.
Radiation, Dr. Paul Strudler, Rm. 328, Tel. 301–496–7073	Feb. 18–20	8:30	Westin Hotel, Washington, DC.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 210, Tel. 301–496–7318.	Feb. 18–21	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubakar A. Shaikh, Rm. 325B, Tel. 301–496–8857.	Feb. 4–6	8	Holiday Inn, Chevy Chase, MD.
Respiratory & Applied Physiology, Dr. Everett Sinett, Rm. 218A, Tel. 301–496–7320.	Feb. 10–12	3:30 p.m.	Holiday Inn, Chevy Chase, MD.
Sensory Disorders & Language, Dr. Jane Hu, Rm. 309, Tel. 301–496–7605.	Feb. 6–8	8:30	Holiday Inn, Capitol Hill, Washington, DC.
Social Sciences & Population, Dr Samuel Rawlings, Rm. 310, Tel 301–496–7072.	Feb. 7–9	8:30	One Washington Circle Hotel, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 437, Tel. 301–496–7506.	Feb. 4–5	8	Holiday Inn, Chevy Chase, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 439, Tel. 301–496–7771.	Feb. 19–21	2 p.m.	Holiday Inn, Bethesda, MD.
Toxicology–1, Dr Alfred Marozzi, Rm. 205, Tel. 301–496–7570	Feb. 11–13	8:30	American Inn, Bethesda, MD.
Toxicology–2, Dr Alfred Marozzi, Rm. 205, Tel. 301–496–7570	Feb. 13–15	8:30	American Inn, Bethesda, MD.
Tropical Medicine & Parasitology, Dr Jean Hickman, Rm. 1A03, Tel. 301–496–1190.	Feb. 11–13	8:30	Holiday Inn, Bethesda, MD.
Virology, Dr Belinda Seto, Rm. 309, Tel. 301–496–7605	Mar. 6–8	8:30	High Sierra Casino Hotel, Lake Tahoe, NV.
Visual Sciences A–1, Dr Anita Suran, Rm. 325B, Tel. 301–496–7000.	Feb. 27–Mar. 1	8	Holiday Inn, Bethesda, MD.
Visual Sciences A–2, Dr. Allen Dearry, Rm. 319B, Tel. 301–496–7795.	Feb. 27–Mar 1	8:30	One Washington Circle Hotel, Washington, DC.
Visual Sciences B, Dr. Leonard Jakubczak, Rm. 325C, Tel. 301–496–7251.	Feb. 20–22	8:30	The Georgetown Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 17, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–728 Filed 1–10–91; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 55 FR 39070, September 24, 1990) is amended to reflect the following organizational changes:

1 Within the Center for Environmental Health and Injury Control, (a) revision of the functional statement for the Division of Environmental Hazards and Health Effects, and (b) revision of the functional statements for the Division of Injury Control and for the Office of the Director of the Division.

2. Within the Center for Infectious Diseases, (a) revision of the functional statement for the Scientific Resources Program, (b) abolishment of the Division of Mycotic Diseases, and (c) revision of the functional statement and title change of the Division of Bacterial Diseases to Division of Bacterial and Mycotic Diseases.

Section HC–B, Organization and Functions, is hereby amended as follows:

1. After the *Division of Birth Defects and Developmental Disabilities (HCN5), Center for Environmental Health and Injury Control (HCN),* delete in its entirety the functional statement for the *Division of Environmental Hazards and Health Effects (HCN7)* and substitute the following: (1) Conducts and disseminates findings of surveillance, epidemiologic research, and other scientific investigations of human exposure to environmental hazards, including radiation, man-made and naturally occurring physical, chemical, and biological (noninfectious) agents, and resultant and presumed health effects, including environmentally-related syndromes of unknown etiology; (2) develops methods and conducts activities to assess risk to human populations from exposure to environmental hazards; (3) plans, develops, implements, and maintains surveillance systems, including registries relating to exposure to environmental hazards, e.g., lead, radiation, weather phenomena, and natural hazards, and to resultant diseases or syndromes; (4) provides epidemiologic emergency response to natural and other environmental disasters; (5) maintains liaison with and serves as a primary Federal resource of specialized technical and managerial assistance and consultation to Federal, State, and local agencies, and other national, international, and private organizations on a wide range of environmental health issues including natural and other environmental disasters; (6) provides consultation and technical assistance on the development and implementation of environmental health programs addressing the prevention of human health problems associated with environmental toxicants, climate extremes, lead hazards, radiation hazards, and other health hazards; (7) develops mechanisms to disseminate information on environmental health risks and technologies to State and local health departments, and to other agencies with

related responsibilities; (8) assists States and local governments in the development of personnel, training programs, and other services to deal with chemical and other environmental health hazards; (9) coordinates Division activities with other CDC organizations and PHS agencies, as appropriate.

2. After the *Division of environmental Health Laboratory Sciences (HCN8), Center for Environmental Health and Injury Control (HCN),* delete item (3) in the functional statement for the *Division of Injury Control (HCN9)* and substitute the following: "(3) plans, establishes, and evaluates surveillance systems to monitor national trends in morbidity, mortality, disabilities, and costs of injuries and to facilitate surveillance by State and local agencies;".

3. After the *Division of Injury Control (HCN9), Center for Environmental Health and Injury Control (HCN),* delete in its entirety the functional statement for the *Office of the Director (HCN91)* and substitute the following: (1) Coordinates national injury control efforts, identifying important gaps in knowledge and limiting inappropriate duplication; (2) directs, coordinates, and evaluates the activities of the Division; (3) provides leadership and guidance on policy and program planning and development for the implementation and operation of an integrated injury control program; (4) supports the integration of epidemiology, prevention, biomechanics, acute care, and rehabilitation into a multidisciplinary approach to injury prevention research and injury control; (5) maintains liaison with a broad public health constituency and provides assistance and consultation to other governmental agencies, international organizations, State and local agencies, and other outside groups; (6) serves as lead agency for coordinating efforts designed to achieve the Objectives for the Nation in injury prevention and control; collaborates with other agencies to track and achieve the Objectives for the Nation in youth suicide and minority homicide; (7) provides leadership and guidance on program planning and management and operations for the implementation and operation of an integrated injury control program; (8) provides administrative, fiscal management, and support services, including review and evaluation of contracts and other agreements, and coordinates administrative program matters.

4. After the *Division of HIV/AIDS (HCRK), Center for Infectious Diseases (HCR),* delete in its entirety the functional statement for the *Scientific Resources Program (HCRL)* and substitute the following: (1) Provides animals, animal blood products, glassware, mammalian tissue cultures, microbiological media, special reagents, and other laboratory materials in support of research and service activities to CID laboratories and other CDC organizations; (2) installs, fabricates, modifies, services, and maintains laboratory equipment used in the research and service activities of CDC; (3) develops and implements applied research programs to expand and enhance the use of animal models necessary to support research and diagnostic programs to improve breeding and husbandry procedures; (4) conducts both basic and applied research in cell biology and in the expansion of tissue culture technology as a research and diagnostic tool for infectious disease activities; (5) provides services for CID investigators in protein and DNA synthesis and sequencing; (6) provides clinical and anatomic veterinary pathology services to attending veterinarians and investigators who use laboratory animals; (7) maintains a bank of serum specimens of epidemiological and special significance to CDC's research and diagnostic activities; (8) for reagents prepared at CDC, maintains a computerized inventory; provides dispensing, lyophilization, capping, and labeling; and retrieves from storage and ships to requesters; (9) provides support for liquid nitrogen freezers; (10) provides consultation and liaison with other components of CDC and national and international research and professional organizations; (11) provides technical expertise and assistance in professional intramural and extramural training activities; (12) administratively and technically supports the CDC Animal Policy Board and the Atlanta Area Animal Care and Use Committee.

5. After the *Division of Immunologic, Oncologic, and Hemotologic Disease (HCRQ), Center for Infectious Diseases (HCR),* delete in their entirety the title and functional statement for the *Division of Mycotic Diseases (HCRR).*

6. After the *Scientific Resources Program (HCRL), Center for Infectious Diseases (HCR),* delete in their entirety the title and functional statement for the *Division of Bacterial Diseases (HCRP)* and substitute the following: *Division of Bacterial and Mycotic Diseases (HCRP).* (1) Conducts surveillance, investigations, and studies of bacterial, fungal, and actinomycotic diseases to define disease etiology and develop effective methods for diagnosis, prevention, and control; (2) conducts or participates in clinical, field, and laboratory research to develop, evaluate, and improve laboratory methodologies and materials and therapeutic practices used for diagnosis, treatment, investigation, and control of bacterial, fungal, and actinomycotic diseases; (3) conducts research on development and evaluation of immunizing agents and the role of protective immunity in the disease process; (4) provides epidemic aid and epidemiological consultation, upon request, to State and local health departments, other Federal agencies, and national and international health organizations; (5) provides reference/diagnostic services for bacterial, fungal, and actinomycotic diseases to State and local health departments, other Federal agencies, and national and international health organizations; (6) provides scientific and technical assistance to other CID components when the work requires unique expertise or specialized equipment not available in other components; (7) provides intramural and extramural technical expertise and assistance in professional training and proficiency testing activities; (8) serves as appropriately designated national and international reference centers for various bacterial, fungal, and actinomycotic diseases and disease groups.

Effective Date: December 28, 1990.

William L. Roper,

Director, Centers for Disease Control.

[FR Doc. 91-666 Filed 1-10-91; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-07]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, 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.

EFFECTIVE DATE: January 11, 1991.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW.,

Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565. 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*, No. 88–2503–OC (D.C.C.), 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.

Dated: January 4, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91–489 Filed 1–10–91; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[AA–220–00–4320–12]

Grazing Administration—Exclusive of Alaska; Grazing Fee for the 1991 Grazing Year

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment of grazing fee for the 1991 grazing year.

SUMMARY: The Secretary of the Interior hereby announces that the fee for livestock grazing for the 1991 grazing year is $1.97 per animal unit month on public lands administered by the Bureau of Land Management.

EFFECTIVE DATE: March 1, 1991, through February 29, 1992.

ADDRESSES: Any inquiries should be sent to: Director (202), Bureau of Land Management, Main Interior Bldg., rm. 5650, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Donald D. Waite (202) 653–9210.

SUPPLEMENTARY INFORMATION: Grazing fees for the use of public rangelands are established and collected under the authority of section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315), and Executive Order 12548 of February 14, 1986. The grazing fees are computed by the formula established in 43 CFR 4130.7–1

Dated: January 4, 1991

James M. Hughes,

Acting Assistant Secretary—Land and Minerals Management.

[FR Doc. 91–522 Filed 1–10–91; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management Alaska

[AK–964–4230–15]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1) will be issued to Doyon, Limited. The lands involved are in the vicinity of the Venetie Indian Reservation and fall within the townships listed below:

Serial Number	Land Description	Approximate Acreage
F–22592	T. 14 S., R. 30 E., Umiat Meridian, Alaska	25.00 acres.
	T. 15 S., R. 30 E., Umiat Meridian, Alaska	10.00 acres.
F–22593	T. 15 S., R. 30 E., Umiat Meridian, Alaska	1,113.00 acres.
F–22595	T. 15 S., R. 29 E., Umiat Meridian, Alaska	47.50 acres.
	T. 15 S., R. 30 E., Umiat Meridian, Alaska	6.10 acres.
F–22596	T. 15 S., R. 28 E., Umiat Meridian, Alaska	115.60 acres.
F–22601	T. 14 S., R. 29 E., Umiat Meridian, Alaska	.40 acres.
F–22602	T. 14 S., R. 29 E., Umiat Meridian, Alaska	.40 acres.
F–22612	T. 13 S., R. 29 E., Umiat Meridian, Alaska	112.00 acres.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News Miner. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until February 11, 1991 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Mary M. Bone,

Supervisor, Fairbanks Section, Branch of Doyon/Northwest Adjudication.

[FR Doc. 91–648 Filed 1–10–91; 8:45 am]

BILLING CODE 4310–JA–M

[AK–967–4230–15, AA–10459]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Sealaska Corporation for approximately 1.04 acres. The lands involved are in the vicinity of Ketchikan, Alaska.

Copper River Meridian, Alaska

T. 77 S., R. 85 E.
Sec. 32.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Ketchikan Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until February 11, 1991 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an

appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Elizabeth P. Carew,

Acting Chief, Branch of KCS Adjudication.

[FR Doc. 91-641 Filed 1-10-91; 8:45 am]

BILLING CODE 4310-JA-M

[CO-010-01-4320-02]

Craig Colorado Advisory Council Meeting

Time and Date: February 7, 1991, at 10 a.m.

Place: BLM—Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Status: Open to public; interested persons may make oral statements at 10:30 a.m. Summary minutes of the meeting will be maintained in the Craig District Office.

Matters to be Considered:

1. Habitat Partnership Program.
2. Holistic Resource Management.
3. Report from Trail Committee.
4. Trans Colorado Gas Transmission Natural Gas Pipeline.
5. "State of the Public Rangeland".
6. Riparian Taskforce Update.
7. Update on Yampa River Development.
8. Coordinated Resource Management.
9. Black-footed Ferrets.
10. Status of Resolutions.
11. DOW Management Principles.
12. Wilderness Recommendations.
13. White River Resource Management Plan.

Contact Person for More Information: Mary Pressley, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: January 4, 1991.

Jerry L. Kidd,

Associate District Manager.

[FR Doc. 91-645 Filed 1-10-91; 8:45 am]

BILLING CODE 4310-JB-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-335 (Sub-No. 3X)]

KCT Railway Corp.—Abandonment Exemption in Wharton, Colorado, and Austin Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by KCT Railway Corporation of a 42-mile line of railroad between Sealy and Wharton, TX, in Wharton, Colorado, and Austin Counties, TX, subject to environmental and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 10, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by January 21, 1991, petitions to stay must be filed by January 28, 1991, and petitions for reconsideration must be filed February 7, 1991. Requests for a public use condition must be filed by January 22, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB-335 (Sub-No. 3X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Stephen W. McVearry, Weiner, McCaffrey, Brodsky, Kaplan & Levin, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005-4797

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. (TDD for the 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 service (202)- 275-1721.)

Decided: January 4, 1991.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-704 Filed 1-10-91; 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).

[Docket No. AB-57 (Sub-No. 32X)]

Soo Line Railroad Co.—Abandonment Exemption in Benson, Pierce, and McHenry Counties, ND

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Soo Line Railroad Company of 40.92 miles of rail line between Baker (milepost 479.54) and Drake (Milepost 520.46), in Benson, Pierce, and McHenry Counties, ND, subject to environmental and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 10, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by January 21, 1991, petitions to stay must be filed by January 28, 1991, and petitions for reconsideration must be filed February 7, 1991. Requests for a public use condition must be filed by January 22, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB-57 (Sub-No. 32X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Larry D. Starns, 1000 Soo Line Building, 105 South Fifth Street, Minneapolis, MN 55402

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. (TDD for the 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 service (202) 275-1721.)

Decided: January 4, 1991.

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-705 Filed 1-10-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

January 7, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 *and* to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514-4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *and* the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *and* to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Special Note

The notice pertains to the Temporary Protected Status Eligibility Questionnaire, Form I-821, a new collection of information originated by the Immigration and Naturalization Service of the Department of Justice. An expedited review has been requested for this new collection of information which provides for temporary protected status (TPS) for specified nationalities authorized by the Immigration Act of 1990. The Form I-821 was developed to facilitate compliance with Sections 302 and 303 of the Immigration Act of 1990. These sections provide for temporary relief from deportation based on meeting qualifications contained in the statute. The statute requires all section 303 applicants to register for benefits during a six month period starting January 1, 1991. The information will be collected from an estimated 500,000 individuals or households and will take an estimated .25 hours each to complete for a total estimated public burden of 125,000 hours. 3504(h) does not apply.

Because of the expedited review request, a copy of the form is reproduced herewith. The original, proposed form was published on December 28, 1990. The publication of this edition supersedes the previously published reporting form. Public comment on the content of the form as well as the estimated public burden is invited. Because of the limited time period requested for this review, comments should be immediately directed to the OMB reviewer listed above and/or to the Department's Clearance Officer, also listed above.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Intercompany Transferee Certificate of Eligibility (Blanket Petitions Only).

(2) I-129S, Immigration and Naturalization Service.

(3) On occasion.

(4) Businesses or other for-profit. Form is completed by an organization which has an approved blanket petition to certify the eligibility of an employee outside of the United States for an I-1 visa classification when an organization listed in the approved blanket petition wishes to transfer the employee to another qualified organization in the United States.

(5) 5,000 annual respondents at .5 hours per response.

(6) 2,500 estimated annual burden hours.

(7) Not applicable under 3504(h).

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) 1991 Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities.

(2) CJ-17 (Public), CJ-29 (Private). Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) Biennially.

(4) State or local governments, non-profit institutions. This biennial undertaking provides descriptive data on public and private juvenile detention and correctional facilities and their residents, which is used by policymakers, planners, and practitioners.

(5) 3,267 annual respondents at 1.67 hours per response.

(6) 5,450 estimated annual burden hours.

(7) Not applicable under 3504(h).

New Collection

(1) Study of Tribal and Alaska Native Juvenile Justice Systems: The all Tribe Survey.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) One time.

(4) State or local governments, tribal governments. Used to collect information on tribal and Alaska native justice systems for a mandated report to Congress.

(5) 475 annual respondents at 2 hours per response.

(6) 950 estimated annual burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

U.S. Department of Justice, Immigration and Naturalization Service, Temporary Protected Status, Eligibility Questionnaire

OMB No. 1115-XXXX

1. Full Name:_____
(Family name in CAPS) (First) (Middle)

2. Date of Birth_____
(month/day/year):

3. A #_____

4. Country of nationality: _____

5. I have resided in and been continuously physically present in the United States since (month/day/year).

6. Applicants must establish that they are admissible to the United States. Except as otherwise provided by law, aliens within certain classes are not admissible to the United States under the provision of 8 U.S.C. 1182 and as provided by 8 U.S.C. 1253(h)(2). **Aliens who fall within any of the following classes are subject to exclusion from the United States:**

Have committed or have been convicted of any crime or violation of law of a state, the United States, or any foreign state;

Have engaged in, or who intend to engage in any commercialized sexual activity;

Have for gain, encouraged or assisted any other alien to enter the United States in violation of law;

Are mentally retarded, insane, suffered one or more attacks of insanity, afflicted with a psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism, or any dangerous contagious disease;

Are a polygamist or who advocate polygamy;

Have been excluded and deported from the United States within the past year, or have been deported from the United States or removed from the United States at government expense within the past 5 years;

Have procured or attempted to procure a visa, other documentation, entry into the United States or any other immigration benefit by fraud or misrepresentation;

Have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage, or have been relieved or discharged from that training or service, or have left the United States to avoid military service in time of war or national emergency;

Have been associated in any way with the Nazi Government in Germany during the period beginning March 23, 1933 and ending on May 8, 1945;

Are paupers, professional beggars, or vagrants;

Have ever arrived in the United States as a stowaway;

Have ever asserted immunity from criminal jurisdiction with respect to prosecution for a criminal offense committed in the United States and as a consequence departed from the United States;

Are, or have at any time been, an anarchist, member of or affiliated with any communist or other totalitarian party, including any subdivision or affiliate thereof;

Have advocated of taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization opposition to organized government, overthrow of a government by force or violence, sabotage, the unlawful destruction of property, the assaulting or killing of government officials because of their official character, or the doctrines of world communism or the establishment of a totalitarian dictatorship in the United States;

Intend to engage in activities prejudicial to the national interests or unlawful activities of a subversive nature;

Do any of the above statements apply to you? ☐Yes (if yes, explain on reverse or on a separate sheet of paper and attach to this form ☐No

7. Have you ever ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, nationality, membership in a particular social group, or political opinion (as provided by 8 U.S.C. 1253(h)(2))? ☐Yes ☐No

I understand all the above questions, having asked for and obtained a translation or explanation of every point which was not understood or clear to me; and I certify that none of these categories apply to me except as listed on the reverse or on the attached explanation.

(Signature of Applicant)

(Signature of Interpreter, if used)

DO NOT WRITE IN THIS BLOCK—FOR INS USE ONLY

Subcribed and sworn to (Affirmed) by the above applicant before me this _____ day of _____ 19 ___ at _____

(Signature of Officer)

(Title)

Reporting burden—Public reporting burden for this collection of information is estimated to average 15 minutes per reponse, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Department of Justice, Immigation and Naturalization Service (Room 504), Washington, D.C. 20536; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1115–XXXX, Washington, D.C. 20503.

Form I–821 (12–27–90) Draft

[FR Doc. 91–592 Filed 1–10–91; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue, NW., room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:		
Georgia	GA90–3 (Jan. 5, 1990)	p. 217.
New York	NY90–10 (Jan. 5, 1990)	p. 831, p. 833.
Volume II:		
Illinois	IL90–1 Jan. 5, 1990)	p. 59, p. 63.
Do	IL90–8 (Jan. 5, 1990)	p. 135, p. 136.
Do	IL90–11 (Jan. 5, 1990)	p. 153, p. 154.
Volume III:		
None		

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered from any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 4th day of June 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91–593 Filed 1–10–91; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 26th day of December 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ARA Auto Group (Wkrs)	Grand Prairie, TX	12/26/90	11/28/90	25,218	Control Devices.
Blue Bird Knitwear Co. (Wkrs)	New York, NY	12/26/90	12/07/90	25,219	Sweaters.
Encore Shoe (Firm)	Sanford, ME	12/26/90	11/29/90	25,220	Shoe Soles.
Evans Hampden Shoe Corp. (Wkrs)	Hampden, ME	12/26/90	12/10/90	25,221	Shoes.
Lee-Vic (Wkrs)	Brooklyn, NY	12/26/90	11/22/90	25,222	Belts.
Lenox Crystal (American Flint Glass)	Mt. Pleasant, PA	12/26/90	12/11/90	25,223	Crystal Gift Ware.
Mask Illusions, Inc. (Wkrs)	San Diego, CA	12/26/90	12/03/90	25,224	Halloween Masks.
Mid-State Machine Products, Inc. (Wkrs)	Winslow, ME	12/26/90	12/06/90	25,225	Machine Parts.
Procter & Gamble Mfg., Co. (Wkrs)	Chicago, IL	12/26/90	11/27/90	25,226	Soap.
RCR Mills, Inc. (Wkrs)	Shillington, PA	12/26/90	12/12/90	25,227	Fabrics.
Scott Company, Inc. (Wkrs)	Anderson, SC	12/26/90	12/11/90	25,228	Shirts.
Sier Bath Gear Deck Corp. (Wkrs)	N. Bergen, NJ	12/26/90	12/07/90	25,229	Gears & Gear Boxes.
Tredegar Molded Products (Firm)	Brooklyn Heights, OH	12/26/90	12/10/90	25,230	Molded Plastic Parts.
U.S. Repeating Arms Co. (Wkrs)	New Haven, CT	12/26/90	12/11/90	25,231	Firearms.
Wooster Manufacturing Co., Inc. (IAM)	Wooster, OH	12/26/90	11/05/90	25,232	Cookware.
Zenith Electronics of Texas (Wkrs)	El Paso, TX	12/26/90	12/09/90	25,233	TV's & VCR's.

[FR Doc. 91-658 Filed 1-10-91; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-24,871]

Fleck, Inc. Fayette, MI; Revised Determination on Reconsideration

On December 21, 1990, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Fleck, Incorporated, Fayette, Mississippi. The affirmed notice will soon be published in the Federal Register.

The workers produced wire harnesses and power cords for appliances and were not separately identifiable by product. The Fayette plant closed in October, 1990.

Findings on reconsideration show that a major portion of Fayette's production was transferred to a corporate plant in Mexico in 1990. This production was imported by the company for one of its major customers.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the wire harnesses produced at Fleck, Inc., Fayette, Mississippi contributed importantly to the decline in sales or production and to the total or partial separation of workers at Fleck, Inc., Fayette, Mississippi. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All former workers of Fleck, Inc., Fayette, Mississippi who become totally or partially separated from employment on or after September 13, 1989 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of January, 1991.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 91-657 Filed 1-10-91; 8:45 am]
BILLING CODE 4510-30-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Priority Foreign Countries: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public on policies and practices that should be considered with respect to designation of countries under section 182 the Omnibus Trade and Competitiveness Act of 1988 (Act).

SUMMARY: Section 182 of the Act requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or which deny fair and equitable market access to U.S. persons that rely on intellectual property protection. (19 U.S.C. 2242.) In addition, USTR is required to determine which of those countries identified are priority foreign countries. Such priority countries could be subject to self-initiation of a section 301 investigation. USTR is requesting written submissions from the public concerning foreign countries' policies and practices that should be considered under section 182.

DATES: Submissions must be received on or before 12 noon on Friday, February 15, 1991.

FOR FURTHER INFORMATION CONTACT: Carmen Suro-Bredie, Deputy Assistant USTR (202) 395-7320, Emery Simon, Director, Intellectual Property (202) 395-6864, or Catherine Field, Associate General Counsel (202) 395-3432, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Section 182(a) requires the USTR, no later than April 30, 1991, to identify countries that deny adequate and effective protection of intellectual property rights or which deny fair and equitable market access to U.S. persons that rely on intellectual property protection.

Requirements for Submissions

Submissions should consist of a description of the problems experienced and their effect on U.S. industry. Submissions should be as detailed as possible. Interested persons must provide twenty copies of any submission to Dorothy Balaban, room 223, 600 17th Street, NW., Washington, DC 20506 no later than 12 noon on Friday, February 15, 1991. Because submissions will be placed in a public file, open to public inspection at USTR, business-confidential information should not be submitted.

Public Inspection of Submissions

Within one business day of receipt, submissions will be placed in a public file, open for inspection at the USTR Reading Room, in room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC. An appointment to review the file may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday.

S. Bruce Wilson,

Assistant USTR for Investment, Services and Intellectual Property.

[FR Doc. 91-646 Filed 1-10-91; 8:45 am]
BILLING CODE 3190-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meeting.

SUMMARY: The Physician Payment Review Commission will hold its next meeting on Thursday, January 17, 1991, from 9:30 a.m. to 5:30 p.m., and on Friday, January 18, 1991, beginning at 8:30 a.m. in the Ballroom of the Grand Hotel (lower conference level).

Information about the agenda can be obtained on Friday, January 11, 1991. Copies of the agenda can be mailed at that time. Please direct all requests for the agenda to the Commission's receptionist.

ADDRESSES: The Commission office is located in suite 510, 2120 L Street NW., Washington, DC. The telephone number is 202/653-7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653-7220.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 91-685 Filed 1-10-91; 8:45 am]
BILLING CODE 6820-SE-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Supplemental Information on Accident and Insurance.

(2) *Form(s) submitted:* SI-1c, SI-5, ID-3s, ID-30K(1), ID-30q and ID-3u.

(3) *OMB Number:* 3220-0036.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 16,500.

(9) *Total annual responses:* 44,550.

(10) *Average time per response:* .06478 hours.

(11) *Total annual reporting hours:* 2,886.

(12) *Collection description:* The RUIA provides for recovery of sickness benefits paid if the employee receives a settlement for the same injury for which benefits were paid. The collection obtains identifying information about the person or company responsible for such payments and information needed for determining the amount of the Railroad Retirement Board's entitlement.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 91–642 Filed 1–10–91; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–17937; 811–3719]

The Growth Fund of Florida, Inc.; Application for Deregistration

January 4, 1991.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of Application for Deregistration Under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Growth Fund of Florida, Inc. ("Applicant").

RELEVANT 1940 ACT SECTION: Section 3(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the Act.

FILING DATES: The application for deregistration on Form N–8F was filed on May 31, 1988, amended on December 21, 1989, and October 11, 1990, and supplemented by letter dated December 7, 1990.

HEARING OR NOTIFICATION OF HEARINGS: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 29, 1991, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington DC 20549. Applicant, P.O. Box 1286, Jacksonville, FL 32201.

FOR FURTHER INFORMATION: The following is a summary of the application; the complete application is available for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified closed-end management investment company that was incorporated under the laws of the State of Florida. On April 25, 1983, Applicant filed a Notification of Registration on Form N–8A, pursuant to Section 8(a) of the Act. On April 29, 1983, Applicant filed a registration statement on Form N–2 pursuant to both the Securities Act of 1933 and Section 8(b) of the Act, as to 2,000,000 shares of common stock of $.001 par value per share. On July 14, 1983, this registration statement became effective and Applicant commenced the initial public offering of the stock as soon as practicable thereafter.

2. On April 30, 1987, Applicant filed a registration statement on Form N–2 regarding an indefinite number of shares of common stock of $.001 par value per share. This filing was in connection with a proposed conversion of Applicant from a closed-end to an open-end investment company that was prompted by approval by Applicant's shareholders of a shareholder proposal requiring its Board of Directors to study alternative plans for Applicant's reorganization, including liquidation or conversion into an open-end company. According to Applicant, the registration statement never became effective because of the decision of Applicant's management that the best interests of shareholders would be served by Applicant's liquidation.

3. On August 12, 1987, the Board of Directors of Applicant adopted a resolution recommending liquidation and dissolution of Applicant. On November 12, 1987, a proxy statement dated November 11, 1987, describing the proposed Plan of Complete Liquidation and Distribution (the "Plan") and calling for a special meeting of shareholders to be held on December 9, 1987, was mailed to all shareholders of record. Applicant's shareholders approved the Plan at this special meeting of shareholders.

4. On August 12, 1987, Applicant commenced the sale of its portfolio securities, and sold substantially all of its securities by December 1987. Applicant sold the last of its securities on May 5, 1989. Applicant's common stock ceased trading on the NASDAQ National Market System as of the close of business on December 9, 1987, the date its shareholders approved the Plan.

5. As of December 4, 1987, Applicant's 2,000,200 shares of common stock outstanding were held by 134 holders of record, and had an aggregate net asset value of $12,011,182 and a per share net asset value of $6.00. As of that date, Applicant had no shares of preferred stock issued or outstanding.

6. On December 17, 1987, in accordance with the Plan, Applicant's Board of Directors authorized, and Applicant deposited with Barnett Banks Trust Company, N.A., of Jacksonville, Florida (the "Liquidating Agent"), the amount of $11,439,299.27 for payment, at $5.71907 per share, of the first liquidating distribution to all shareholders of record as of December 9, 1987. The Liquidating Agent paid this first liquidating distribution to Applicant's shareholders upon receipt of their respective stock certificates or satisfactory lost share affidavits and indemnity agreements.

7. On December 19, 1988, after receiving a further deposit of $240,024.00 from Applicant, the Liquidating Agent made a second liquidating distribution in that amount, representing $0.12 per share, to those security holders entititled to receive the first distribution.

8. On May 30, 1989, the Board of Directors of Applicant authorized a final liquidating distribution in the amount of $323,232.32, representing $0.1616 per share, for payment to those security holders entitled to receive the first and second distributions. On May 31, 1989,

the Liquidating Agent made this final distribution, which disbursed all remaining cash assets of Applicant.

9. As of May 31, 1990, $2,076.15 in cash remained on deposit with the Liquidating Agent, representing unclaimed funds. These funds have been forwarded by the Liquidating Agent to the State of Florida, Office of the Comptroller, and, pursuant to Section 607.294 of the Florida General Corporation Act, will be held as abandoned property and paid to a creditor or shareholder of Applicant upon presentation to the State of Florida Department of Banking and Finance of the right thereto. In no event will these funds revert to Applicant.

10. In connection with its liquidation and dissolution, Applicant incurred $166,607.99 in expenses, including $83,644.09 in legal fees and costs, $44,538.67 in accounting, bookkeeping and administrative expenses, $7,628.25 in printing expenses, $10,488 in custodian, transfer agent, depository agents and liquidating agent fees, $5,372.88 in directors' fees and administrative expenses, $1,215.84 in proxy solicitation expenses, $929.69 in filing costs and fees, and $12,790.57 in brokerage commissions.

11. Applicant paid all brokerage commissions to Sterne, Agee & Leach, Inc., of Birmingham, Alabama ("Sterne"), which at the time of the securities sales employed William C. Norton, the President and Director of Applicant, as Sterne's Senior Vice President. Applicant represents that Sterne is not an "affiliated person," as that term is defined in Section 2(a)(3) of the Act, of either Applicant or Applicant's investment advisor, Blackstock Capital Management Company. Applicant also represents that the commissions charged by Sterne in connection with its sale of Applicant's securities are competitive with the brokerage commissions and fees charged by other brokers for similar transactions.

12. Applicant has not shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs. On October 13, 1989, Applicant was involuntarily dissolved as a corporation by act of the State of Florida.

For the Commission, by the Division of Investment Management, under the delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-656 Filed 1-10-91; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement: Upper Tennessee River Locks

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (DEIS) for the Upper Tennessee River Navigation Improvement Project.

SUMMARY: The Upper Tennessee River Navigation Improvement Project is being undertaken under the statutory authority given to TWA by the Tennessee Valley Authority Act of 1933 (48 Stat. 58, as amended, 16 U.S.C. 831–831dd (1967). This study is necessary because the locks on the upper Tennessee River (Chickamauga, Watts Bar and Fort Loudon) are small by modern commerical navigation standards, are reaching the end of their expected project life, and pose significant restrictions on barge traffic. A preliminary economic analysis indicates that it would be economically feasible to add larger locks at Chickamauga and Watts Bar Dams. The Upper Tennessee River Navigation Improvement Project will include further economic and engineering analyses and an EIS to determine the feasibility of improving navigation on the upper part of the system.

As required by the National Environmental Policy Act (NEPA), TVA and the U.S. Army Corps of Engineers, as a cooperating agency, are preparing an EIS for the navigation improvement alternatives which will identify and evaluate beneficial and adverse effects of the alternatives on the resources of the project area.

The primary project area includes Chickamauga Lock and Dam at Tennessee River mile 471, Watts Bar Lock and Dam at Tennessee River mile 529.9, the Tennessee River from mile 469 to 602, the Clinch River, and other navigable tributaries of the Tennessee River within the project area.

Based on the U.S. Army Corps of Engineers' Upper Tennessee River Interim Reconnaissance Report dated June 1988, the reasonable alternatives to be evaluated are nonstructural alternatives including regulating traffic, congestion fees, and no action; and the structural alternative of constructing new 110-x600-foot locks at both Chickamauga and Watts Bar. Channel modifications associated with the new locks will also be evaluated.

Scoping process: The scoping process will include interagency and public scoping sessions. The public is invited to submit written comments within 30 days of the final public meeting to aid in determining additional issues to be covered in the DEIS.

The EIS will identify, describe, and evaluate the existing environmental, cultural, and recreational resources; explain the navigation problems imposed by the existing locks and the possible solutions to the navigation problems; and evaluate the environmental impacts associated with the alternatives under consideration. TVA has identified at least four primary issues to be addressed in the EIS: (1) The potential for disturbance of contaminated sediments in Watts Bar Reservoir, (2) the impact of a new lock on sauger migration patterns between Chickamauga and Watts Bar Reservoir, (3) the potential for disturbance of mussel habitat in the tailwaters of Chickamauga and Watts Bar Dams, and (4) potential disruption of ground transportation at Chickamauga Lock during the period of construction.

In addition, other natural resource and socioeconomic topics will be covered commensurate with the level of impact expected. The EIS will not address such issues as the remediation efforts by the Department of Energy at Oak Ridge and activities that are outside the limits of the project area.

Federal and state agencies to be included in the interagency scoping sessions are U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, Department of Energy, Environmental Protection Agency, Tennessee Department of Health and Environment, Tennessee Wildlife Resources Agency, Tennessee Department of Transportation, and Tennessee Department of Economic Development.

At least two public scoping sessions will be held. Tentatively, they have been scheduled for Thursday, January 17, 1991, in Chattanooga, Tennessee, and Thursday, January 31, 1991, in Rockwood, Tennessee. Public notices will be published in the local media at least 2 weeks prior to each meeting. The public notices will give the time and place for each meeting. TVA requests comments on the scope of the EIS and invites all interested persons to attend and participate in these meetings.

Estimated Completion: The DEIS should be made available to the public about September 1991.

FOR FURTHER INFORMATION CONTACT: M. Ted Nelson, Tennessee Valley Authority Navigation and System Modification Section, 524 Union Avenue, Evans Building, Room 4E 440A, Knoxville, Tennessee 37902. Phone: (615) 632–7184.

Written Comments: Should be sent to M. Paul Schmierbach, Manager of Environmental Quality, Tennessee Valley Authority, 400 West Summit Hill Drive, 201 Summer Place Building, Knoxville, Tennessee 37902–1499.

Dated: January 8, 1991.

M. Paul Schmierbach,

Manager, Environmental Quality.

[FR Doc. 91–849 Filed 1–10–91; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Order to Show Cause TWA-American Airlines Chicago-London Route Transfer

AGENCY: Department of Transportation.

ACTION: Order 91–1–12, Joint application of American Airlines and Trans World Airlines under Section 401(h) of the Federal Aviation Act, Order 91–1–12. Docket 46752.

SUMMARY: The Department has tentatively decided to approve the joint application of American Airlines and Trans World Airlines (TWA) to transfer the latter's Chicago-London certificate authority to American for the balance of its present term (which expires in August 1994). The Department tentatively declines to impose Labor Protective Provisions or other special conditions on the transfer or to entertain a competing application and motions by Pan American World Airways. Persons objecting to these tentative findings and conclusions are directed to show cause why they should not be adopted.

DATES: Objections to the Department's tentative findings and conclusions are due not later than January 18, 1991. Answers are due not later than January 23, 1991.

ADDRESSES: Objections and answers should be filed in Docket 46752, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590, and should be served on all parties in Docket 46752.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 91–719 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement; Orange and San Diego Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this revised Notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in southern Orange County and northern San Diego County, California.

FOR FURTHER INFORMATION CONTACT: James J. Bednar, District Engineer, Federal Highway Administration, P.O. 1915, Sacramento, California 95812–1915 telephone: (916) 551–1310.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation and the Foothill/Eastern Transportation Corridor Agency (F/ETCA, will prepare an Environmental Impact Statement (EIS) on a proposal to locate and construct a limited access transportation facility with six lanes and a median of sufficient width for high-occupancy vehicles (HOV) or other transit considerations. Transportation improvements are needed to serve existing and planned development.

This facility will be an extension of existing FTC north (ETC to Oso Parkway) under construction, described as Route 241. The proposed project will begin at Oso Parkway, and extend in a southerly direction to join the San Diego Freeway, I–5, near the Orange County/San Diego County line.

The highway is proposed as a toll facility, and will include toll collection facilities on the mainline and on some entry-exit ramps. It is contemplated that the toll facilities will be removed when revenue bonds issued for the project have been repaid. Alternatives being considered for the project include:

(1) New Highway Alternative. This involves locating and constructing six general traffic lanes. An interchange with I–5 will be included in this alternative.

(2) Transit/HOV Improvements. In addition to the above, transit/high occupancy vehicle (HOV) lanes located in the median will be evaluated.

(3) No Project. This alternative is essentially the "no build" option.

Note: As required by NEPA, all other reasonable alternatives will be considered.

In November of 1985, Orange County began consultation with State and local agencies for the southern segment of the Corridor identified as beginning just south of the future Oso Parkway interchange and extending southerly to a connection with the San Diego Freeway (I–5). These consultations identified areas of special concern along the proposed route which were the focus of locally initiated environmental studies. FHWA believes that this early consultation has been extensive and consistent with 40 CFR 1501.7. However, in order to inform potentially affected agencies and the public of FHWA involvement, at least one formal scoping meeting and one formal public hearing will be held. Once a date and location is established, appropriate public notification will be given. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed route are addressed, and all significant issues identified. Questions and comments concerning this proposed action and the EIS should be directed to the FHWA at the address provided previously in this document.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program)

Issued on: January 3, 1991.

James J. Bednar,

District Engineer, Sacramento, California.

[FR Doc. 91–643 Filed 1–10–91; 8:45 am]

BILLING CODE 4910–22–M

Urban Mass Transportation Administration

Transportation for Individuals With Disabilities; notice of Intent to Establish an Advisory Committee; Meeting

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to establish a Federal Advisory Committee; Notice of meeting.

SUMMARY: This notice announces the intent to establish an advisory committee to aid the Urban Mass Transportation Administration (UMTA) and the Secretary of Transportation

(DOT) to develop rules necessary to implement the Americans With Disabilities Act of 1990. Initially, the advisory committee will provide comments to DOT on issues contained in the proposed rule. The committee also will review issues raised in the comments to the proposed rule, and meet to discuss these issues before the Department issues a final rule. Today's notice includes a charter for the advisory committee, as well as a list of the organizations the Department has invited to participate. This notice also announces the first meeting of the advisory committee, which is open to the public.

DATES: *Comment Due Date:* Any comments on this notice should be submitted by January 28, 1991.

Meeting Dates: The first meeting of the advisory committee will begin on Monday, January 28 and continue through Tuesday, January 29, 1991.

ADDRESSES: Comments should be sent to the Office of Chief Counsel, Urban Mass Transportation Administration, room 9316, 400 Seventh Street SW., Washington, DC 20590. The January 28–29 Advisory Committee meeting will be in room 8236, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh St., SW., room 10424, Washington, DC 20590. Telephone 202–366–9306 (voice); 202–755–7687 (TDD). UMTA: Susan E. Schruth, Office of the Chief Counsel, UMTA, DOT, 400 Seventh St., SW., room 9316, Washington, DC 20590, 202–366–4011. A taped copy of this notice is available upon request.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1990, the President signed into law the Americans With Disabilities Act of 1990 (ADA, Pub. L. 101–336). This legislation contains sweeping changes for individuals with disabilities in every major area of Americans life. One key area of the legislation deals with transportation, and it requires the Secretary of Transportation to issue implementing regulations by July 26, 1991.

Mass transit is a major element of the legislation, and the Urban Mass Transportation Administration intends to establish a Federal Advisory Committee, consistent with the Federal Advisory Committee Act 5 U.S.C. App. I, Public Law 100–641, to provide a forum to discuss the many issues related to mass transit in the development of proposed and final rules. For this reason, UMTA finds that it is in the public interest to establish a Federal Advisory Committee. The charter, which explains the scope and objectives of the Committee, is appended to this Preamble.

Members of the Advisory Committee

Americans Disabled for Attendant Programs Today (ADAPT), Denver, Colorado
American Foundation for the Blind, Washington, DC
American Public Transit Association, Washington, DC
Ann Arbor Transportation Authority, Ann Arbor, Michigan.
Architectural and Transportation Barriers Compliance Board, Washington, DC
Association for Retarded Citizens, Washington, DC
Cambria County Transit Authority, Johnstown, Pennsylvania
Chicago Transportation Authority (CTA), Chicago, Illinois
Coalition for Citizens with Disabilities, Washington, DC
Community Transportation Association of America, Washington, DC
Disability Rights Education and Defense Fund, Inc., Washington, DC
Eastern Paralyzed Veterans of America, Queens, New York
International Taxicab Association, Rockville, Maryland
Metro-Dade Transit Agency, Miami, Florida
National Alliance for the Mentally Ill, Arlington, Virginia
National Association of the Deaf, Washington, DC
National Council on Independent Living, Berkeley, California
New York State Department of Transportation, Albany, New York
Pat Pirus Consulting Services, San Lorenzo, California
Project Action, Easter Seals Society, Washington, DC
Seattle Metro, Seattle, Washington
Snohomish County Public Transportation Benefit Area Corporation, Everett, Washington
Southern California Rapid Transit District (SCRTD), Los Angeles, California
Virginia State Department of Transportation, Richmond, Virginia

Major Issues

If the FACA Charter is approved, the committee will consider key issues in the ADA rulemakings dealing with mass transit. A principal area of concern to both disability groups and transit providers is supplementary paratransit. There are many issues involved in defining supplementary paratransit, including comparability, service criteria, and undue financial burden. Another possible area of regulation is certain operational requirements: whether or not to regulate in this area is something that the Advisory Committee will discuss. There are additional issues DOT may bring before the committee, as time permits, such as criteria for establishing key stations.

Procedures

Under the FACA, a designated federal official must call the meetings, review the agendas, and terminate the meetings of the advisory committee, and this will be an UMTA employee appointed by the Administrator of UMTA. The meetings will be Chaired by a person also appointed by the UMTA Administrator. UMTA will ensure that interpreters and assistive listening devices are available for the hearing impaired, and that written materials and meeting transcripts are available in accessible formats.

All meetings of a Federal Advisory Committee are open to the public.

Schedule

The ADA requires that the Department issue a final rule by July 26, 1991. In light of this Congressional deadline, the agency must expedite its rulemaking process. Because of the importance of the FACA process to the rulemaking, however, the agency is providing for three meetings of the FACA, to coincide with the Department's rulemaking efforts.

As noted earlier in this document, the first meeting of the ADA Advisory Committee will be January 28 and 29, 1991. We anticipate that a second and third meeting will be held in May–June 1991. A separate notice announcing these meetings will be published in the **Federal Register.**

Appendix—The Americans With Disabilities Act of 1990 Federal Advisory Committee Charter

I. Purpose

This charter establishes the Federal Advisory Committee for the Urban Mass Transportation Administration's (UMTA's) and the Secretary of DOT's Americans with Disabilities Act of 1990 (ADA) rulemaking and sets forth guidelines for its operation in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. I (FACA), and the Department's regulations on Federal Advisory Committees, 49 CFR part 95.

II. Sponsor and Office Providing Support Services

UMTA will be the sponsor. Support services will be provided by the UMTA Task Force on the ADA and UMTA Office of the Chief Counsel.

III. Scope and Objectives

(a) The Committee will advise the Secretary of DOT and the Administrator of UMTA on a rulemaking to be conducted by them to carry out the provisions of the ADA. The Committee will advise the agency and the Secretary on regulatory issues such as:

(1) Supplemental paratransit, including content of supplemental paratransit plans, required service criteria, identification of undue financial burden, timing of plan implementation, and definition of those eligible for supplemental paratransit.

(2) Possible specification of operational requirements, such as driver assistance.

(3) Criteria for establishing key stations.

(4) Accessibility features.

This advice will be used by the agency and the Department their deliberations on both the Notice of Proposed Rulemaking and the Final Rule. The Committee will review issues submitted in comments on the proposed rule.

(b) The Committee also may assist the Administrator in developing certain technical assistance to be provided under the ADA.

(c) The Committee shall act solely in an advisory capacity to the agency and shall neither exercise any program management responsibility nor make decisions directly affecting the matters on which it provides advice.

IV. Duties

Consistent with the scope and objectives described in section III of this Charter, the Committee is authorized to:

(a) Review the requirements of the ADA, specifically those involving supplementary paratransit and transit operational requirements; and

(b) Provide a forum for discussing issues that will be covered in the proposed and final rules.

(c) Review comments submitted to rulemaking docket; and

(d) Respond to specific assignments made by the sponsor.

V. Membership

(a) The Committee will consist of approximately twenty-four members appointed by the Administrator of UMTA after consultation with the Secretary and will include organizations that have an interest in the implementation of the ADA, including large and small transit operators, advocacy groups for individuals with disabilities and transit communities, and organizations representing persons with disabilities.

(b) The membership will be balanced in terms of the points of view represented.

VI. Chairperson

The Chairperson will be appointed by the Administrator of UMTA.

VII. Meetings

(a) The Committee and any subcommittee will meet and terminate at the call of the designated Federal official. Agendas will be reviewed and approved by the designated Federal official.

(b) Each committee and subcommittee meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least fifteen days in advance of the meeting. Shorter notice is permissible in cases of emergency, but the reason for the emergency must be reported in the notice.

(c) Detailed minutes of each meeting will be kept and their accuracy certified to by the Committee Chairperson. The minutes will include the time and place of the meeting, a record of the persons present, a complete summary of matters discussed and conclusions reached, if any, by the Committee or any subcommittee.

VIII. Compensation for Non-Government Members

Non-Federal government members serve without compensation, but may be reimbursed for expenses.

IX. Estimated Annual Cost to the Government

Some cost to the government is anticipated. However, should costs be incurred, in no event will those costs exceed $50,000, and one quarter person years, which is the ceiling for this Committee. No government staff positions are being allocated to the Committee on a full-time basis.

IX. Public Interest

The formation and use of the Committee is determined to be in the public interest in connection with the performance of duties imposed on the Department of Transportation by law.

X. Effective Date

This charter is effective fifteen days after publication in the **Federal Register**, and terminates upon completion of the subject rulemaking or two years after this date, whichever occurs first, unless, before such time, it is extended in accordance with the FACA and other applicable requirements.

Issued on: January 7, 1991.

Brian W. Clymer,

Administrator.

[FR Doc. 91-681 Filed 1-10-91; 8:45 am]

BILLING CODE 4910-57-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Seeing Through 'Paradise:' Artists and the Terezin Concentration Camp" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Massachusetts College of Art, Boston, Massachusetts, beginning on or about March 6, 1991, to on or about May 6, 1991, and at the Bass Museum of Art, Miami, Florida, beginning on or about October 1, 1991, to on or about December 31, 1991, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 8, 1991.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 91-802 Filed 1-10-91; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

DEPARTMENT OF VETERANS AFFAIRS

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 93-90, Entitlement to Special Monthly Compensation for Anatomical Loss of a Creative Organ

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefits claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—A. Should special monthly compensation (SMC) under 38 U.S.C. 314(k) be restored for anatomical loss of a creative organ where the veteran was originally determined to be eligible for this benefit but was later found ineligible because the veteran had suffered a complete loss of procreative power prior to service through surgical removal of certain other organs?

B. If payment of SMC is appropriate, should the effective date of the benefit be retroactive to the date when it was terminated or to a later date determined by the application of 38 CFR 3.114(a)?

EFFECTIVE DATE: September 25, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans' Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 93-90, Entitlement to Special Monthly Compensation for Anatomical Loss of a Creative Organ, requested by Chief Benefits Director (20), is as follows:

Held:

A. Pursuant to 38 U.S.C. 314(k), which authorizes special monthly compensation (SMC) for anatomical loss or loss of use of one or more creative organs as a result of service-connected disability, a veteran who suffers a service-connected anatomical loss of a creative organ is entitled to SMC, regardless of whether the veteran suffered prior nonservice-connected loss of use of that creative organ. This is true notwithstanding that the loss of use resulted from prior anatomical loss of other organs. Where the veteran's entitlement to SMC was terminated because the nonservice-connected loss of use predated the anatomical loss, the veteran's entitlement to SMC should be restored.

B. Determination of the effective date of SMC, where a veteran was previously denied benefits and a VA administrative issue has since provided a legal interpretation which results in the granting of the benefit, is governed by O.G.C. Prec. 88-90. That opinion requires the application of the criteria set forth in 38 U.S.C. 3010(g) and its implementing regulation 38 CFR 3.114(a) in situations where the initial decision did not constitute clear and unmistakable error. The cited statute and regulation authorized establishment of an effective date based on the date of issuance of the precedent General Counsel opinion giving rise to entitlement.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-736 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 92-90, Application of Manufactured Home Downpayment Requirement to Continuation of Liability Cases

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefits claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Is the new loan made by a holder of a VA manufactured home loan under the continuation of liability regulation subject to the 5 percent downpayment requirement?

EFFECTIVE DATE: September 25, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

Va publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 92-90, Application of Manufactured Home Downpayment Requirement to Continuation of Liability Cases, requested by Director, Loan Guaranty Service (261), is as follows:

Held: A loan covered by an indemnity agreement from VA in connection with the resale of the security for a defaulted guaranteed manufactured home loan by the holder, pursuant to 38 CFR 36.4283(f)(3), is not subject to the 5 percent downpayment requirement

applicable to a VA guaranteed manufactured home loan. 38 U.S.C. 1812(c)(5). Nevertheless, it would be consistent with the legislative intent of the VA home loan statute to obtain a downpayment when doing so still permits the property to be marketed competitively.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-735 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 91-90, Interest Rate Limitation under Soldiers' and Sailors' Civil Relief Act

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does an interest rate reduction applied to an existing VA guaranteed loan by operation of law under the provisions of the Soldiers' and Sailors' Civil Relief Act affect the VA liability when a claim under a VA loan guaranty is filed?

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 91-90, Interest Rate Limitation under Soldiers' and Sailors' Civil Relief Act, requested by Director, Loan Guaranty Service (26), is as follows:

Held:

a. Claims under the VA loan guaranty may only be filed after liquidation has occurred or after a conveyance in lieu of foreclosure has been approved by VA and completed. At that time, based on the remaining outstanding indebtedness, a claim may be paid. If during the term of the loan the interest rate on the loan has been reduced pursuant to the terms of the Soldiers' and Sailors' Civil Relief Act, the total indebtedness for purposes of accounting with VA may not include any of the lost interest.

b. VA, however, pursuant to properly promulgated regulations, may modify the terms of its loan guaranty contract and agree to be liable to a holder to a greater degree than the original debtor in situations where a debtor's total indebtedness has been affected by the Soldiers' and Sailors' Civil Relief Act. A modification of this nature would not be without precedent as a similar modification to the VA loan guaranty contract has been adopted pursuant to 38 U.S.C. 1832(c)(10)(D). The modification permits the filing of an increased loan guaranty claim to include additional accrued interest in any case where an excessive delay in the liquidation sale of the property has been caused by VA.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-734 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 90-90, Inference of Marriage of a Veteran's Child

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does 38 CFR 3.500(n)(3) provide a basis for denial of additional compensation benefits for a veteran's child when marriage of the child may be inferred from available facts?

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Ave, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 90-90, Inference of Marriage of a Veteran's Child, requested by Chief Benefits Director (20), is as follows:

Held: An individual who is living with a person of the opposite sex and holding himself or herself out to the public to be the spouse of such person remains a "child" within the meaning of statutes and regulations defining that term for compensation purposes (38 U.S.C. 101(4) and 38 CFR 3.57(a)), as long as the individual does not contract a valid marriage. Sectin 3.500(n)(3) of title 38, Code of Federal Regulations, which sets forth an effective date for reduction or

discontinuance of an award of pension, compensation, or dependency and indemnity compensation based upon a finding of an inferred marriage of a child does not provide a basis for such a reduction or discontinuance, as there is no provision in the law which authorizes the application of an inference of marriage to children of veterans.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-733 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 97-90, Review of Refunding Decision

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Is the decision by VA not to take an assignment of a guaranteed loan in default from the loan holder a decision "that affects the provision of benefits" by the Secretary within the meaning of 38 U.S.C. 211(a)(1).

EFFECTIVE DATE: October 24, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretation on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 97-90, Review of Refunding Decision, requested by Director, Loan Guaranty Service (261), is as follows: *Held:* A determination by a VA Loan Guaranty Officer not to take an assignment, or "refund" a guaranteed loan in default is not a question of fact or law related to the provision of benefits to veterans within the meaning of 38 U.S.C. 211(a)(1).

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-740 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 94-90, Total Rating Requirement for Specially Adapted Housing Benefit

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Does a total rating based on individual unemployability, pursuant to 38 CFR 4.16, satisfy the requirement of 38 U.S.C. 801(a) that a claimant must be entitled to chapter 11 compensation for total service-connected disability as a prerequisite for attaining financial assistance in the acquisition of specially adapted housing?

EFFECTIVE DATE: September 25, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 94-90, Total Rating Requirement for Specially Adapted Housing Benefit under 38 U.S.C. 801(a), requested by Chairman, Board of Veterans Appeals (011), is as follows: *Held:* The requirement in 38 U.S.C. 801(a) that a veteran must be entitled to compensation under chapter 11 for total service-connected disability is satisfied if the veteran is entitled to a total rating based on individual unemployability due to service-connected disability pursuant to 38 CFR 4.16.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91-737 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 95-90, Eligibility of Refinancing Loan for Guaranty

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is

being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—May VA guarantee a loan which was closed August 21, 1989, for the purpose of replacing financing obtained by the veteran to purchase land and to construct a dwelling, if the amount of the new loan exceeds 90 percent of the value of the dwelling.

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 95–90, Eligibility of Refinancing Loan for Guaranty, requested by Director, Loan Guaranty Service (264), is a follows:

Held: The loan in this case, which was obtained by the veteran to replace conventional construction financing and which was closed August 21, 1989, is not eligible for guaranty because the amount of the loan exceeded 90 percent of the value of the property being refinanced. If eligible, the loan would have been guaranteed pursuant to 38 U.S.C. 1810(a)(5) and, therefore, was subject to the limitation contained in the former 38 U.S.C. 1810(h). This opinion does not apply to loans closed after the effective date of Public Law 101–237, i.e., December 18, 1989.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91–738 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 96–90, Vendee Loan Sales

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—In procuring the services of service providers in securitized transactions involving VA vendee loans where VA directly select such service providers, must VA follow procurement requirements recited in the Federal Acquisition Regulations (FAR)?

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 96–90, Vendee Loan Sales, requested by Chief Benefits Directors (20), is as follows:

Held: a. In the sale of VA vendee loans in securitized transactions, it is necessary to utilize the services of certain service providers to complete the transactions. Such service providers are compensated for their services only if the particular sale is completed, and then directly from the proceeds of the sale of the securities which will be issued to finance the purchase of vendee loans. The compensation amount is deducted from the agreed upon value of the loans being sold to arrive at the net consideration being paid by the purchaser to VA. Funds which originate from private investors and are utilized to compensate the service providers are not appropriated funds. Since the FAR and VA acquisition regulations (VAAR) apply only to the procurement of goods and services with appropriated funds, these regulations would not apply to these contracts. VA may, therefore, select service providers to participate in the securitization of the VA vendee loans without the need to follow the procedures recited in the FAR and VAAR.

b. It would be appropriate, however, to incorporate into the contracting procedures certain basic government contracting principles. In our opinion, your proposal to utilize the financial advisor to identify qualified service providers who would then compete to perform the transactions would meet the basic principles relative to fairness, competition, and opening the contracts to the public. We would recommend, however, that the procedures employed to select these providers incorporate the FAR standards that would not delay the selection of service providers, as such standards reflect criteria which have been identified as appropriate for the Federal Government procurement process. We are, of course, available to work with you in this regard to assure that all such standards and criteria are satisfied in the particular instance.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91–739 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 87–90, Letter from XXXXXXXXXX Regarding the Veteran's Job Training Act (VJTA) and the Veterans' Home Loan Program and Improvements Act of 1987

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—a. May an employer/investor qualify as a prospective purchaser of VA-acquired real property at a rate below market under section 9(b) of Public Law 100–198 by training unemployed veterans in the rehabilitation of residences on such property without fully participating in the partial wage reimbursement program under the Veterans' Job Training Act (VJTA) (29 U.S.C. 1721 note)? b. May veterans presently be allowed to initiate training under a VJTA program?

EFFECTIVE DATE: August 20, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 87–90, Letter from XXXXXXXXX regarding the Veterans' Job Training Act (VJTA) (Pub. L. 98–77) and the Veterans' Home Loan Program and Improvements Act of 1987 (Public Law 100–198), requested by Director, Loan Guaranty Service (26), is as follows:

Held: a. To qualify under section 9, Public Law 100–198, for the privilege of bidding upon and acquiring VA held property at discount rates, a bidder must be a VJTA employer, in full compliance with the provisions of Public Law 98–77, as amended. The Secretary lacks authority to waive the wage reimbursement due a participating employer under the VJTA, or to otherwise modify the VJTA to enable an employer to participate and, hence, qualify for the section 9 discount sales program.

b. No employer may now participate in the discount sales program who had not inducted veterans into a VJTA program involving rehabilitation of residential property prior to April 1, 1990.

Dated: November 21 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91–730 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 88–90, Request for Opinion, Effective Date of Compensation Under 38 U.S.C. 314(k)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—Is the effective date for special monthly compensation (SMC) under 38 U.S.C. 314(k) retroactive to the original date of entitlement, or to the date of the Department of Veterans Affairs (VA) administrative issue holding that 314(k) compensation may be paid in situations where loss of use of a creative organ predates service-connected anatomical loss?

EFFECTIVE DATE: August 22, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 88–90, Request for opinion, effective date of compensation under 38 U.S.C. 314(k), requested by Chief Benefits Director (20), is as follows:

Held: Where a VA administrative issue provides the legal interpretation establishing a veteran's entitlement to special monthly compensation authorized in 38 U.S.C. 314(k), the effective date of benefits is determined by the application of the criteria set forth in 38 U.S.C. 3010(g) and its implementing regulation 38 CFR 3.114(a).

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91–731 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

Summary of Legal Interpretation of the General Counsel—Precedent Opinion 89–90, Reconsiderations by the Board of Veterans Appeals

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—When, pursuant to 38 U.S.C. 4003, the Chairman of the Board of Veterans Appeals (BVA) orders reconsideration of a previous Board decision, what types of review is to be conducted by the reconsideration section?

EFFECTIVE DATE: August 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2159.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effects in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 89–90, Reconsiderations by the Board of Veterans Appeals pursuant to 38 U.S.C. 4003, requested by Chairman, Board of Veterans Appeals (01), is as follows:

Held: Under 38 U.S.C. 4003, as amended by the Veterans' Judicial Review Act, reconsideration by the Board of Veterans Appeals results in vacating the original BVA decision. The reconsideration section then sits in the same position as would a Board panel initially deciding the appeal, i.e., it should employ the same standard of review and consider the same evidence as would be appropriate for such a panel. Regulations contained in 38 CFR 19.185 through 19.190 which are inconsistent with this interpretation of the statute are without effect.

Dated: November 20, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 91–732 Filed 1–10–91; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 8
Friday, January 11, 1991

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:36 p.m. on Saturday, January 5, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to Bank of New England Corporation, Boston, Massachusetts.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: January 7, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-828 Filed 1-9-91; 2:20 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Sunday, January 6, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to Bank of New England Corporation, Boston, Massachusetts.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: January 7, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman

Deputy Executive Secretary

[FR Doc. 91-829 Filed 1-9-91; 2:20 pm]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 9:30 a.m., Wednesday, January 16, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed modifications to the Federal Reserve's payments system risk reduction program regarding measurement and pricing of daylight overdrafts. (proposed earlier for public comment; Docket No. R-0668)
2. Any item carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 9, 1991.

William W. Wiles,

Secretary of the Board

[FR Doc. 91-778 Filed 1-9-91; 10:53 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, January 16, 1991, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p..m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 9, 1991.

William W. Wiles,

Secretary of the Board

[FR Doc. 91-779 Filed 1-9-91; 10:53 am]

BILLING CODE 6210-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m. January 22, 1991.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the December 17, 1990, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of audit recommendations.
4. Legislative review.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director,

Office of External Affairs, (202) 523–5660.

Dated: January 8, 1991.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 91–848 Filed 1–9–91; 3:33 pm]

BILLING CODE 6760–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 9:30 a.m., Thursday, January 17, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Open.

BOARD BRIEFINGS:

1. Economic Commentary.
2. Central Liquidity Facility Report and Report on CLF Lending Rate.
3. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Amendment: Section 701.2(h), Member Business Loans, NCUA's Rules and Regulations.

RECESS: 10:30 a.m.

TIME AND DATE: 11:00 a.m., Thursday, January 17, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Final Decision on Appeal of Denial of Insurance Coverage. Closed pursuant to exemptions (6) and (8).
3. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5) and (9)(B).
5. Personnel Actions. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91–812 Filed 1–9–91; 12:27 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [56 FR 456 January 4, 1991].

STATUS: Closed/open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday December 31, 1990.

CHANGE IN THE MEETING: Addition/deletion:

The following additional items will be considered at a closed meeting previously scheduled for Tuesday, January 8, 1991 at 2:30 p.m., now scheduled for Wednesday, January 9, 1991 at 10:00 a.m.

Consideration of *amicus* participation. Litigation matter.

The following item will not be considered at an open meeting scheduled for Thursday, January 10, 1991, at 10:00 a.m.

Consideration of an application by the Clearing Corporation for Options and Securities for registration as a clearing agency under Section 17A of the Securities Exchange Act of 1934. For further information, please contact Jerry Carpenter at (202) 272–7470.

Commissioner Schapiro, as duty officer, determined that Commission business required the above changes.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272–2200.

Dated: January 8, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–772 Filed 1–8–91; 4:20 pm]

BILLING CODE 8010–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote To Close Meeting

At its meeting on January 7, 1991, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for January 22, 1991, in Washington, DC. The members will consider the Postal Rate Commission's recommended decision in Docket No. R90–1.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Hall, Mackie, Nevin, Pace, and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Hughes.

The Board determined that pursuant to section 552b(c)(3) Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)) because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39 United States Code; and section 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

Neva R. Watson,

Alternate Certifying Officer.

[FR Doc. 91–850 Filed 1–9–91; 3:39 pm]

BILLING CODE 7710–12–M

Corrections

Federal Register
Vol. 56, No. 8
Friday, January 11, 1991

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 AGRICULTURE

Food Safety and Inspection Service

[Docket No. 90-029N]

Hazard Analysis and Critical Control Point Workshops; Solicitation of Participants

Correction

In notice document 91-133 appearing on page 416 in the issue of Friday, January 4, 1991, make the following correction:

On page 416, in the first column, under **SUMMARY**, in the second paragraph, in the fifth line "Paul Place" should read "St. Paul Place".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP91-687-000, et al.]

ANR Pipeline Co., et al.; Natural Gas Certification Filings

Correction

In notice document 91-16 beginning on page 253 in the issue of Thursday, January 3, 1991, make the following correction:

On page 259, in the first column, under **15. Texas Gas Transmission Corp.**, the date should read "December 21, 1990."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-930-4214-10; AR-031306, A-4728, A-6087, A-6264, A-6593, and A-9580]

Withdrawal and Cancellation of Withdrawal Applications; Arizona

Correction

In notice document 90-29774 appearing on page 52224 in the issue of Thursday, December 20, 1990, make the following corrections:

1. In the second column, under "T. 2 N., R. 7 E.," in "Sec. 5" the line before the parenthesis should read "Sec. 5 Lot 9, E½SE¼;"

2. In the same column, under the same heading, in "Sec. 19" the line before the parenthesis should read "Sec. 19 Lots 3 and 4, E½SW¼, SE¼;".

3. In the same column, under "T. 3 N. R. 7 E.,", in "Sec. 26" the line before the comma should read "Sec. 26 W½NW¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[G-910-G1-0404-4214-10; NMNM 84801]

Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

Correction

In notice document 90-29270 appearing on page 51510 in the issue of Friday, December 14, 1990, make the following correction:

In the second column, in the land description under "T. 18 N., R. 4 E.", in the paragraph beginining "Sec. 6","16" should read "26".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Final Rule to List the Golden-cheeked Warbler as Endangered

Correction

In rule document 90-30257 beginning on page 53153 in the issue of Thursday, December 27, 1990, make the following corrections:

§ 17.11 [Corrected]

On page 53160, in the table in § 17.11(h), the entry under "Historic range" should read "U.S.A. (TX), Mexico, Guatemala, Honduras, Nicaragua, Belize". The entry under "Vertebrate population where endangered or threatened" should read "Entire". The two entries were transposed.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 90-ACE-3]

Proposed Alteration of Jet Route J-151

Correction

In proposed rule document 91-24 appearing on page 233 in the issue of Thursday, January 3, 1991, make the following correction:

On page 233, in the second column, in the file line at the end of the document, the document number should read "91-24".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26242, SFAR No. 62]

RIN 2120-AD52

Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement

Correction

In rule document 90-28502 beginning on page 50302, in the issue of Wednesday, December 5, 1990, make the following corrections:

1. On page 50303, in the first column, in the third and fourth lines, "facilities" should read "facilitates".

2. On page 50304, in the second column, in the tenth line from the bottom of the paragraph, "data" should read "date".

PART 91—[CORRECTED]

3. On page 50307, in the third column, in the fifth line from the bottom of the column, "Wasdworth Municipal," should read "Wadsworth Municipal".

4. On page 50308, in the 2nd column, in the 31st line of the first table, "D" should read "De".

5. On page 50309, in the first column, under designation (13), in the second column of the table, in the first line, "M65" should read "65M".

6. On the same page, in the third column, in the third column of the first table, in the seventh line, "2,500b" should read "2,500".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. 90-22]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R0720]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 564

[Docket No. 90-4000]

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722

RESOLUTION TRUST CORPORATION

12 CFR Part 1608

Excerpts From the Uniform Standards of Professional Appraisal Practice Applicable to Federally Related Transactions

Correction

In rule document 90-30371 beginning on page 53610 in the issue of Monday, December 31, 1990, make the following corrections:

1. On page 53616, in the second column, in the first full paragraph, in the last line, add "is" after "information".

2. In the same column, in the second paragraph under the first *Comment,* in the first line, remove "to be" and add "to the".

3. On page 53617, in the second column, under **DEPARTMENT OF THE TREASURY**, insert "Office of the Comptroller of the Currency".

TITLE 12—[CORRECTED]

PART 225—[CORRECTED]

4. On the same page, in the third column, in the heading for part 225 of title 12, "REAL" should read "BANK".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AE91

Schedule for Rating Disabilities-The Orthodedic System

Correction

In proposed rule document 90-30420 appearing on page 53315 in the issue of Friday, December 28, 1990, make the following correction:

In the second column under **DATES**, the last line should read "February 26, 1991."

BILLING CODE 1505-01-D

federal register

Friday
January 11, 1991

Part II

Department of Health and Human Services

Public Health Service; Office of the Assistant Secretary for Health; Agency for Health Care Policy and Research; Alcohol, Drug Abuse, and Mental Health Administration; National Institutes of Health; Centers for Disease Control; Agency for Toxic Substances and Disease Registry; Indian Health Service; Health Resources and Services Administration; and Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health; Privacy Act of 1974; Annual Publication of Systems of Records Notices

AGENCY: Public Health Service, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Office of the Assistant Secretary for Health (OASH) in the Public Health Service (PHS) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: OASH has completed the annual review of its systems of records. Since the publication of November 17, 1989, OASH has made the following changes to its inventory of systems of records: (1) OASH has added one new system of records: 09-37-0022—Records of Health Experts Maintained by the Office of International Health, HHS/OASH/OIH. (2) OASH has deleted from its inventory those systems which are now maintained by the newly established Agency for Health Care Policy Research, formerly the National Center for Health Services Research and Health Care Technology Assessment:

09-37-015—National Center for Health Services Research and Health Care Technology Assessment (NCHSR) Grants Records System, HHS/OASH/NCHSR.

09-37-0019—National Medical Expenditure Survey, HHS/OASH/NCHSR.

09-37-0021—AIDS Cost and Service Utilization Survey (ACSUS), HHS/OASH/NCHSR.

(3) OASH revised the System Location and System Manager and Address categories of system 09-37-0001 "Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM," and 09-37-0020 "Office of Minority Health Grants Records System, HHS/OASH/OMH," to reflect changes in the location of records and the address of the system managers. These changes are listed following the Table of Contents. (4) A Table of Contents of active systems of records is published below. The complete text of the system notices was last published in the Office of the Federal Register's 1987 biennial Compilation of Privacy Act Issuances.

Dated: November 7, 1990.

Wilford J. Forbush,

Director, Office of Management.

Office of the Assistant Secretary of Health

Table of Contents

09-37-0001 Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM.
09-37-0002 PHS Commissioned Corps Personnel Records, HHS/OASH/OM.
09-37-0003 PHS Commissioned Corps Medical Records, HHS/OASH/OM.
09-37-0005 PHS Commissioned Corps Board Proceedings, HHS/OASH/OM.
09-37-0006 PHS Commissioned Corps Grievance, Investigatory, and Disciplinary Files, HHS/OASH/OM.
09-37-0008 PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OM.
09-37-0017 Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM.
09-37-0020 Office of Minority Health Grants Records System, HHS/OASH/OMH.
09-37-0022 Records of Health Experts Maintained by the Office of International Health, HHS/OASH/OIH.

Minor Alterations

1. 09-37-0001

SYSTEM NAME:

Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM.

Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

SYSTEM LOCATION:

1. Public Health Service Executive Secretariat, Room 710H, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201.

2. Staff offices of the Assistant Secretary for Health. For a list of addresses, please write to: Policy Coordinator, Office of Organization and Management Systems, Office of Management, Room 17-51, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

3. Federal Records Center, 4205 Suitland Road, Suitland, MD 20746.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Coordinator: Director, Office of Organization and Management Systems, Office of Management, Room 27-51, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

System manager: 1. Director, Public Health Service Executive Secretariat, Room 710H, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201.

2. The Director of each Office of the Assistant Secretary for Health staff office is the system manager for the correspondence control system in his/her office. For the address of the appropriate system manager, please write to the Policy Coordinator at the above address.

* * * * *

2. 09-37-0020

SYSTEM NAME:

Office of Minority Health Grants Records System, HHS/OAH/OMH.

Minor alternations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

SYSTEM LOCATION:

Office of Minority Health, Rockwall II Building, Room 1102, 5600 Fishers Lane, Rockville, MD 20857. A current list of contractor sites is available by writing to the address below under SYSTEM MANAGER. Inactive records are located at the Federal Records Center, 4205 Suitland Road, Suitland, MD 20746.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Grants Management Officer, Office of Minority Health, PHS, Room 1102, Rockwall II Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

[FR Doc. 91-387 Filed 1-10-91; 8:45 am]

BILLING CODE 4160-17-M

Agency for Health Care Policy and Research

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Agency for Health Care Policy Research, PHS, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Agency for Health Care Policy and Research (AHCPR) in the Public Health Service is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: Public Law 101-239 established AHCPR as an independent agency of PHS on December 18, 1989, eliminating the National Center for Health Services Research and Health Care Technology Assessment in OASH.

AHCPR has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in AHCPR and (2) those minor changes which affect the public's right of need to know, such as changes in the system location of records or the address of system managers.

Dated: November 21, 1990.

J. Jarrett Clinton,

Acting Administrator, Agency for Health Care Policy and Research.

Agency for Health Care Policy and Research

Table of Contents

09-35-0001 Grants Records System, HHS/AHCPR/OPRM

09-35-0002 National Medical Expenditure Survey, HHS/AHCPR/CGHSIR

09-35-0003 AIDS Cost and Service Utilization Survey, (ACSUS) HHS/AHCPR/CGHSER

09-35-0001

SYSTEM NAME:

Agency for Health Care Policy and Research (AHCPR), Grants Record System, HHS/AHCPR/OPRM Minor alterations have been made to this system notice. The following categories should be revised:

SYSTEM LOCATION:

Agency for Health Care Policy and Research (AHCPR), Parklawn Building, Room 18A27, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research grant principal investigators, research training grant program directors, and research fellowship recipients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research grant, research training grant, and research fellowship files, including grant applications, grant award notices, individual credit reports, summary comments of peer reviewers, salary information, project staffing lists, general correspondence, and Social Security Numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

PHS Act Section 902 (General Authorities and Duties, Agency for Health Care Policy and Research (42 USC 299A)), Section 925 (Certain Administrative Authorities (42 USC 299c-4)), Section 487 (National Research Service Awards (42 USC 288)).

PURPOSE(S):

The information in this system is used to facilitate day-to-day grants management operations and for purposes of review, analysis, planning and policy formulation by AHCPR staff members and by other components of DHHS which conduct research.

AHCPR refers these records to the DHHS Office of the Assistant Secretary for Management and Budget (ASMB) for the purpose of monitoring payback, and if necessary, debt collection. These records are maintained by ASMB in system of records 09-90-0024, "According Records of Payments to and Collections from Individuals from operating Division Agency and Regional Financial Management and Disbursing Office, HHS/OS/ASMB."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, when (a) HHS, or any component thereof; or (b) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal, is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. AHCPR may disclose information about an individual grant application or fellowship applicant to credit reporting agencies to obtain a credit report in order to determine his/her credit worthiness.

4. Disclosure may be made to the National Technical Information Service (NTIS), U.S. Department of Commerce, to contribute to the Smithsonian Science Information Exchange, for dissemination of scientific and fiscal information on funded awards (abstracts and relevant administrative and financial data).

5. Disclosure may be made to qualified experts not within the definition of Department employees for opinions as a part of the application review and award process.

6. Disclosure may be made to a private firm for the purpose of providing services relating to grant review, or for carrying out quality assessment, program evaluation, and/or management reviews. The contractor is required to maintain Privacy Act safeguards with respect to such records.

7. Disclosure may be made to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit of the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

8. Where Federal agencies having power to subpoena other Federal

agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

9. Disclosure may be made to the cognizant Audit Agency for auditing.

10. In the event that a system of records maintained by the Department indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to as routine use, to the appropriate agency, whether Federal (e.g., The Department of Justice), or State (e.g., the State Attorney General's Office) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto for litigation.

11. Disclosure may be made to the grantee institution in connection with performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 522a (b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)): The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individual's identity; the amount, status, and history of the claim; and the agency program under which the claim arose. This disclosure will be made only after the procedural requirement of 31 U.S.C. 3711 (f) has been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files (file folders).

RETRIEVABILITY:

Retrievable by name and grant number.

SAFEGUARDS:

1. Authorized Users: Only staff members of the Grants Management Branch (GMB) have regular access. Limited access to official grant files is granted to other DHHS staff with need-to-know about AHCPR research projects, only with authorization of the System Manager.

2. Physical Safeguards: Locked file cabinets, locked offices, general building security.

3. Procedural Safeguards: DHHS staff may inspect AHCPR grant records on a need-to-know basis only, with the approval of the System Manager. Visitors are not left unattended in the office containing the files. Offices are locked when not in use. Grant records are either transmitted in sealed envelopes or are hand-carried.

RETENTION AND DISPOSAL:

Funded grant applications and their respective files are retained at AHCPR for one year beyond the termination date of the grant. Unfunded grant applications are held for one year. The grant files are then retired to a Federal Records Center and subsequently disposed of in accordance with the PHS/AHCPR records control schedule. The records control schedule may be obtained by writing to the System Manager at the following address.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Grants Management Branch, AHCPR/OPRM, Parklawn Building, Room 18A27, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the above address. Specify name and/or grant number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Positive identification is required. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under System Manager above and reasonably identify the record, specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Grant applicants, reports and correspondence from the research community, and statements from grant review committees; consumer reporting agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-35-0002

SYSTEM NAME:

National Medical Expenditure Survey, HHS/CGHSIR/AHCPR.

Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

AHCPR, Room 18A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

* * * * *

SAFEGUARDS:

AHCPR and its contractors implement personnel, physical, and procedural safeguards as follows:

1. Authorized Users: Access is limited to persons authorized and needing to use the records, including project directors, contract officers, interviewers, analysts, statisticians, statistical clerks and key punch operators on the staffs of AHCPR and the contractors.

* * * * *

3. Procedural safeguards: All employees of AHCPR and contractor personnel with access to AHCPR records are required, as a condition of employment, to sign an affidavit binding them to nondisclosure of individually identifiable information. Periodic training sessions are conducted to reinforce the statutorily-based confidentiality restrictions.

Names and other characteristics from the original records are not contained on the records encrypted for analysis. Encrypted data are indexed by code numbers. Tables and computer files linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need as authorized by the System Manager. Data stored in computers both at AHCPR and the contractor sites are accessed through the use of passwords/keywords assigned by the System Manager only to authorized personnel of AHCPR or its contractors. These passwords/keywords

are changed frequently. An automated audit trail will be maintained.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Medical Expenditure Studies, AHCPR/CGHSIR, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

* * * * *

09–35–0003

SYSTEM NAME:

AIDS Cost and Services Utilization Survey (ACSUS), HHS/AHCPR/CGHSER.

Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(42 USC 242b). The Omnibus Budget Reconciliation Act of 1989 created a new Title IX of the Public Health Service Act to establish within the Agency for Health Care Policy and Research.

The purpose of the agency is to enhance the quality, appropriateness and effectiveness of health care services and access to such services.

* * * * *

SAFEGUARDS:

AHCPR and its contractors implement personnel, physical, and procedural safeguards as follows:

* * * * *

3. Procedural Safeguards.—All contractor personnel with access to AHCPR records are required, as a condition of employment, to sign an affidavit binding them to nondisclosure of individually identifiable information.

* * * * *

RETENTION AND DISPOSAL:

After AHCPR has received and accepted the final data tape and all other contract deliverables the contractor will destroy all information linking the numeric codes with the names of the individuals who supplied the data. Hard-copy records will be burned or shredded following verification that such data were correctly keyed into a machine-readable format.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Cost and Financing, AHCPR/CGHSER, Mail Stop 678, Maxima Building, 2101 East Jefferson Street, Rockville, Maryland 20852–4993.

* * * * *

[FR Doc. 91–388 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–90–M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Privacy Act of 1974; Annual Publication of Revisions to PHS Privacy Act Systems Notices

AGENCY: Department of Health and Human Services (DHHS); Public Health Service (PHS); Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

ACTION: Privacy Act: Annual Publication of Revisions to Privacy Act System Notices.

SUMMARY: ADAMHA is publishing this document to meet the requirement of section 3.a.(8) of Appendix I to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records about Individuals," which requires that agencies review each system of records annually and publish any minor changes in the **Federal Register** (FR). ADAMHA has reviewed all of its active systems and is publishing all minor changes to its systems' notices.

SUPPLEMENTARY INFORMATION: ADAMHA has completed the annual review of its systems of records' notices and is publishing below those minor changes which affect the public's right or need to know, such as system location, authority for maintenance of the system, purpose, notification procedure, and system manager(s) and address.

1. Changes:

The following minor changes have been made to systems of records as follows:

a. 09–30–0020

SYSTEM NAME:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/ADAMHA/NIDA.

Minor alterations have been made to this system of records' notice. The following categories should be revised in their entirety:

SYSTEM MANAGER(S) AND ADDRESS:

Medical Records Technician, Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself or herself upon written request with a notarized signature. The request should include, if known: Patient hospital record number, full name or any alias used, patient's address during treatment, birth date, veteran status (if applicable) and approximate dates in treatment, and Social Security number. An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the individual of its content at the representative's discretion.

b. 09–30–0022

SYSTEM NAME:

National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/ADAMHA/NIDA.

A minor alteration has been made to this system of records' notice. The following category should be revised in its entirety:

SYSTEM MANAGER(S) AND ADDRESS:

Director of Medical Affairs, NIDA, Addiction Research Center, Francis Scott Key Medical Center, Building C, P.O. Box 5150, Baltimore, Maryland 21224.

c. 09–30–0023

SYSTEM NAME:

Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA.

Minor alterations have been made to this system of records' notice. The System Location and System Manager(s) and Address should be changed as follows:

SYSTEM LOCATION:

National Institute of Mental Health, Contracts Management Branch, ORM, Room 7C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

SYSTEM MANAGER(S) AND ADDRESS:

National Institute on Drug Abuse, Chief, Contracts Management Branch, OPRM, Room 10–49—Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Nation Institute of Mental Health, Chief, Contracts Management Branch, Room 7C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

d. 09–30–0027

SYSTEM NAME:

Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Prevention, Fellowships, Clinical Training, Community Programs, HHS/ADAMHA/OA.

Minor alterations have been made to the system of records' notice. The System Location and the System Managers and Addresses should be revised as follows:

Change the following System Location:

SYSTEM LOCATION:

National Institute on Drug Abuse, Grants Management Branch, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Add the following System Manager(s) and Address:

SYSTEM MANAGER(S) AND ADDRESS:

National Institute on Drug Abuse, Chief, Grants Management Branch, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

National Institute of Mental Health, Grants Management Branch, ORM, Room 7A–23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Delete the following from the System Manager(s) and add Address Category:

Project Officer for Kentucky Contract, State Planning and Human Resources Development Branch, Division of Education and Service System Liaison, National Institute of Mental Health, Room 7–103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

e. 09–30–0033

SYSTEM NAME:

Correspondence Files, HHS/ADAMHA/OA.

A minor alteration has been made to the System Location of this system of records' notice as follows:

SYSTEM LOCATION:

Executive Secretariat, National Institute on Drug Abuse, Room 10–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

f. 09–30–0035

SYSTEM NAME:

Three Mile Island Mental Health Survey Respondents Records, HHS/ADAMHA/NIMH.

A minor alteration has been made to the System Manager(s) and Address of the system of records' notice as follows:

SYSTEM MANAGER(S) AND ADDRESS:

Violence and Traumatic Stress Research Branch, Division of Applied and Services Research, National Institute of Mental Health, Room 7C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

f. 09–30–0036

SYSTEM NAME:

Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometrics Research Data, HHS/ADAMHA/OA.

Minor alterations have been made to the System Location, Purpose, and System Manager(s) and Address of this system of records' notice as follows:

SYSTEM LOCATION:

Records are located at the research facilities which collect or provide research data for this system under contract to the agency. Contractors may include, but are not limited to, research centers, clinics, hospitals, universities, research foundations, national associations, and coordinating centers. Records may also be located at the research facilities of the Division of Biometry and Epidemiology and the Division of Clinical and Prevention Research, National Institute on Alcohol Abuse and Alcoholism (NIAAA); the Division of Clinical Research, the Division of Epidemiology and Prevention Research and Division of Applied Research, National Institute on Drug Abuse (NIDA); the Division of Applied and Services Research and the Division of Clinical Research, National Institute of Mental Health (NIMH); the Office for Substance Abuse Prevention; and the Office for Treatment Improvement. A current list of sites is available by writing to the appropriate System Manager at the address below:

PURPOSE:

The purpose of the system of records is to collect and maintain a data base for research activities of the Division of Applied and Services Research and the Division of Clinical Research, NIMH; the Division of Biometry and Epidemiology and the Division of Clinical and Prevention Research, NIAAA; the Division of Epidemiology and Prevention Research, the Division of Applied Research and the Division of Clinical Research, NIDA; the Office for Substance Abuse Prevention; and the Office for Treatment Improvement, OA. Analyses of these data involve groups of individuals with given characteristics and do not refer to specific individuals. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental, alcohol, and/or drug abuse disorders, their diagnosis, treatment and prevention, and the promotion of good physical and mental health.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 (42 U.S.C. 241, General Research and Investigation Authorities); Public Health Service Act, sections 301, 302, 303 and Title V, Parts A and B (42 U.S.C. 241, 242, 242(a), and 290 (aa-ee).

SYSTEM MANAGER(S) AND LOCATION:

Director Division of Clinical and Prevention Research, National Institute on Alcohol Abuse and Alcoholism, room 14C–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

g. 09–30–0039

SYSTEM NAME:

Drug Abuse Treatment Outcome Study (DATOS), HHS/ADAMHA/NIDA.

Minor alterations have been made to the System Location, Categories of Individuals Covered by System, Purpose, Retrievability, and System Manager(s) and Address of the system of records' notice as follows:

SYSTEM LOCATION:

For records collected between 1979 through 1986:

New records collected between 1991 through 1995 will be located with Research Triangle Institute, Life Sciences Division, Research Triangle Park, NC, 27709, an ADAMHA contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally-funded treatment programs, including Treatment Alternative Street Crime (TASC) Programs of the Department of Justice, who requested to be included in TOPS from 1979 through 1986. New data collected from voluntary adult clients of public and private-funded treatment programs beginning in 1991 and will continue through 1995.

PURPOSE:

The purpose of the system is to compile information on drug abusers in drug abuse treatment programs in order to derive information on the treatment environments and abusers' behaviors and characteristics subsequent to treatment. Researchers and drug abuse service providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client and community.

RETRIEVABILITY:

Records are indexed and retrieved by unique alpha numerical identifier. In order to relate the data collected to specific individulas, one must use the link file discussed under Safeguards.

SYSTEM MANAGER(S) AND ADDRESS:

Drug Abuse Treatment Outcome Study (DATOS), Project Officer, Treatment Research Branch, Division of Clinical Research, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A–30 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

h. 09–30–0043

SYSTEM NAME:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/ADAMHA/NIDA.

A minor alteration has been made to the System Manager(s) and Address of this system of records notice as follows:

SYSTEM MANAGER(S) AND LOCATION:

Project Director, Drug Supply Program, Research Technology Branch, Division of Preclinical Research, Room 10A–13, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

I. 09–30–0047

SYSTEM NAME:

Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky, (1942 to the Present), HHS/ADAMHA/NIMH.

A minor alteration has been made to the System Manager(s) and Address of this system of records' notice as follows:

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer for Kentucky Contract, Project Officer: Alvira B. Brands, D.NSC. Division of Applied and Services Research, System Development and Community Support Branch, National Institute of Mental Health, Room 7–103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

j. 09–30–0049

SYSTEM NAME:

Consultant Records Maintained by ADAMHA Contractors, HHS/ADAMHA/OA.

Minor alterations have been made to the Authority for Maintenance of the System, and System Manager(s) and Address of the system of records' notice as follows:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, as Amended, Section 501 (42 U.S.C. 290aa). This section covers program authorities for certain ADAMHA Institutes and Offices.

SYSTEM MANAGERS AND ADDRESSES:

Contract Officer, National Institute of Mental Health, Room 7C–18, Parklawn Building, Rockville, Maryland 20857.

Contract Officer, Office for Substance Abuse Prevention, 6th floor, Rockwall II, Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Contract Officer, Office for Treatment Improvement, 10th floor, Rockwall II, Building, 5600 Fishers Lane, Rockville, Maryland 20857.

2. Readers who notice any errors or omissions in ADAMHA system of records' notices are invited to bring them to my attention at the following addresses:

Alcohol, Drug Abuse, and Mental Health Administration, 5600 Fishers Lane, Room 12–105, Rockville, Maryland 20857.

3. Table of Contents

The following is a list of system notices which ADAMHA currently maintains:

09–30–0004 Intramural Research Program Records of Research Performed on In- and Out-Patients with Various Types of Mental Illness, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 48, No. 230, p. 53798.

09–30–0020 Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1978), HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 49, No. 244, p. 49181.

09–30–0022 National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Patient Files, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230; p. 53816.

09–30–0023 Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49, No. 106, p. 22713.

09–30–0027 Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowship, Clinical Training, Community Services, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49, No. 106, p. 22714.

09–30–0029 Records of Guest Workers, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53823.

09–30–0030 Records of Visiting Fellows, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53824.

09–30–0033 Correspondence Files, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 48, No. 230, p. 53825.

09–30–0035 Three Mile Island Mental Health Survey Respondents Record, HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 47, No. 198, p. 45459.

09–30–0036 Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 49, No. 206, p. 42639.

09–30–0037 Psychotherapy of Opiate-Dependent Individuals, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53828.

09–30–0038 Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53829.

09–30–0039 Drug Abuse Treatment Outcome Study (DATOS) HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53830 and **Federal Register**, Vol. 54, No. 221, p. 47865.

09–30–0041 Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 112, p. 26672.

09–30–0043 Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/ADAMHA/NIDA; publ. **Federal Register**, Vol. 48, No. 230, p. 53832.

09–30–0047 Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky, (1942 to Present), HHS/ADAMHA/NIMH; publ. **Federal Register**, Vol. 51, No. 226, p. 42395.

09–30–0048 Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/ADAMHA/NIAAA; publ. **Federal Register**, Vol. 51, No. 226, p. 42396.

09–30–0049 Consultant Records Maintained by ADAMHA Contractors, HHS/ADAMHA/OA; publ. **Federal Register**, Vol. 52, No. 195, p. 37660.

09–30–0050 Clinical Research: Patient Medical Records, HHS/ADAMHA/NIMH: publ. **Federal Register**, Vol. 53, No. 81, p. 15142.

Dated: October 30, 1990.

Joseph R. Leone,

Executive Officer, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 91–389 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–20–M

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act: Annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria either for a new

or altered system of records requiring an advance period for public comment. These changes are in compliance with Circular A–130, Appendix 1. The notices republished below are complete and accurate as of November 30, 1990.

Included is a listing of one system of records that has been deleted since the 1989 publication and a complete list of the systems of records that NIH currently maintains.

SUPPLEMENTARY INFORMATION: The following information summarizes the current status of all systems of records which NIH maintains:

A. **System name.** The following systems have been updated to reflect a change in the name of the system:

09–25–0108, Personnel: Guest Researchers/Student Scientists/ Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0130, Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47333.

B. **System location.** The following systems have been updated to reflect a change in the system locations. These changes do not affect the access by the individual to the individual's records.

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0002, Clinical Research: Patient Phonocardiogram Records, HHS/NIH/ NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/ NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47870.

09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47310.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 476.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/ NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47877.

09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/ NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 483.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 484.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47318.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47881.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47882.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47885.

09–25–0108, Personnel: Guest Researchers/Student Scientists/ Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 506.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 507.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47892.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 526.

C. *Categories of individuals covered by the system.* The following system has been updated to reflect an increase in the number of individuals covered by the system. This change does not constitute a major modification and no advance publication is required.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

D. *Categories of records.* The following systems have been updated to reflect a change in the categories of records in the system. This change does not alter the character or purpose of the system.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47875.

09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47331.

E. *Authority.* The following systems have been updated to reflect a change in the authority citation of records in the system. This change does not alter the character or purpose of the system.

09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47878.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47879.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47882.

09–25–0108, Personnel: Guest Researchers/Student Scientists/ Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 520.

F. *Storage.* The following systems have been updated to reflect a change in the method of storing the records:

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47875.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47881.

G. **Retrieval.** The following systems have been updated to reflect a change or clarification in the method of retrieving the records.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

H. **Safeguards.** The following systems have been updated to reflect a change in the safeguards:

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47890.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

I. **Retention and Disposal.** All systems listed in the Table of Contents have been updated to be consistent in referencing the NIH Records Control Schedule. In addition, the following systems have been updated to clarify or reflect a change in the retention and disposal schedule:

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47326.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

J. **System Manager(s) and Address(es).** The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0002, Clinical Research: Patient Phonocardiogram Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0003, Administration: Authorized Radionuclide Users File, HHS/NIH/ORS, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225. p. 47303.

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47870.

09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 468.

09–25–0008, Administration: Radiation Workers Monitoring, HHS/NIH/ORS, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47308.

09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225. p. 47310.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 478.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47877.

09–25–0036, Grants: IMPAC (Grant/Contract Information), HHS/NIH/DRG, publ. **Federal Register**, 1987 Comp., Vol. 1, p. 480.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 484.

09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47878.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47879.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47318.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47881.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47882.

09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47324.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47885.

09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 499.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 501.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ.

Federal Register, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 506.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 507.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47892.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47336.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47895.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47897.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47899.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG publ. **Federal Register**, May 22, 1990, Vol. 55, No. 99, p. 21114.

K. Record access. The following systems have been updated to reflect a change in the record access procedures.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47326.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

L. Notification procedures. The following systems have been updated to reflect a change in the office, official, and/or address to write to to determine whether or not the system contains a record about the individual.

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0002, Clinical Research: Patient Phonocardiogram Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0008, Administration: Radiation Workers Monitoring, HHS/NIH/ORS, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47308.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 496.

09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 483.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 484.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47318.

09–25–0087, Administration: Employees and Consultants, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47884.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 501.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47332.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47897.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 520.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

M. The following systems have been changed for clarity and editing purposes. In addition, the language in the sections on Safeguards, Record Access Procedure, and Contesting Record Procedure for the systems listed in the Table of Contents has been edited to improve the clarity and specificity of the system notice and/or to incorporate standardized language to achieve uniformity.

09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47310.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 496.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0037 Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47313.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47882.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47326.

09–25–0108, Personnel: Guest Researchers/Student Scientists/ Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/ NIH/NIA, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47336.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47900.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

09–25–0160, United States Renal Data System (USRDS), HHS/NIH/NIDDK, publ. **Federal Register**, December 27, 1989, Vol. 54, No. 247, p. 53190.

N. **Organization name change:** The following systems have a name change due to the renaming of the organization from National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) to National Institute of Neurological Disorders and Stroke (NINDS) and the creation of a new organization, National Institute on Deafness and Other Communication Disorders (NIDCD) as follows:

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/ NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 499.

The following systems have a name change due to the renaming of the organization from National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK) to National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) as follows:

09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47314.

09–25–0040, Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p.47315.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 484.

The following systems have a name change due to the renaming of the organization from Division of Research Resources (DRR) to National Center for Research Resources (NCRR) as follows:

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/ NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47870.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

O. **Deleted systems of records.** The following system of records which appeared in the 1989 annual publication is now being deleted as the records were transferred to a non-Federal entity:

09–25–0021, Clinical Research: Guam Patient/Control Registry, HHS/NIH/ NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47874.

We are publishing all current NIH Privacy Act Systems since all have been changed to reflect minor modifications. All system notices were last published in the **Federal Register**, Privacy Act Issuances, 1987 Compilation, Volume 1, pp. 465–527, and selectively updated on November 24, 1987 in Vol. 52 No. 226, November 22, 1988 in Vol. 53 No. 225, and on November 17, 1989 in Vol. 54, No. 221.

The following is a list of active systems of records maintained by NIH.

Table of Contents.

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0002, Clinical Research: Patient Phonocardiogram Records, HHS/NIH/ NHLBI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 466.

09–25–0003, Administration: Authorized Radionuclide Users File, HHS/NIH/ORS, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225. p. 47303.

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/ NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47870.

09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/ NIH/ORS, publ. **Federal Register**, 1987 Comp. Vol. 1, p.468.

09–25–0008, Administration: Radiation Workers Monitoring, HHS/NIH/ORS, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47308.

09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/ NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47871.

09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47310.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, publ. **Federal Register**, November 22, 1988, Vol. 53, No. 225, p. 47311.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47872.

09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/ NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47873.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/ NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47874.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47875.

09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 478.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/ NIH/FIC, publ. **Federal Register**, 1989 Comp. Vol. 54, No. 221, p. 47876.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47877.

09–25–0036, Grants: IMPAC (Grant/ Contract Information), HHS/NIH/DRG, publ. **Federal Register**, 1987 Comp., Vol. 1, p. 480.

09–25–0037, Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47313.

09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47314.

09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 483.

09–25–0040, Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47315

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 484.

09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47878.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47879.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47880.

09–25–0048, Clinical Research: Serology-Epidemiology Parasite Research, HHS/NIH/NIAID, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 487.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47318.

09–25–0054, Administration: Property Accounting, HHS/NIH/ORS, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47318.

09–25–0057, Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47319.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47881.

09–25–0067, Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 491.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47882.

09–25–0074, Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47322.

09–25–0075, Administration: Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47883.

09–25–0077, Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47883.

09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47324.

09–25–0087, Administration: Employees and Consultants, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47884.

09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47326.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47885.

09–25–0096, Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47886.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47326.

09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 499.

09–25–0102, Administration: Grants Associates Program Working Files, HHS/NIH/DRG, publ. **Federal Register**, 1987 Comp. Vol.1, p. 500.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 501.

09–25–0106, Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47887.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47890.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 506.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 507.

09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47331.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47332.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47891.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47892.

09–25–0130, Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47333.

09–25–0133, Clinical Research: Kidney Transplant Histo-compatibility Study (KTHS), HHS/NIH/NIAID, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47334.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47892.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, publ. **Federal Register**, 1989 Comp.

November 17, 1989, Vol. 54, No. 221, p. 47894.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, publ. **Federal Register**, 1988 Comp. Vol. 53, No. 225, p. 47336.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47895.

09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI, publ. **Federal Register**, March 26, 1990, Vol. 55, No. 58, p. 11061.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47897.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct In Science or Subject to Sanctions for Such Misconduct, HHS/PHS/NIH, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 519.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 520.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47899.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47900.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, 1989 Comp. November 17, 1989, Vol. 54, No. 221, p. 47902.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 526.

09–25–0160, United States Renal Data System (USRDS), HHS/NIH/NIDDK, publ. **Federal Register**, December 27, 1989, Vol. 54, No. 247, p. 53190.

09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG publ. **Federal Register**, May 22, 1990, Vol. 55, No. 99, p. 21114.

Dated: December 26, 1990.

William F. Raub,

Acting Director, National Institutes of Health.

09–25–0001

SYSTEM NAME:

Clinical Research: Patient Records, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Heart, Lung, and Blood Institute (NHLBI) under study at the National Institutes of Health (NIH).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, diagnostic studies, laboratory data, treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241(e), 287, 287a.

PURPOSE(S):

(1) For use by physicians in evaluation and treatment of patients under study at NIH.

(2) To furnish patient data to patients, their families, and with patients' consent, to their private physicians.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain infectious diseases may be reported to state government as required by law.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card index, laboratory books, computer memory.

RETRIEVABILITY:

Indexed by name or patient number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to authorized physicians and their assistants.

2. Physical Safeguards: Records are kept in secure locked metal or wood file cabinets and, in some instances, in locked offices.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Access to computerized records is controlled by keyword codes available only to authorized users.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—

"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER(S) AND ADDRESS:

National Heart, Lung, and Blood Institute, Administrative Officer, Division of Intramural Research, Building 10, Room 7N218, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: National Institutes of Health, Privacy Act Coordinator, NHLBI, Building 31, Room 5A08, 9000 Rockville Pike, Bethesda, MD 20892.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORDS ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Referring physicians, hospitals and medical centers, patients and families, results of procedures and tests of NIH patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0002

SYSTEM NAME:

Clinical Research: Patient Phonocardiogram Records, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10, room 6N258, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Heart surgery patients in the NIH Clinical Center with prosthetic valve dysfunction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

421 U.S.C. 241.

PURPOSE OF THE SYSTEM:

For research to develop non-invasive diagnostic techniques for detecting prosthetic valve dysfunction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes, in log books, and in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Records are available only to physicians and to authorized medical records personnel.

2. Physical Safeguards: Phonocardiograms are kept in the patient medical records file.

3. Procedural Safeguards: Access to files is strictly controlled by files staff or other designated officials.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER AND ADDRESSES:

Administrative Officer, NHLBI, DIR, Building 10, room 7N218, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Privacy Act Coordinator, NHLBI, Building 31, room 5A08, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Attending physicians and collaborating researchers and patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0003

SYSTEM NAME:

Administration: Authorized Radionuclide Users File, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 21, room 106, 9000 Rockville Pike, Bethesda, MD 20892. .

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research Investigators within NIH and outside holding NIH–NRC Board License for radioactive material.

CATEGORIES OF RECORDS IN THE SYSTEM:

Radioactive material users.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

To provide adequate administrative controls to assure compliance with NIH Radiation Safety policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Training and experience information transferred to place of new employment.

2. Personnel exposure data transferred to place of new employment.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinet.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff Health Physicists, staff Physical Science Technicians, and administrative personnel of the branch.

2. Physical Safeguards: Records are generally stored in locked file cabinets or in cabinets that are in rooms that can be locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly limited to Radiation Safety Branch personnel staff. Records may be removed from files only at the request of authorized personnel. For computerized records, access is controlled by the use of security codes known only to authorized users.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, items 1300–B–13 through 16. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESSES:

Chief, Data and Analytical Services Section, Radiation Safety Branch, ORS, Building 21, room 104, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures.

Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, previous employers and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0005

SYSTEM NAME:

Administration: Library Circulation and User I.D. File, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10, room 1L07, 9000 Rockville Pike, Bethesda, MD 20892 and
Building 12A, room 3018, 9000 Rockville Pike, Bethesda, MD 20892 and
Building 38, room 1S33, 9000 Rockville Pike, Bethesda, MD 20892

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Library records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act: 42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

Library material, services and circulation control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records of Library users may be disclosed to NIH contractors and staff in order to accomplish library material, services and circulation control. Recipients are required to maintain Privacy Act safeguards with respect to those records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer tape and disc, and on file cards.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: The office housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files.

3. Procedural Safeguards: Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–D–2, which allows records to be kept until superseded or for a maximum period of 6 years. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER AND ADDRESSES:

Chief, Reference and Bibliographic Services Section, Library Branch, National Center for Research Resources, Building 10, room 1L21, NIH, 9000 Rockville Pike, Bethesda, MD 20892 and
Librarian, Division of Computer Research and Technology, Building 12A, room 3018, NIH, 9000 Rockville Pike, Bethesda, MD 20892 and
Chief, Public Services Division, Library Operations, National Library of Medicine, Building 38, room 1S33, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, NIH Library ID card data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0007

SYSTEM NAME:

Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 13, room G901, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees who apply for safety glasses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Explanation of eye impact and hazard occupation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

PURPOSE OF THE SYSTEM:

Records are used for proper distribution of safety glasses and for proof of delivery.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Access is limited to personnel involved in safety glasses issuance program, to supervisors of employees who have requested glasses and to personnel involved in accounting.

2. Physical safeguards: Record storage locations are locked when unattended.

3. Procedural safeguards: Access to file rooms and files is controlled by system manager or designee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1300–B–3, which allows records to be kept for a maximum period of 5 years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Division of Safety, ORS, Building 31, room 1C02, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting information to how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Previous employer and education institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0008

SYSTEM NAME:

Administration: Radiation Workers Monitoring, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 21, room 134, 9000 Rockville Pike, Bethesda, MD 20892 and
National Institutes of Health, Building 12, Computer Center, Bethesda, MD 20892

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH workers using radioactive materials or radiation producing equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Radiation exposure incident reports, film badge exposure reports, urine and whole body counting reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

PURPOSE OF THE SYSTEM:

(1) To assure legal compliance with requirement of Nuclear Regulatory Commission to maintain internal and external radiation exposure data and any radiation incident follow-up reports. (2) To monitor personnel exposures in order that they be maintained at the lowest levels reasonably achievable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Radiation exposure history may be transferred to new employer or to Nuclear Regulatory Commission on their requests.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records

to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in card file and computer tapes.

RETRIEVABILITY:

Records are retrieved by name and group number.

SAFEGURARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Access to information stored is limited to the system manager and Radiation Safety Branch (RSB) staff.

2. Physical safeguards: Information is filed in cabinets in Building 21 or in computer disc files or magnetic drum mass storage. Building 21 is locked during non-working hours. In addition there is a security fence with locked gate surrounding Building 21. File cabinets are in rooms with RSB employees who monitor access to the information therein.

3. Procedural safeguards: Access to computer files is limited only to personnel who know the initial set assigned by the Division of Computer Research and Technology (DCRT), file names, storage locations, and keywords protecting these files. Access to file cabinets is controlled by office personnel who personally recognize RSB staff members.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361): item 1300–B–9 for exposure incident files, which allows records to be destroyed after 10 years; and item 1300–B–10 for radiation exposure records, which does not allow disposal at this time. Refer to the NIH Manual Chapter for specific retention instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Data and Analytical Services Section, Radiation Safety Branch, DS, ORS, Building 21, room 104, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting information to how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Previous employer and education institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0010

SYSTEM NAME:

Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, room 540, 6130 Executive Blvd., Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals potentially exposed to biohazardous microbial agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microbial agents registry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

(1) To serve as a base for health and safety for individuals and organizations involved in use of potentially hazardous agents. (2) To identify potential hazards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any

of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on magnetic tape, and 3380 disks.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees authorized to use the records include professional staff in the Biological Carcinogenesis Branch who have been informed of the need for maintaining confidentiality of the records.

2. Physical Safeguards: Office records are kept in closed cabinets in offices which are locked during off-duty hours.

3. Procedural Safeguards: Access to the file is strictly controlled by the system manager and his designee, and records may be removed from files only at the request of the system manager or other authorized employee. Access to computerized records is controlled by the use of security codes known only to the authorized users.

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361): item 7000–B–1 for exposure incident files, which does not allow records to be destroyed. Refer to the NIH Manual Chapter for specific retention instructions.

SYSTEM MANAGER AND ADDRESSES:

National Cancer Institute, Division of Cancer Etiology, Biological Carcinogenesis Program Coordinator, Research Resources Biological Carcinogenesis Branch, Executive Plaza North, room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information is obtained from individuals and/or organizations providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0011

SYSTEM NAME:

Clinical Research: Blood Donor Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Transfusion Medicine, National Institutes of Health, Building 10, room 1C711, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of blood and blood components to be used in the NIH Clinical Center for patient infusions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Past donations, blood types, phenotypes. Laboratory results of hepatitis testing, serologic reactions on all blood samples, donations of blood or blood components.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Preparation of Biological Products" of the Public Health Service Act (42 U.S.C. 263).

PURPOSE OF THE SYSTEM:

(1) To provide a means for contacting blood donors for patient care and research. (2) To provide a medical history of all donors for the transfusion records of each blood unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and their staff in order to accomplish the purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Certain diseases, including infectious diseases, may be reported to State or Federal government as required by State or Federal law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such

individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a computer file, on donor cards, and on microfilm.

RETRIEVABILITY:

Records are retrieved by a unique control number assigned to each individual donor.

SAFEGUARDS:

Access is granted only to authorized employees in the Department of Transfusion Medicine including physicians, nurses, technologists, computer operators, and the department's administrative officer.

1. Authorized Users: Access is granted only to authorized employees of the Department of Transfusion Medicine including physicians, nurses technologists, computer operators and the secretary to the Chief.

2. Physical Safeguards: Record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to manual files is limited to authorized users. Access to computerized records is controlled by the use of security codes known only to the authorized users.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–50. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER AND ADDRESS:

Chief, Department of Transfusion Medicine, National Institutes of Health, Building 10, room 1C711, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the address specified above. Requesters should provide the same information as is required under the notification procedures above. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data are collected from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0012

SYSTEM NAME:

Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

Social Work Department, National Institutes of Health, Building 10, room 1C121–B, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normally healthy individuals who volunteer to participate in NIH studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Program application, health questionnaire and record of participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 263.

PURPOSE OF THE SYSTEM:

(1) To determine suitability for participation in the normal volunteer program, (2) to document remuneration of normal volunteers, (3) to provide a record of participation to be used (a) in writing letters of recommendation/reference for the volunteer, and (b) preparing reports on the normal volunteer program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PROGRAM OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain diseases, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Program applications and health questionnaires are stored in file folders. Records of participation are stored on index cards.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the

particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Access is granted only to the Normal Volunteer Program staff and to NIH physicians who have requested the recruitment of volunteers for their clinical research projects.

2. Physical Safeguards: Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees. Record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–61, which allows records to be kept until superseded or for a maximum period of 3 years. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER AND ADDRESS:

Assistant Chief, Normal Volunteer Program, National Institutes of Health, Building 10, room 1C121–B, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact: Assistant Chief, Normal Volunteer Program, National Institutes of Health, Building 10, room 1C121–B, 9000 Rockville Pike, Bethesda, MD 20892; and provide the information described under Notification Procedures above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Volunteer, sponsoring contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0014

SYSTEM NAME:

Clinical Research: Student Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 1C–121B, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential and accepted Medical Staff and Research Fellows, medical students, and other students in NIH training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application form, transcripts, references, evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

(1) To identify candidates for Medical Staff and Research Fellow, clinical elective, and other training positions. (2) To maintain a permanent record of those individuals who have received clinical research training at the NIH for historical and reference uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to congressional inquiries for constituents concerning admission to the program.

2. Information may be used to respond to prospective future employers of these individuals who wish to confirm their presence at NIH.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and year.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to health care personnel of the NIH who are involved in the evaluation and selection of training candidates

2. Physical Safeguards: Records are maintained in locked cabinets with access limited to authorized personnel, including the systems manager and staff of the Normal Volunteer Program.

3. Procedural Safeguards: Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items 2300–320–1–13, which allows records to be kept up to a maximum period of 10 years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Assistant Chief, Normal Volunteer Program, Clinical Center, National Institutes of Health, Building 10, room 1C–121B, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the above address and provide the information described under Notification Procedures above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the system manager at the address specified above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, universities and teachers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0015

SYSTEM NAME:

Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 12, NIH, 9000 Rockville Pike, Bethesda, MD 20892 and
Federal Building, NIH, 7550 Wisconsin Avenue, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients participating in clinical epilepsy research sponsored by the National Institute of Neurological Disorders and Stroke (NINDS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on epilepsy, specifically neurophysiological studies of patients and new drug studies designed to improve treatment of epilepsy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on microfiche, magnetic tape and discs.

RETRIEVABILITY:

Records are retrieved by identifying code.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access to HHS researchers or the staff of the Epilepsy Branch. No other use is permitted without specific permission of the System Manager.

2. Physical Safeguards: Records are kept in a location which is locked during non-duty hours.

3. Procedural Safeguards: Records are used in the system location only and are returned to file cabinets at the end of each working day. Location is attended at all times during working hours. Personnel having access to system have received Privacy Act training.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Epilepsy Branch, NINDS, Federal Building, room 114, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Chief, Administrative Services Branch, NINDS, Building 31, room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/

dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Clinical treatment records from physicians, nurses and other sources of care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0016

SYSTEM NAME:

Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Building, NIH, 7550 Wisconsin Ave., Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Women in the perinatal study of NIH during their pregnancies, their children, husbands, fathers of children and other family members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories and examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Biomedical and behavioral research by HHS scientists to discover leads to the developmental disorders of childhood by relating events of pregnancy, labor and delivery, infancy and early childhood to subsequent development of the child.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

2. Certain infectious diseases are reported to state government as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on punch cards and magnetic tape, computer printouts, and on microfilm.

RETRIEVABILITY:

Records are retrieved by identifying number assigned to the mother.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access to HHS researchers and data processing support staff only upon receiving an approved written request from the System Manager which specifies the data to be received and the intended use of the data. A list of authorized users is maintained.

2. Physical Safeguards: Records are in an area with no other use which is locked when system is not in use.

3. Procedural Safeguards: Personnel having access are trained in Privacy requirements. Records of access to the system are maintained. Records are used in the system area or other designated work area.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS

hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–4, which does not allow records to be destroyed. Refer to the NIH Manual Chapter for specific retention instructions.

SYSTEM MANAGER AND ADDRESSES:

Chief, Developmental Neurology Branch, National Institute of Neurological Disorders and Stroke (NINDS) Federal Building, NIH, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Mother, child, father, biomedical examiners, hospital & clinic records, schools.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0026

SYSTEM NAME:

Clinical Research: Nervous System Studies, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, room 5B20, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research patients in NIH-related studies having nervous system disorders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and demographic data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research by HHS scientists on patients with special diseases of the nervous system, with particular emphasis on those diseases known or thought to be caused by slow or latent viruses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain infectious diseases are reported to state government as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on magnetic tape, and on computer print-out sheets.

RETRIEVABILITY:

Records are retrieved by name, disease and attending physician name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to scientists on the staff of the Central Nervous System Studies Laboratory and their assistants.

2. Physical Safeguards: Records are kept in a locked location.

3. Procedural Safeguards: Personnel having access to system are informed of Privacy Act requirements.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Central Nervous System Studies Lab., Building 36, room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Attending physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0028

SYSTEM NAME:

Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10 & Building 31, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present patients of the National Institute of Neurological Disorders and Stroke (NINDS) and the National Institute on Deafness and Other Communication Disorders (NIDCD), and individuals being referred for admission to the NIH Clinical Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories and diagnoses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on various diseases of the nervous system and hearing, hearing loss, and communication disorders by HHS scientists and their authorized collaborators, with the specific aim of improving patient care and treatment by evaluating therapeutic procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees. Certain infectious diseases are reported to state government as required by law.

2. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS researchers and their authorized collaborators.

2. Physical Safeguards: Records are kept locked in a file cabinet when not in use and in a location which is locked during non-working hours.

3. Procedural Safeguards: Records are returned to the files at the close of each working day and are used only in the system location or in a designated work area.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director of Intramural Research, NINDS, Building 10, room 5N214, NIH, 9000 Rockville Pike, Bethesda, MD 20892 and Director of Intramural Research, NIDCD, Building 36, room 5D32, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892 or Head, Administrative

Management Section, NIDCD, Building 31, room B162, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Referring and attending physicians, hospital records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0031

SYSTEM NAME:

Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with possible perinatal, acute or chronic diseases and normal volunteers in NIH-related studies pertaining to the central nervous system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical records, laboratory test results for viruses, pathology and identifications and characterizations of etiological agents of diseases under study, and curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289h.

PURPOSE OF THE SYSTEM:

Clinical research by HHS scientists and their authorized collaborators and research on blood serum, specifically to discover the role of infections (particularly those caused by a virus) in diseases of the central nervous system and also to study the role of vaccines in these diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain infectious diseases are reported to State Government as required by law.

3. Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in laboratory notebooks, papers, file folders, cinematography and photography.

RETRIEVABILITY:

Records are retrieved by name and number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS scientists and their assistants and authorized collaborators.

2. Physical Safeguards: Records are kept in cabinets which are locked at all times that system is not in use, in a location which is also locked when system is not in use.

3. Procedural Safeguards: Personnel having access to system have been trained in Privacy Act requirements. Records are used in a designated work area and the system location is attended at all times during working hours.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Deputy Chief, Laboratory of Central Nervous Systems Studies, Intramural Research Program, Building 36, room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/

dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital records, volunteers and laboratory data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0033

SYSTEM NAME:

International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room B2C21, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens qualified in health-related sciences submitting applications through NIH for fellowships for study abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports.

PURPOSE OF THE SYSTEM:

To perform scientific reviews and evaluations of applicants' suitability of referral to awarding organization in foreign countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2421.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. After review by the operating agency review panel the applications and all supporting documents are forwarded to the foreign organizations or agencies making awards.

2. In addition, such application may be made available to authorized employees and agents of the Federal Government for purposes of investigations, inspections and audits, and, in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and fellowship number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical safeguards: The records are maintained in locked file cabinets, and offices are locked during off-duty hours.

3. Procedural safeguards: Access to file rooms and files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), items 2300-320-5, which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Fogarty International Center, Chief, International Research Awards Branch, National Institutes of Health, Building 31, room B2C21, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, as listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought, and your

reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Applicants and persons supplying references.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0034

SYSTEM NAME:

International Activities: Scholars-in-Residence Program, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 16, room 202, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Distinguished scientists and scholars invited to accept NIH scholarships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and education histories; references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421, "International Cooperation" of the PHS Act.

PURPOSE OF THE SYSTEM:

To administer and award scholarships to distinguished scientists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the Federal Government for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in file cabinets. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), items 2300-320-7 which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific retention instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Scholars-in-Residence Branch, Fogarty International Center, National Institutes of Health, Building 16, room 202, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, as listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information is obtained from invitees, reference sources, and persons supplying recommendations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0035

SYSTEM NAME:

International Activities: Health Scientist Exchange Programs, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, room B2C35, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens applying for participation in health scientist exchange programs through NIH.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports, including curricula vitae and letters of reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421.

PURPOSE OF THE SYSTEM:

To maintain records necessary to administer health scientist exchange programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. To qualified experts not within the definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

3. Information is furnished to pertinent staff of the relevant foreign ministry for acceptance purposes.

4. Applications are made available to authorized employees and agents of the Federal Government for the purpose of inspections and audits, and, in appropriate cases, to the Department of Justice for investigation under civil and criminal laws.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in locked file cabinets. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items 2300–320–5, which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Program Specialist, Health Scientist Exchange Programs, International Coordination and Liaison, Branch, FIC, Building 31, room B2C35, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information is obtained from applicants and individuals who supply references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0036

SYSTEM NAME:

Extramural Awards: IMPAC (Grant/Contract Information), HHS/NIH/DRG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892
and
Building 12, NIH Computer Center, 9000 Rockville Pike, Bethesda, MD 20892

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicant and Principal Investigators; Program Directors; NRSA Trainees and Fellows; Research Career Awardees; and Public Advisory Committee Members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, awards, associated records and trainee appointments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241c, 58 Stat. 691c & d repealed.

PURPOSE OF THE SYSTEM:

(1) To support centralized grant programs of the Public Health Service. Services are provided in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting. The data base is used to provide

complete, accurate, and up-to-date reports to all levels of management.

(2) To maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program.

(3) To maintain current and historical information pertaining to the establishment of chartered public advisory committees of the National Institutes of Health and the appointment of their members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards (abstract of research projects and relevant administrative and financial data).

2. Disclosure may be made to the cognizant audit agency for auditing.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter.

6. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

8. Disclosure may be made to the grantee institution in connection with performance or administration under the conditions of the award.

9. Disclosure may be made to the Department of Justice, or to a court or other tribunal, from this system of records when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on discs and magnetic tapes.

RETRIEVABILITY:

Records are retrieved by name, application, grant or contract ID number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to PHS extramural staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Physical access to DRG work areas is restricted to DRG employees.

3. Procedural Safeguards: Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, etc. The computer system maintains an audit record of all attempted and successful requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–A–2, which allows records to be destroyed when no longer needed for administrative purposes. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Information Systems Branch, Division of Research Grants, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Privacy Act Coordinator, Division of Research Grants, Westwood Building, Room 449, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, individual's educational institution and references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0037

SYSTEM NAME:

Clinical Research: Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health Building 12, 9000 Rockville Pike, Bethesda, MD 20892

and

Chief, Longitudinal Studies Branch, IRP, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in the Gerontology Research Center (GRC) Longitudinal Study of Aging.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, psychological and physical test results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289k-2, k-4, Health Research Extension Act of 1985, Pub. L. 99-158.

PURPOSE OF THE SYSTEM:

Research on the human aging process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files, and on microfiche.

RETRIEVABILITY:

Records are retrieved by ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to the clinical, research and support staff of the GRC. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Hard copy files are kept in locked file cabinets.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEMS MANAGER AND ADDRESS:

Chief, Longitudinal Studies Branch, IRP, National Institutes of Health, Gerontology Research Center, GRC, 4940 Eastern Avenue, Baltimore, MD 21224.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that

the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals, research staff, test results.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0038

SYSTEM NAME:

Clinical Research: Patient Data, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK).

CATEGORIES OF RECORDS IN THE SYSTEM:

Patient history, demographic data, miscellaneous correspondence with patients.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 281a, 289c.

PURPOSE OF THE SYSTEM:

(1) Care and treatment of patients with arthritic, metabolic or digestive diseases; (2) Experimentation and investigation on the etiology, treatment and prevention of arthritic, metabolic or digestive diseases; (3) Administration of these clinical and research programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to State governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on magnetic tape.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the NIDDK whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Clinical Investigations, NIDDK,Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists write to:

National Institutes of Health, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0039

SYSTEM NAME:

Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892 and Chief, Phoenix Clinical Research Section, Phoenix Area Indian Hospital, room 541, Phoenix, Arizona 85016.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Southwestern American Indians and Caucasian spouses of some who were participants in the NIH Diabetes Mellitus Research Study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, demographic data, patient history and control numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

(1) To gain information on high prevalence of diabetes, arthritis, gall bladder and related diseases among Southwestern American Indians; (2) For statistical analysis to investigate frequency and distribution of the above disorders; (3) Data is shared with the Indian Health Service which has primary care responsibility for American Indians.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to scientists and statistical staff of the Epidemiology Branch, National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK). Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Input data for computer files is coded immediately after collection to avoid individual identification. Records are kept in a limited access area equipped with a monitored burglar alarm system.

3. Procedural Safeguards: Access is strictly controlled through security codes known only to authorized users. Access codes are changed following departure of any authorized user.

The particular safeguards implemented at each site are developed in accordance with Chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45-13, and part 6, ADP Systems Security, of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Phoenix Clinical Research Section, Phoenix Area Indian Hospital, room 541, Phoenix, Arizona 85016.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Administrative Officer, National Institute of Diabetes, and Digestive and Kidney Diseases, NIH, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0040

SYSTEM NAME:

Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Phoenix Area Indian Hospital, room 541, Phoenix, Arizona 85016.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK) being treated at the Phoenix Area Indian Hospital.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history, treatment schedules, diagnostic records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

(1) Used by clinicians and support staff of the Phoenix Clinical Research Section for treatment of NIDDK patients, and for research related to such treatment.

(2) Records are forwarded to the Indian Health Service which maintains records after patient discharge in case follow-up or later treatment is necessary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and patient number.

SAFEGUARDS:

1. Authorized Users: Personnel screen users to prevent unauthorized access.

2. Physical Safeguards: Records are maintained in secured areas and containers.

3. Procedural Safeguards: Charge-out records are maintained on records charged out from the files.

RETENTION AND DISPOSAL:

Records are retained and destroyed according to the same standards that apply to other medical records of the Indian Health Service.

SYSTEM MANAGER AND ADDRESS:

Chief, Phoenix Clinical Research Section, Phoenix Area Indian Hospital, room 541, 4212 North 16th Street, Phoenix, Arizona 85016.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: National Institutes of Health, Administrative Officer, NIDDK, Building 31, room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or

incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Clinicians of the Phoenix Clinical Research Section.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0041

SYSTEM NAME:

Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Westwood Building, room 605, NIH, 5333 Westbard Avenue, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists requesting hormones from the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK).

CATEGORIES OF RECORDS IN THE SYSTEM:

Justification for request for hormones, including requester's competence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 263, 289a, 289c.

PURPOSE(S) OF THE SYSTEM:

(1) For review of applications requesting hormones and antibodies for research purposes, prior to awarding these substances.

(2) To determine if the requester is qualified to receive these materials.

(3) To determine if requests for human hormones for clinical research follow acceptable protocols. In this connection, records may be disclosed to the Food and Drug Administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to NIDDK Contractors for distribution of various hormones to requestors.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff working for the contractor who need the records for hormone distribution, to NIH staff who supervise the Hormone Distribution Program, and, as approved by the system manager, to scientists and physicians who may have need of the information for research.

2. Physical Safeguards: Records are kept in cabinets in offices which are locked during off-duty hours and which have alarms.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be obtained only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Hormone Distribution Officer, Westwood Building, room 605, NIH, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Administrative Officer, NIDDK, Building 31, room 9A46, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0042

SYSTEM NAME:

Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, room 1B01, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the

Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and other participants in current and past research projects of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and dental histories, dental pathologies and therapies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, 401, 405 and 453 of the Public Health Service Act (42 U.S.C. 241, 281, 284, 285h). These sections establish the National Institute of Dental Research and authorize the conduct and support of dental and oral research and related activities.

PURPOSE OF THE SYSTEM:

(1) To record the diagnosis and treatment of patients with diseases of the mouth, tongue, teeth and surrounding tissues; (2) To record the normal condition of the mouth, tongue, teeth and surrounding tissues of individuals referred to the dental clinic; (3) To provide clinical data for research into the etiology, treatment and prevention of oral diseases; (4) For review and planning of the NIDR clinical program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and hospital ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to dentists, physicians, dental hygienists, dental assistants and other health care personnel involved in the care and treatment of patients in the NIDR dental clinic, and to referring professionals. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are stored in a cabinet which is locked at all times when not in use.

3. Procedural Safeguards: Access is controlled by clerical staff of the Dental Clinic during clinic hours, and by the Officer of the Day when the clinic is closed.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Clinical Investigations and Patient Care Branch, NIDR, Building 10, room 1N–113, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, Building 31, room 2C–35, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, parents or guardians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0044

SYSTEM NAME:

Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, room 1–N–114, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Infants, children and adults participating in the Sensory Testing Research Program of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Test results, extracts from medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, 401, 405 and 453 of the Public Health Service Act (42 U.S.C. 241, 281, 284, 285h). These sections establish the National Institute of Dental Research and authorize the conduct and support of dental and oral research and related activities.

PURPOSE OF THE SYSTEM:

(1) To record the medical/dental histories of individuals participating in the Sensory Testing Research Program; (2) To record the results of chemosensory tests of individuals participating in the Sensory Testing Research Program; (3) For research on sensitivity to oral nasal stimulation; (4) For review and planning of the Clinical Investigations and Patient Care Branch program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees, referring health professionals and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to State governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, data books and in a mini-computer maintained by the NIDR Scientific Systems Section.

RETRIEVABILITY:

Records are retrieved by name, date of observation and age of subject.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Clinical Investigations Section staff, to scientist colleagues by invitation of the principal investigator and to referring professionals. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

2. Physical Safeguards: Records are stored in rooms which are locked at all times when not in use. Computer terminals are in secured areas. Access to computer file is controlled by software protection codes associate with each site.

3. Procedural Safeguards: Access is controlled by Clinical Investigation Section staff.

These safeguards are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Research Psychologist, Clinical Investigations, NIDR, Building 10, room 1N114, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, 9000 Rockville Pike, Building 31, room 2C–35, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual, cooperating clinician or health agency, family members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0046

SYSTEM NAME:

Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 7, rooms 106 and 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients, volunteers, laboratory personnel in the National Institute of Allergy and Infectious Diseases (NIAID).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical specimens, attendant data and laboratory results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to State governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in data books.

RETRIEVABILITY:

Records are retrieved by name, patient or study number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research, and staff whose duties require the use of such information. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

2. Physical Safeguards: Data books are kept in locked rooms. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the System Manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Respiratory Viruses Section, LID, NIAID, Building 7, room 106, NIH, 9000 Rockville Pike, Bethesda, MD 20892
and
Chief, Hepatitis Virus Section, NIAID, Building 7, room 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Privacy Act Coordinator, NIAID, Westwood Building, room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of viral respiratory diseases and hepatitis, conducted by NIAID staff.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical records, field study records, and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0048

SYSTEM NAME:

Clinical Research: Serology-Epidemiology Parasite Research, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Rocky Mountain Laboratories, NIH, Hamilton, MT 59840.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Blood or parasite donors participating in serology-epidemiology parasite research of the National Institute of Allergy and Infectious Diseases (NIAID).

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of blood tests and possible case histories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

For serologic and epidemiologic studies on parasitic and rickettsial diseases (Rocky Mountain spotted fever, in particular) conducted by NIAID staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research, and staff whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Rocky Mountain Operations Branch, Rocky Mountain Laboratories, NIH, Hamilton, MT 59840.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Privacy Act Coordinator, NIAID, Westwood Building, room 703, Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Personal physician of donor and state health departments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0053

SYSTEM NAME:

Clinical Research: Vision Studies, HHS/NIH/NEI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, room 10N202, CC, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and subjects in the National Eye Institute research studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history as relevant to vision research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289i, 289k.

PURPOSE OF THE SYSTEM:

(1) To gather photographic evidence of various stages or progressions of certain visual disorders; (2) To record certain diagnostic test results (such as color vision testing) in the compilation of empirical data to support research evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

3. Certain infectious diseases may be reported to State Government as required by law.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinets.

RETRIEVABILITY:

Records are retrieved by name and cross referenced by anatomical entity.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research and physicians treating the patient whose records are involved. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the system manager.

2. Physical Safeguards: File cabinets are in locked rooms and access to files is strictly controlled.

3. Procedural Safeguards: Specifically, records may be removed from files only at the request of the System Manager or authorized employees.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Clinical Director, NEI, Building 10, room 10N–202, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Executive Officer, NEI, Building 31, room 6A07, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Medical examinations conducted by and under the direction of the research investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0054

SYSTEM NAME:

Administration: Property Accounting, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 13, room 2E43, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institutes of Health, Computer Center, Building 12, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institutes of Health, Building 31, room B1C06, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institute of Environmental Health Sciences, Office of Facilities Engineering, 102–01, P.O. Box 12233, Research Triangle Park, N.C. 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the National Institutes of Health who are issued tools or card keys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Property management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 5901; 5 U.S.C. 7903; 40 U.S.C. 318a; 42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

Used for tool and card keys issuance and control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic media.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users:Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the system manager.

2. Physical Safeguards: Textual records are stored in offices which are locked when not in use.

3. Procedural Safeguards: Computer files are password protected.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1300–C–14, which allows records to be destroyed after all listed credentials are accounted for or 3 months after the return of credentials to the issuing office. Refer to the NIH Manual Chapter for specific instructions.

SYSTEM MANAGER AND ADDRESS:

For tools:
National Institutes of Health, Administrative Officer, DES, Building 31, room 2E47, 9000 Rockville Pike, Bethesda, MD 20892.

For card keys:
National Institutes of Health, Chief, Crime Prevention Section, Security Branch, DS, ORS, Building 31, room B3B16, 9000 Rockville Pike, Bethesda, MD 20205.
National Institute of Environmental Health Sciences, Chief, Office of Facilities Engineering, 102–01, P.O. Box 12233, Research Triangle Park, NC 27709.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0057

SYSTEM NAME:

Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Environmental Epidemiological, DCE, NCI, Executive Plaza North, room 434, 6130 Executive Blvd., Bethesda, MD 20205 and
Frederick Cancer Research Facility, room 434, Frederick, MD 21701

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with Burkitt's Lymphoma in the registry of the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical abstracts, pathology reports, and other laboratory correspondence with attending physicians.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

Epidemiologic research on Burkitt's Lymphoma.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

American Burkitt's Lymphoma Registry, Division of Cancer Etiology, NCI, Executive Plaza North, Suite 434, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospitals, physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0060

SYSTEM NAME:

Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892 and
Frederick Cancer Research Center, Building 426, Frederick, MD 21701 and
National Cancer Institute, Biological Response Modifiers Program (BRMP), 501 W. 7th Street, suite #3, Frederick, MD 21701
National Cancer Institute, Navy Hospital, Building 8, room 3146, Bethesda, MD 21814

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All patients who have been hospitalized or seen in outpatient clinics on treatment research protocols in the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE(S) OF THE SYSTEM:

(1) Patient care and treatment. (2) Clinical and epidemiological research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes, microcomputer disks, index cards, microfiche, and manual paper records.

RETRIEVABILITY:

Records are retrieved by patient name or number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Head, Biostatistics and Data Management Section, National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892 and

Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research and Development Center, 501 W. 7th Street, suite #3, Frederick, MD 21701 and

Navy Hospital, Deputy Branch Chief, NCI—Naval Medical Oncology Branch, Building 8, room 5101, Bethesda, MD 20814

NOTIFICATION PROCEDURE:

Write to system manager for the appropriate location to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital medical records, referring physician, referring hospitals, clinical laboratories, patient contact, and Central Tumor Registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0067

SYSTEM NAME:

Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike Bethesda, MD 20892 and Chief, Longitudinal Studies Branch, IRP, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in the Gerontology Research Center (GRC) Longitudinal Study and agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history, insurance and hospital cost data, and death records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289k-2, k- 4. Health Research Extension Act of 1985 Pub. L. 99-158.

PURPOSE OF THE SYSTEM:

Comparison of trends in cancer incidence between the second and third national cancer surveys, i.e. between 1969-71 and 1947.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are stored on microfiche and on magnetic tapes.

RETRIEVABILITY:

Records are retrieved by name and study number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Demographic Analysis Section, Blair Building, room 532, 7910 Woodmont Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0069

SYSTEM NAME:

NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Chief, Genetics Section, DCE, Executive Plaza North, rooms 400 and 439, 6130 Executive Blvd., Bethesda, MD 20892 and

National Institutes of Health, Division of Computer Research and Technology, Building 12A, 9000 Rockville Pike, Bethesda, MD 20892 and

WESTAT, Inc., STSC Building, Suite 402, 2115 E. Jefferson Street, Rockville, MD 20852.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former cancer patients and their family members admitted to the NIH Clinical Center or the National Cancer Institute (NCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, reports and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 285a.

PURPOSE OF THE SYSTEM:

National Cancer Institute physicians and supporting staff are involved in research on the cause and diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files.

RETRIEVABILITY:

Records are retrieved by identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and the Clinical Center whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, National Cancer Institute, Division of Cancer Etiology, Epidemiology and Biostatistics Program, Chief, Family Studies Section, Environmental Epidemiology Branch, Executive Plaza North, Suite 439, Bethesda, MD 20892 and

Chief, Clinical Genetics Section, Clinical Epidemiology Branch, Executive Plaza North, Suite 439, Bethesda, MD 20892 and

Chief, Clinical Genetics Section, Clinical Epidemiology Branch, Executive Plaza North, Suite 400, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and

willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients' personal physicians, NIH staff treating the patients or performing tests, requested outside records, and patients themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0074

SYSTEM NAME:

Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, DCBD, NCI, Executive Plaza North, room 330C, Bethesda, MD 20892, and at hospitals and clinics, educational and research institutions, Federal, State or local government agencies, and private facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cancer patients, individuals undergoing biopsies, and normal controls in clinical studies of the Division of Cancer Biology and Diagnosis (DCBD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and treatment history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE(S) OF THE SYSTEM:

This system is used to support research: (1) To compare cancer diagnostic tests, (2) to develop statistical methodology, (3) to trace the natural history of the cancer under study, and (4) to develop, evaluate and verify biological markers for early cancer detection and for monitoring treatment success.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in files and on computer tapes and discs.

RETRIEVABILITY:

Records are retrieved by coded identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and its contractors whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

The particular safeguards implemented at each site are developed in accordance with Chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45-13, and part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Computer Systems Analyst National Institutes of Health, Executive Plaza North, room 344, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0075

SYSTEM NAME:

Administration: Principal Investigators Submitting Proposals for Protection from Research Risks, HHS/NIH/OD/OER.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons submitting research proposals to the National Institutes of Health involving risks to subjects or matters pertaining to the protection of the rights and welfare of human research subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research protocol, identification of Principal Investigator, institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241(c) (g).

PURPOSE OF THE SYSTEM:

Monitoring of research proposals that may involve undue risks to subjects or ethical considerations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on card file.

RETRIEVABILITY:

Records are retrieved by name of Principal Investigator.

SAFEGUARDS:

1. Authorized Users: Members of the professional staff of the Office for Protection from Research Risks (OPRR) may use information from the file in connection with follow-up procedures of research proposals identified as involving potential risk to the protection of the rights and welfare of human research subjects.

2. Physical Safeguards: Records are maintained in offices which are monitored during business hours and are locked during off-duty hours.

3. Procedural Safeguards: Requests for information from the file are made to the Compliance Coordinator who supervises and is responsible for the file. Computer files are password protected.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 7000–A–1, which allows records to be destroyed after a maximum period of 6 years after file is closed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, OPRR, National Institutes of Health, Building 31, room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the

information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Proposals submitted by individuals, but identified by employees or consultants of HHS as possibly involving undue hazards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0077

SYSTEM NAME:

Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, room 540, 6130 Executive Blvd., Bethesda, MD 20892, and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cancer and other patients, and normal donors of biopsy and tumor specimens, who are seen at clinically-oriented organizations under contract to the National Cancer Institute. Both adults and children are covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history and diagnostic information about the donor, information on the type of specimen, location of repository (if specimen is stored before use), and distribution record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282: "Research and Investigation," "National Cancer Institute," and "Cancer Research and Other Activities."

PURPOSE(S) OF THE SYSTEM:

(1) For cancer research, using by-products of cancer treatment, such as biopsy and tumor specimens that would normally be discarded, to allow interpretation of experimental results; (2) To project future research needs; (3) To monitor and evaluate the NCI distribution system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Department contemplates that it may contract with a private firm for storage and preservation of specimens. Records necessary for identification, retrieval and research use will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic tape, discs.

RETRIEVABILITY:

Retrieved by name of donor and cross-referenced by identifying number, procurement source, and various epidemiological characteristics.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records, computers and computer terminals are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users.

Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Coordinator, Research Resources, Biological Carcinogenesis Branch, Division of Cancer Etiology, NCI, National Institutes of Health, Executive Plaza North, room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an

individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Specimen Report Form filled out by the organization providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0078

SYSTEM NAME:

Administration: Consultant File, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health,Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

List of consultants available for use in evaluation of National Heart, Lung, and Blood Institute special grants and contracts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and resumes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d), 281.

PURPOSE(S) OF THE SYSTEM:

(1) To identify and select experts and consultants for program reviews and evaluations. (2) For use in evaluation of NHLBI special grants and contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disc and file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Data on computer files is accessed by keyword known only to authorized users.

2. Physical Safeguards: Rooms where records are stored are locked when not in use.

3. Procedural Safeguards: During regular business hours, rooms are unlocked but are controlled by on-site personnel.

This system of records will be protected according to the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 1100-G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Heart, Lung, and Blood Institute, Associate Director for Review, Westwood Building, room 557A, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: National Institutes of Health, Privacy Act Coordinator, NHLBI, Building 31, room 5A08, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under also pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0087

SYSTEM NAME:

Administration: Employees and Consultants, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curriculum vitae, nominations for awards and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d) 289a.

PURPOSE OF THE SYSTEM:

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) Council members, advisors and guest lecturers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Communications, National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Institutes of Health, Privacy Act Coordinator, NIAID, Westwood Building, Room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0091

SYSTEM NAME:

Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, room 6A03, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of gifts, employees, correspondents of the National Eye Institute (NEI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Budget, administrative services, correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 289i.

PURPOSE(S) OF THE SYSTEM:

(1) To identify certain donors of unconditional gifts to the National Eye Institute; (2) To record certain delegations and permit holders; (3) To maintain a mailing list of persons in the vision research community; (4) To provide service or information to specific requesters; (5) To communicate with collaborating investigators in vision research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or

her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and subject area.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff with designated responsibilities directly related to the purpose for which the records are kept. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in locked offices.

3. Procedural Safeguards: Access to files is strictly controlled. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items: 1100–M–1; 1700–C–1; and, 1900–F–3. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Eye Institute, Executive Officer, Building 31, room 6A05, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Eye Institute, Records Management Officer, Building 31, room 6A17, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0093

SYSTEM NAME:

Administration: Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 82, room 239, 9030 Old Georgetown Road, Bethesda, MD 20814.

Write to System Manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors and manuscript reviewers and members of the Journal of the National Cancer Institute (JNCI) editorial board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accepted, rejected and pending manuscripts and review comments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 281.

PURPOSE OF THE SYSTEM:

Manuscript review by NCI staff of manuscripts submitted for possible publication or oral presentations.

ROUTINE USES OF RECORDS MAINTAINED THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to qualified experts not within the definition of Department employees for opinions as a part of the review of manuscripts.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and manuscript number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to JNCI staff personnel, the Editor in Chief, and members of the Board of Editors whose duties require the use of such information.

2. Physical Safeguards: Records are kept in a limited access area where an employee is present at all times during working hours. Office is locked during off-duty hours.

3. Procedural Safeguards: Access to manual files is tightly controlled by office staff. Only authorized users may have access to the files.

Information that identifies reviewers is not maintained in computer files.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH

Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–A–1(b), which allows records to be kept for a maximum period of one year after year in which published or presented. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Systems Specialist, Scientific Publications Branch, Building 82, room 239, 7030 Old Georgetown Road, Be hesda, MD 20814.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Authors and reviewers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0096

SYSTEM NAME:

Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20852.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators, project officers, and contract specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract projects administrative data (e.g., project titles and descriptions, contractor information, etc.), fiscal data (e.g., funding/cost data, obligations), and programmatic data (e.g., scientific classifications, scope of work).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241(g), 281.

PURPOSE(S) OF THE SYSTEM:

(1) Provides administrative and financial information for administration and tracking of procurement activities of National Cancer Institute (NCI) contracts;

(2) Collects and maintains this information in an accurate and timely fashion for financial reporting and budgeting, as well as ad hoc queries on NCI contracting activities;

(3) Provides pre-award tracking and milestone data used to monitor and administer the total procurement process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes and on-line discs.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: The contractor maintaining this system has been instructed not to release any information from the contract management system without prior approval of the system manager.

2. Physical Safeguards: Computer records are kept in a limited access area. Offices are locked during off-duty hours.

3. Procedural Safeguards: The computer center protects files physically and with access controls. Files may be used only with the approval of the system manager.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2800–E–1(b), which allows records to be kept as required for equivalent hard copy.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Manager, NCI Contract Management System, Grants Financial and Data Analysis Branch, Executive Plaza South, room 643, 6120 Executive Boulevard, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Negotiated Contract and Summary of Negotiations/IMPAC Code Sheet, NIH forms 1759–1 and 1759–2 generated by NIH staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0099

SYSTEM NAME:

Clinical Research: Patient Medical Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Patient Medical Records, Building 10, room 1N208, 9000 Rockville Pike, Bethesda, MD 20892 and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registered Clinical Center patients. Some individuals not registered as patients but seen in Clinical Center for diagnostic tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical treatment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 248: "Research and Investigation," and "Hospitals, Medical Examinations, and Medical Care."

PURPOSE(S) OF THE SYSTEM:

(1) To provide a continuous history of the treatment afforded individual patients in the Clinical Center; (2) To provide a data base for the clinical research conducted within the hospital.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to Congressional inquiries for constituents concerning their admission to NIH Clinical Center.

2. Social Work Department may give pertinent information to community agencies to assist patients or their families.

3. Referring physicians receive medical information for continuing patient care after discharge.

4. Information regarding diagnostic problems, or having unusual scientific value may be disclosed to appropriate medical or medical research organizations or consultants in connection with treatment of patients or in order to accomplish the research purposes of this system. For example, tissue specimens may be sent to the Armed Forces Institute of Pathology; x-rays may be sent for the opinion of a radiologist with extensive experience in a particular kind of diagnostic radiology. The recipients are required to maintain Privacy Act safeguards with respect to these records.

5. Records may be disclosed to representatives of the Joint Commission on Accreditation of Hospitals conducting inspections to ensure that the quality of Clinical Center medical record-keeping meets established standards.

6. Certain diseases, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

7. Medical information may be disclosed to tumor registries for maintenance of health statistics.

8. The Department contemplates that it may contract with a private firm for transcribing, updating, copying, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

9. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and/or on microfiche, and on computer tapes.

RETRIEVABILITY:

Records are retrieved by unit number and patient name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees maintaining records in this system are instructed to grant regular access only to physicians and dentists and other health care professionals officially participating in patient care, to contractors, or to NIH researchers specifically authorized by the system manager.

2. Physical Safeguards: All record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to files is strictly controlled by the system manager. Records may be removed only

by system personnel following receipt of a request signed by an authorized user. Access to computerized records is controlled by the use of security codes known only to the authorized user. Codes are user- and function-specific.

Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–22, which allows records to be kept until no longer needed for scientific reference. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Medical Record Department, National Institutes of Health, Building 10, room 1N208, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the above address. The requester must provide tangible proof of identity, such as a driver's license. If no identification papers are available, the requester must verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. The representative may be a physician, or other health professional, or other responsible individual. The subject individual will be granted direct access unless it is determined that such access is likely to have an adverse effect on him or her. In that case, the medical/dental record will be sent to the designated representative.

The individual will be informed in writing if the record is sent to the representative.

A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably identify the specific reports and related dates pertaining to the information to be released. There may be a fee for reproducing more than 20 pages of material. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0100

SYSTEM NAME:

Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, room 5A06, 9000 Rockville Pike, Bethesda, MD 20892. Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients in National Institute of Neurological and Communicative Disorders and Stroke (NINDS) related studies concerning aspects of neuropharmacology.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on the pharmacology in various diseases of the central nervous system and on the effectiveness and action of drugs as given to treat these diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center. Certain infectious diseases are reported to State Government as required by law.

3. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is

compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in laboratory notebooks, file folders and on index cards.

RETRIEVABILITY:

Records are retrieved by name, diagnosis, data of laboratory determination.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to physicians and scientists working within a specific NIH laboratory.

2. Physical Safeguards: Records are kept in a cabinet and locations which are locked during non-working hours.

3. Procedural Safeguards: Persons having access to the system are trained in Privacy Act requirements. Records are used either in the system location or a designated work area. Records are returned to cabinets at the end of each working day. System location is attended at all times during working hours.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Intramural Research, NINDS, Building 10, room 5N214, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Chief, Administrative Services Branch, Building 31, room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures.

Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Other medical, scientific and educational institutions; individual physicians in private practice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0102

SYSTEM NAME:

Grants Associates Program Working Files, HHS/NIH/OER.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Extramural Staff Training Office, National Institutes of Health, Building 31, room 1B62, 9000 Rockville Pike, Bethesda, Maryland 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grants Associates Training Program Participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, curriculum vitae, reports on assignments, critiques of courses, supervisors endorsements, summary of assignments, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part III; 42 U.S.C. 241c.

PURPOSE OF THE SYSTEM:

The purpose of the system is for program management including:

1. Assisting participants in obtaining maximum benefits from the Program;

2. Providing information to current Grants Associates about assignments and opportunities;

3. Providing resumes to other HHS components for possible employment of the Grants Associates trainee;

4. Reviewing and evaluating the Programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Disclosure may be made to the Office of Personnel Management for salary approval.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to the Department of Justice, or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such record by the Department of Justice, the court or the tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS has determined that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Access limited to system manager and staff. Other one-time and special access by other employees is granted on a need to know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are stored in local cabinets in offices which are locked during off-duty hours.

3. Procedural Safeguards: Access to the files is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–1, which allows records to be destroyed after a maximum period of 2 years after completion of grants associate appointment.

SYSTEM MANAGER AND ADDRESS:

Director, HSA Development Programs, NIH, Building 31, room 1B62, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her own identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under the notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought and your reason for requesting the correction, along with supporting information showing how the record is inaccurate, incomplete, untimely, irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

The subject individual, educational institutions attended by the individual, personal references; and the Office of Personnel Management.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0105

SYSTEM NAME:

Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10 and 13, NIH, 9000 Rockville Pike, Bethesda, MD. 20892
Federal Building, 7550 Wisconsin Ave., Bethesda, MD. 20892
Westwood Building, 5333 Westbard Ave., Bethesda, MD. 20892
Rocky Mountain Laboratories, Hamilton, Montana 59840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, fellows, visiting scientists, relatives of inpatients, visitors, contractors working on site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901.

PURPOSE(S) OF THE SYSTEM:

1. For medical treatment;
2. Upon researcher request with individual's written permission, release of record for research purposes to medical personnel;
3. Upon request by HHS personnel offices for determination of fitness for duty, and for disability retirement and other separation actions;
4. For monitoring personnel to assure that safety standards are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to Federal, State, and local government agencies for adjudication of benefits under workman's compensation, and for disability retirement and other separation actions.
2. To district office of OPEC, Department of Labor with copies to the U.S. Office of Personnel Management for processing of disability retirement and other separation actions.
3. Upon non-HHS agency request, for examination to determine fitness for duty with copies to requesting agency and to the U.S. Office of Personnel Management.
4. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of the individual.
5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project.

Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Access is limited to authorized personnel (system manager and staff; Occupational Medicine Service staff; and personnel and administrative officers with need for information for fitness for duty, disability, and other similar determinations.)
2. Physical safeguards: Files are maintained in locked cabinets.
3. Procedural safeguards: Access to files is strictly controlled by authorized staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records

Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B–361), item 2300–792–3, which does not authorize disposal or transfers to the National Personnel Records Center (CPR).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Division of Safety, NIH, Building 31, room 1C02, 9000 Rockville Pike, Bethesda, MD 20892
Chief, Rocky Mountain Operations Branch, Rocky Mountain Laboratories (RML), National Institutes of Health, Hamilton, MT 59840.

NOTIFICATION PROCEDURE:

Contact System Manager at appropriate treatment location listed above, to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to 5,000 dollar fine.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requester should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records contain data resulting from clinical and preventative services provided at treatment location, and data received from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0106

SYSTEM NAME:

Administration: Executive Secretariat Correspondence Records. HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Executive Secretariat, Office of the Director, Building 1, room B1–55, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request information on NIH programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301 44 U.S.C 3101.

PURPOSE(S) OF THE SYSTEM:

1. To locate and follow-up correspondence to assure prompt reply.
2. Incoming correspondence is forwarded to other HHS components when a response from them is warranted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored by computer index and in file folders.

RETRIEVABILITY:

Records are retrieved by name, document number, date, and subject.

SAFEGUARDS:

1. Authorized Users: Access to textual records is limited to authorized personnel (system manager and staff).
2. Physical Safeguards: Physical access to records is restricted to authorized personnel.
3. Procedural Safeguards: Access to textual records is strictly controlled by system manager and staff. Records may be removed from files only at the request of the system manager or other authorized employee. Computer files are password protected.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1700–C–2, which allows records to be kept for a maximum period of 2 years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Executive Secretariat, Building 1, room B1–52, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of

accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records are derived from incoming and outgoing correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0108

SYSTEM NAME:

Personnel: Guest Researchers/Special Volunteers/Scientists Emeriti, HHS/NIH/DPM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Office of the Associate Director for Intramural Affairs, Building 1, room 103, 9000 Rockville Pike, Bethesda, MD 20892

Systems and Actions Branch, Division of Personnel Management, Building 31, room B3C27, 9000 Rockville Pike, Bethesda, MD 20892

Personnel and Administrative Offices of the National Institutes of Health (NIH)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals using NIH facilities who are not NIH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information including name, address, date and place of birth, education, employment, purpose for which NIH facilities are desired, outside sponsor, and NIH sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(a)(2), 42 U.S.C. 282(b)(10), and 42 U.S.C. 284(b)(1)(k). Act.

PURPOSE OF THE SYSTEM:

To determine eligibility to use NIH facilities, to document the individual's presence at NIH, and to record that the individual is not an employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to U.S. Office of Personnel Management for program evaluation purposes; to General Accounting Office for fund disbursement determinations.

2. Disclosure may be made to institutions providing financial support.

3. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to the Department of Justice or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

For each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Access is granted only to personnel staff, administrative office staff and management officials directly involved in the administration of the Guest Researcher, Special Volunteer and Scientist Emeriti programs.

2. Physical Safeguards: Record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to files is strictly controlled by system personnel. Records may be removed from the file only with the approval of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 2300-320-3(a), which allows records to be destroyed after a maximum period of 2 years after the individual completes work at NIH. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Systems and Actions Branch, Division of Personnel Management, Building 31, room B32C07, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists and where it is located, contact: National Institutes of Health, Division of Personnel Management, Privacy Act Coordinator, Building 31, room 1C39, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Contact the Personnel Officer or Administrative Officer in whose office the record is located and provide verification of identity as described under notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete,

irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual, NIH sponsor, funding institution.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0112

SYSTEM NAME:

Grants: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant applications and review history, awards, financial records, progress reports and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "National Library of Medicine," National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Dental Research," "National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases," "National Institute of Neurological Diseases and Stroke, and Other Institutes," "National Institute of Child Health and Human Development," National Institute of General Medical Sciences," "National Eye Institute," and "National Institute on Aging," of the Public Health Service Act, (42 U.S.C. 241, 276, 281, 287, 288, 289 (a), (d), (e), (i), 289(k-2)).

PURPOSE(S) OF THE SYSTEM:

1. Information provided is used by NIH staff for review, award, and administration of grant programs.

2. Information is also used to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program.

3. Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

4. As a part of the cost analysis of a proposed grant, a budget review is conducted of the percentage of time and effort listed under personnel category, equipment and supply categories, and other items listed under "other" category.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.

2. Disclosure may be made to the cognizant audit agency for auditing.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes.

6. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected; or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

9. Disclosure may be made to the grantee institution in connection with the review of an application or performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. Disclosure may be made to the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 289l–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, on computer tapes and discs, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health scientist administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained.

2. Physical Safeguards: Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. Procedural Safeguards: Access to file rooms and files is strictly controlled by files staff or other designated officials; charge-out cards identifying users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirements of the Privacy Act as applied to the grants program.

These particular safeguards are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items: 4000–B–1; 4000–B–4; 4000–C–1 and, 4600–D–1. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—System location

National Cancer Institute, Executive Plaza South, Suite T-42, 6120 Executive Boulevard, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute, Westwood Building, room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892.

National Library of Medicine, Building 38A, room 5N509, 8600 Rockville Pike, Bethesda, MD 20894.

National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Westwood Building, rooms 722 and 733, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Westwood Building, room 733, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Diabetes and Digestive and Kidney Diseases, Westwood Building, room 610, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Arthritis and Musculoskeletal and Skin Diseases, Westwood Building, room 5A03, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Child Health and Human Development, Landow Building, room 6A21, 7910 Woodmont Avenue, Bethesda, MD 20892.

National Institute on Aging, Building 31, room 5C07, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental Research, Grants Management Officer, Westwood Building, room 518, Bethesda, MD 20892.

National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences, Grants Management Officer, Westwood Building, room 953, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke, Federal Building, room 10A12,

7550 Wisconsin Avenue, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, room 750, Executive Plaza South, 620 Executive Boulevard, Rockville, MD 20852.
National Eye Institute, Building 31, room 6A47, 9000 Rockville Pike, Bethesda, MD 20892.
National Center for Research Resources, Building 31, room 5B32, 9000 Rockville Pike, Bethesda, MD 20892.
National Center for Nursing Research, Building 31, room 5B06, 9000 Rockville Pike, Bethesda, MD 20892.
Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

Appendix II—System manager and address

National Cancer Institute, Grants Management Officer, Executive Plaza South, suite 216, 6120 Executive Boulevard, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, Chief, Grants Operations Branch, Division of Extramural Affairs, Westwood Building, room 4A10, 5333 Westbard Avenue, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Administrative Officer, Division of Extramural Affairs, Westwood Building, room 7A11, Bethesda, MD 20892
National Library of Medicine, Associate Director for Extramural Programs, Building 38A, room 5N505, 8600 Rockville Pike, Bethesda, MD 20894
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Westwood Building, room 710, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Westwood Building, room 733, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Officer, Westwood Building, room 407, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Disease, Grants Management Officer, room 639, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Child Health and Human Development, Chief, Office of Grants & Contracts, Executive Plaza North room 501, 6130 Executive Building, Bethesda, MD 20892
National Institute on Aging, Grants Management Officer, room 5C07, Building 31, Bethesda, MD 20892
National Institute of Dental Research, Grants Management Officer, NIDR, Westwood Building, room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, room 204, 104 Alexander Drive, Research Triangle Park, N.C. 27709
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Westwood Building, room 936, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Grants Management Officer, Federal Building, room 1004A, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Grants Management Officer, Federal Building, room 1004A, Bethesda, MD 20892
National Center for Nursing Research, Grants Management Officer, Building 31, room 5B06, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, Grants Management Officer, Building 31, room 6A52, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Director, Office of Grants and Contracts Management, Building 31, room 5B32, 9000 Rockville Pike, Bethesda, MD 20892

Appendix III—Notification procedures

National Cancer Institute, See Appendix II
National Heart, Lung, and Blood Institute, Privacy Act Coordinator, Building 31, room 5A08, Bethesda, MD 20892
National Library of Medicine, See Appendix II
National Institute of Allergy and Infectious Diseases, See Appendix II
National Institute of Diabetes and Digestive and Kidney Diseases, Administrative Officer, Building 31, room 9A46, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Child Health and Human Development, See Appendix II
National Institute of Aging, See Appendix II
National Institute of Dental Research, NIDR Privacy Act Coordinator, Building 31, room 2C–35, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Environmental Health Sciences, See Appendix II
National Institute of General Medical Sciences, See Appendix II
National Institute of Neurological Disorders and Stroke, See Appendix II
National Institute on Deafness and Other Communication Disorders, See Appendix II
National Eye Institute, See Appendix II
National Center for Nursing Research, See Appendix II
National Center for Research Resources, See Appendix II

Appendix IV—Records access procedures

National Cancer Institute, Privacy Act Coordinator, Building 31, room 10A30, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, See Appendix III
National Library of Medicine, See Appendix II
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Westwood Building, room 703, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases, See Appendix II
National Institute of Child Health and Human Development, See Appendix II
National Institute on Aging, See Appendix II
National Institute of Dental Research, Grants Management Officer, Westwood Building, room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences, See Appendix II
National Institute of General Medical Sciences, Privacy Act Coordinator, Westwood Building, room 9A05, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke Chief, Administrative Services Branch, Building 31, room 8A49, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Chief, Administrative Management Branch, Building 31, room B2C12, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, Administrative Officer, Building 31, room 6A31, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Privacy Act Coordinator Building 31, room 5B10, 9000 Rockville Pike, Bethesda, MD 20892

09-25-0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, room 7A51, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 289a.

PURPOSE OF THE SYSTEM:

(1) To maintain a record of the investigators under Investigational New Drug (IND) applications. (2) To appoint consultants to the Clinical Research Subpanel (CRS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or

any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Regulatory Affairs Section, Division of Microbiology and Infectious Diseases, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Building is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Clinical and Regulatory Affairs Section, DMID, NIAID, Building 31, room 7A51, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Westwood Building, room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0118

SYSTEM NAME:

Contracts: Professional Services Contractors, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 31, room 6A09, DCT, 9000 Rockville Pike, Bethesda, MD 20892.
Building 31, room 3A22, OD, 9000 Rockville Pike, Bethesda, MD 20892.
Westwood Building, room 425, DEA, 5333 Westbard Avenue, Bethesda, MD 20892.
Building 31, room 3A03, DCBDC, 9000 Rockville Pike, Bethesda, MD 20892.
Building 31, room 11A11, DCE, 9000 Rockville Pike, Bethesda, MD 20892.
Building 31, room 5A50, DCPC, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals under contract with the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Professional Services Contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241(d), 281.

PURPOSE OF THE SYSTEM:

Used by staff for general administrative purposes to assure compliance with contract program requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

1. Authorized Users: Access is limited to authorized personnel (system manager and staff).

2. Physical Safeguards: Records are maintained in offices which are locked when not in use.

3. Procedural Safeguards: Access to files is strictly controlled by system manager and staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 2600-A-4, which allows records to be destroyed after a maximum period of 6 years and 3 months after final payment. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Administrative Officer, DCT, Marriott Scouts Service Center, room 309, 9190 Rockville Pike, Bethesda, MD 20892.
Administrative Officer, OD, National Institutes of Health, Building 31, room 11A35, 9000 Rockville Pike, Bethesda, MD 20892.
Administrative Officer, DEA, Westwood Building, room 425, Bethesda, MD 20892.
Administrative Officer, DCBDC, Building 31, room 3A03, 9000 Rockville Pike, Bethesda, MD 20892.
Administrative Officer, DCE, Building 31, room 11A11, 9000 Rockville Pike, Bethesda, MD 20892.
Administrative Officer, DCPC, Building 31, room 10A50, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the appropriate System Manager listed above to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals in the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0121

SYSTEM NAME:

International Activities: Senior International Fellowships Program, HHS/NIH/FIC.

SECURITY CLASSIFICATION

None.

SYSTEM LOCATION:

National Institute of Health, Building 31, room B2C21, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Senior International Fellowships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 242 e.

PURPOSE OF THE SYSTEM:

For award and administration of fellowships to outstanding faculty members in midcareer from U.S. biomedical research and educational institutions for study abroad.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Each fellow's home institution receives a notice of award and funding for the fellowship.

2. Applications are made available to authorized employees and agents of the U.S. including the General Accounting Office for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for proper action under civil and criminal laws.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and computer discs.

RETRIEVABILITY:

Name and fellowship number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Fogarty International Center (FIC) program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards. The records are stored in locked file cabinets and offices are locked during off-duty hours.

3. Procedural Safeguards. Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records access is

controlled by the use of security codes known to authorized users and access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–7, which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, International Research Awards Branch, Fogarty International Center, National Institutes of Health, Building 31, room B2C21, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a 5,000 dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information obtained from applicants and persons supplying recommendations through the Division of Research Grants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0124

SYSTEM NAME:

Administration: Pharmacology Research Associates, HHS/NIH/NIGMS

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Westwood Building, room 919, 5333 Westbard Avenue, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions as Pharmacology Research Associates with the Institutes of General Medical Sciences (NIGMS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual application forms, academic transcripts, reprints and references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 209.

PURPOSE(S) OF THE SYSTEM:

(1) For review, award and administration of the Pharmacology Research Associate Program (PRAT). (2) For consideration of the applicant by other NIH Associate Programs at the applicant's request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of applicant.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain the system are instructed to grant access only to authorized personnel (System Manager and staff assigned to the program).

2. Physical Safeguards: The records are maintained in locked file cabinets when not in use and system location is locked during non-working hours.

3. Procedural Safeguards: Access to files is strictly controlled by responsible individuals who have been instructed in the Privacy Act requirements. Records are returned to the locked cabinets when not in use.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–2(a). Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, PRAT Program, Pharmacological Sciences, NIGMS, Westwood Building, room 919, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to System Manager and provide the following information: applicant's name and date of application.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Clinical treatment records from physicians, nurses and other sources of care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0126

SYSTEM NAME:

Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Heart, Lung, and Blood Institute, and in NHLBI facilities in Bethesda, Maryland. A list of locations is available from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the National Heart, Lung, and Blood Institute, for diseases or conditions of the heart, lung, blood vessels and blood; (2) individuals whose physical, genetic, social, economic, environmental, behavioral or nutritional conditions or habits are being studied in relation to the incidence of heart, lung, blood vessel and blood diseases among human beings; and (3) normal volunteers who have agreed to provide control data germane to these studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs, fingerprints, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 412, 413 of the Public Health Service Act (42 U.S.C. 287a, 287b).

PURPOSE(S) OF THE SYSTEM:

(1) Summaries of data resulting from these studies are used by the National Heart, Lung, and Blood Institute to monitor and evaluate the incidence of the diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases. (2) The summaries are also used for program planning and evaluation purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

3. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

4. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

5. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the

information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, bound note books.

RETRIEVABILITY:

Name and/or participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Employees who maintain records in this system are instructed to grant regular access only to authorized researchers, physicians and their assistants whose duties require the use of such information.

2. Physical safeguards: Records are kept in locked file cabinets and in some instances in locked offices or guarded buildings. Locations are locked during non-working hours, and are attended at all times during working hours.

3. Procedural safeguards: Access to the data is controlled by the System Manager and the Project Officer. Data stored in computers is accessed through the use of key words known only to principal investigators or authorized personnel.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–C–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Epidemiology and Biometry, National Heart, Lung, and Blood Institute, Federal Building, 2C–08, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: NHLBI Privacy Coordinator, Building 31, room 5A–08, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information in writing:

1. Full name;

2. Name and location of research study;

3. Approximate dates of enrollment.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to System Manager as indicated above. The contestor must reasonably specify in writing the record contents at issue and state the corrective action sought and the reasons for the correction. The right to contest with supporting justification. The record is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0128

SYSTEM NAME:

Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Building, Room 9C02, 7550 Wisconsin Ave., Bethesda, Md 20892, and: (1) At hospitals and medical centers under contract, and (2) Federal Records Centers. A list of locations is available upon request from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and normal volunteers, males and females, participating in clinical studies to determine the feasibility of neural prostheses, and in clinical studies related to the development of instrumentation for diagnosis and treatment of neurological and sensory disorders conducted under contract for the National Institute of Neurological Disorders and Stroke (NINDS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical research data as related to studies which seek to determine the

feasibility of neural prostheses and to develop instrumentation for diagnosis and treatment of neurological and sensory disorders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 421, 289a, 289c.

PURPOSE(S) OF THE SYSTEM:

(1) Clinical research on the development of neural prosthesis (artificial devices) to enhance function of individuals with various disorders of the central nervous system.

(2) Research on the development of new instruments to improve diagnosis and treatment of disorders of the nervous system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS scientists and their authorized collaborators.

2. Physical Safeguards: Records are kept in a locked room when not in use.

3. Procedural Safeguards: Personnel having access to this system are informed of Privacy Act requirements.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Fundamental Neurosciences Program, NINDS, Federal Building, Room 916, 7550 Wisconsin Ave., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892, and ask if a file with your name exists in the Neural Prothesis or Biomedical Engineering Studies.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Patients, patients' families, hospital records and clinical investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0129

SYSTEM NAME:

Clinical Research: Clinical Research Studies dealing with Hearing, Speech, Language and Chemosensory Disorders. HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Deafness and Other Communication Disorders (NIDCD), 6120 Executive Boulevard, Rockville, MD 20852, and at hospitals, medical centers, universities and educational settings under contract. Inactive records may be stored at a Federal Records Center. A list of locations is available upon request from the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and normal volunteers participating in clinical research studies dealing with hearing, speech, language and chemosensory disorders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical findings, clinical research data, medical and educational histories and research data on the hearing, speech, language, cognition and chemosensory systems of subjects being tested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on the disorders of speech, language, and hearing to discover factors leading to these disorders and to improve prevention, diagnoses, and treatment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to

accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Name or identifier code.

SAFEGUARDS:

1. Authorized Users: Employees who maintain the system are instructed to grant access only to the principal investigator and staff assigned to a particular project, and to other authorized personnel (project officer, contracting officer).

2. Physical Safeguards: Records are locked in cabinets when not in actual use and system location is locked during non-working hours.

3. Procedural Safeguards: Personnel having access to system are trained in Privacy Act requirements. Records are returned to locked file cabinets at end of working day.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Communication Sciences and Disorders, NIDCD, Executive Plaza South, 6120 Executive Boulevard, Rockville, MD 20852.

NOTIFICATION PROCEDURE:

Write to: Chief, Administrative Management Branch, NIDCD, Building 31, room B2C12, 9000 Rockville Pike, Bethesda, Maryland 20892, and ask if a file exists with your name in studies of the Division of Communication Sciences and Disorders. Please supply the following information:

1. Approximate date and place of examination and/or treatment.

2. Name of the study, if known.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to system manager and reasonably identify the record, specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information provided by patients, patients' families, hospital records, school records, and clinical investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0130

SYSTEM NAME:

Clinical Research: Environmental Epidemiologic Studies in the Division of Cancer Etiology, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, room 443, 6130 Executive Blvd., Bethesda, MD 20892; and National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. A list of locations and contracts is available upon request from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with cancer and other environmentally caused diseases, (e.g., birth defects), patients with other diseases (e.g., heart disease), normal and other persons (e.g., family members) for the purpose of making comparisons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, progress reports, correspondence, epidemiological computerized data and records on biological specimens (e.g., blood, tumors, urine, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, and 282.

PURPOSE(S) OF THE SYSTEM:

To determine: (1) Factors or substances in the environment which cause cancer; (2) ways in which these factors or substances may cause cancer; (3) characteristics of persons who may be particularly susceptible to the environmental factor(s) or substance(s) and/or to cancer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of

an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name and/or code number.

SAFEGUARDS:

HHS contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department Regulations. Subjects participating in a clinical study are advised that their identity will only be known to those who are involved in conducting the study and that any published findings will be in a format which precludes individual identification.

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, collaborating researchers, or HHS contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Data are kept in secured areas with access limited to authorized personnel (system manager, project officer, contracting officer, collaborating researchers, staff, and HHS contractors). Data transmitted to the NCI are in a form which precludes individual identification.

3. Procedural Safeguards: For computerized records, the contractor is required to comply, where appropriate, with Department standards and National Bureau of Standards Guidelines. For example, access is controlled by the use of security codes known only to authorized personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Chief, Environmental Epidemiology Branch, Executive Plaza North, room 443, 6130 Executive Blvd., Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if a file exists, write to System Manager and provide the following information:

a. System name: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention;

b. Complete Name at time of study;

c. Facility and Home Address at the time the study was undertaken;

d. Date(s) at the time the information was provided (if known);

e. Birth date;

f. Disease type (if known).

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Write to System Manager and specify the record sought. The same information required above for notification is also needed for access. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to System Manager and specify the record and the part(s) to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0133

SYSTEM NAME:

Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, research foundations, and universities under contract, in Federal Records Centers and in the National Institute of Allergy and Infectious Diseases (NIAID) facilities in Bethesda, Md. Write to the system manager at the address below for the addresses of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients who have received kidney transplants and donors of kidneys transplanted at participating institutions during the period January 1, 1974, through December 31, 1976.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical and medical records containing information on clinical examinations, laboratory findings, and related research records. For kidney recipients, a demographic profile is also included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241a, and 289c.

PURPOSE OF THE SYSTEM:

(1) To study the relevance of tissue typing to the outcome of kidney transplants.

(2) To study the influence of organ preservation techniques and various surgical and medical therapies on the outcome of kidney transplants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

4. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

5. Certain infectious diseases are reported to State governments as required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, punched cards, and magnetic tapes or discs.

RETRIEVABILITY:

Information is retrieved by name and location of study and by transplant number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Genetics and Transplantation Branch, Division of Allergy, Immunology and Transplantation (DAIT), NIAID.

2. Physical Safeguards: Records in this system are stored in locked cabinets. Access to the computer files is by key word.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. For computerized records, access is controlled by the use of security codes known only to authorized users.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Genetics and Transplantation Branch, DAIT, National Institute of Allergy and Infectious Diseases, NIH Westwood Building, room 754, 5333 Westbard Avenue, Bethesda, Maryland, 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Privacy Act Coordinator, NIAID, Westwood Building, room 703, 5333 Westbard Avenue, Bethesda, Maryland 20892 and provide the following information:

1. Full name.

2. Name and location of clinical trial facility.

3. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of,

or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical records and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0134

SYSTEM NAME:

Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute of Environmental Health Services (NIEHS), Epidemiology Branch, P.O. Box 12233, Research Triangle Park, North Carolina 27709, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. Inactive records may be stored in a Federal Records Center. A list of locations and contracts is available upon request made to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and minors, both male and female, with known or suspected diseases, maladies, chemical or biological contaminations, as well as normal or non-suspect individuals and minors in control or study groups for the purposes of comparison. Individuals included in this system of records normally have volunteered to participate in the study and voluntarily provided information for inclusion in the system.

The participants may be, but are not limited to, patients; workers subject to specific environments; individuals selected because of social, nutritional, physical, genetic and economic conditions and behavioral characteristics; and members of the general population subject to the variety of contaminants present in the environment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records pertinent to an individual's current health status: medical history; occupational history and work environments; and selected items of personal data such as smoking habits, family size, family medical history and domiciles. Examples of information which may be included in this system are name, Social Security Number, date of birth, weight, height, sex, race, medical history, blood type, laboratory results, examination findings, current and previous medications received, list of employers, descriptions of the work environment, substances or compounds routinely handled or exposed to, and a history of current and previous residences.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE(S) OF THE SYSTEM:

National Institute of Environmental Health Sciences uses the data collected to:

1. Determine whether or not general conditions, chemicals and/or other substances found in the environment have effects on the health and well being of individuals or groups of individuals;

2. Determine how these conditions, chemicals or other substances, acting by themselves or in combination, produce adverse effects on health;

3. Identify individual or group characteristics that make a person susceptible to chemical contamination, disease or other adverse health effects from these environmental conditions or agents;

4. Determine whether there is a general or background level of exposure or other chemical effects in a local area, regional area, or nationally as well as within general or specific work environments;

5. Develop and/or validate epidemiologic or laboratory methods for detecting adverse effects due to environmental exposures;

6. Determine the scientific basis for advising regulatory agencies such as the Environmental Protection Agency, the National Institute of Occupational Safety and Health and the Department of Labor's Occupational Safety and Health Administration regarding the adverse health effects of substances and conditions found in the environment;

7. Determine the scientific basis for advising local, state, other governmental agencies and international governments regarding the adverse health effects of substances and conditions found in the environment;

8. Determine the scientific basis for advising the Congress, industry, workers, scientific or public agencies and other interested parties regarding the known or potential for adverse health effects from exposure to substances or conditions found in the environment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office, made at the request of the individual, and in the case of a minor, the minor's parent or legal guardian.

3. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. Where the appropriate official of the Department, pursuant to the

Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from a mandatory disclosure, disclosure may be made from this system of records.

6. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

7. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in one of a combination of the following mediums: file folders, data forms, punch card, magnetic tape discs.

RETRIEVABILITY:

Information is retrieved by personal identifier such as name or code number. Social security numbers which are supplied on a voluntary basis also are used for retrieval.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Use of these records is limited to those persons whose official duties require such access. Access to the information is controlled by the Project Officer or his representative at remote locations. Contractors or collaborating researchers, by formal agreement, comply with the provisions of the Privacy Act and Department regulations.

2. Physical safeguards: Hard copy data is maintained in locked file cabinets at the National Institute of Environmental Health Sciences or remote study locations. Information stored in computer systems is accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor in accordance with Departmental standards and National Bureau of Standards guidelines.

3. Procedural safeguards: Subjects directly participating in studies are advised that their identity is known only to those persons involved in conducting the study, and that any published findings will be in a format which precludes individual identification.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology Branch, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

NOTIFICATION PROCEDURE:

Normally, individuals would know whether a file existed on the basis of their voluntary participation and provision of data. However, individuals may write to the system manager to determine if a file exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. In writing, they should provide the following data:

a. Complete name at the time of the study.

b. Birth date.

c. Home address at the time of the study.

d. The facility where the examination was given or information otherwise collected.

e. Date, or approximate dates when information was collected or an examination conducted.

f. Name of study if known.

g. A current name, address and telephone number where they can be reached.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's description. A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

The same information as outlined under notification procedures is needed for access to records. The request should be addressed to the System Manager. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the System Manager and specify the record and the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, commercial, institutions, labor and trade

organizations, State agencies, international agencies, foreign governments, other U.S. Government agencies, patients and normal volunteers, physicians, researchers and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0140

SYSTEM NAME:

International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Fogarty International Center, Building 16A, room 101, 9000 Rockville Pike, Bethesda, MD 20892 and; Division of Computer Research and Technology, Building 12A, room 3061, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Ancillary records are located in the Office of the Associate Director for Intramural Affairs, laboratories, administrative and personnel offices where participants are assigned. Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health scientists at all levels of their postdoctoral or equivalent research careers who are invited to the National Institutes of Health for further training or to conduct research in their biomedical specialties under the auspices of FIC's administration of International Activities. Most of these scientists are foreign, however some may be resident aliens or U.S. citizens.

Individuals in these categories include Visiting Associates, Visiting Scientists, Foreign Special Experts who are employees and Visiting Fellows, Guest Researchers, Exchange Scientists, International Research Fellows, Fogarty Scholars, Special Volunteers, Adjunct Scientists and Residents who are not employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

History of fellowship, employment and/or stay at NIH; education, immigration data and references. For payroll purposes, social security numbers are requested of all applicants accepted into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 242l and section 307 of the Public Health Service Act.

PURPOSE OF THE SYSTEM:

To document the individual's presence at the NIH, to record immigration history of the individual in order to verify continued eligibility in existing programs, and to meet requirements in the code of Federal Regulations (8 CFR Parts 8 and 22, "Aliens and Nationality").

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the U.S. Government including, but not limited to, the General Accounting Office, the Internal Revenue Service, and the FBI and Immigration and Naturalization Service, Department of Justice, for purposes of investigations, inspections and audits.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on file cards, computer tapes and microfilm.

RETRIEVABILITY:

By name, country of citizenship, institution, fellowship number, social security number, visa and immigration status, and home address.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain.

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: The records are maintained in locked file cabinets, and offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records, access is controlled by the use of security codes known only to authorized users; access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 2300-320-7, which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, International Services and Communications Branch, Building 16A, room 101, Fogarty International Center, National Institutes of Health, 9000

Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager as listed above. Verification of identity is required.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official listed under notification procedure above, and reasonably identify the record, and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD ACCESS CATEGORIES:

Subject individuals and other federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0142

SYSTEM NAME:

Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system will be located in hospitals and clinics, research centers and research foundations, and in facilities of the National Institute on Aging (NIA) in Bethesda, MD. They may be stored at Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies will include: (1) Individuals whose physical, genetic, social, psychological, cultural, economic, environmental, behavioral, pharmacological, or nutritional conditions or habits are studied in relationship to the normal aging process and/or diseases and other normal or abnormal physical or psychological conditions of the aged, and (2) normal volunteers who are participants in such studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will consist of a variety of health, demographic, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observations. The system will also include records of current addresses of study participants, and correspondence from or about participants in the studies. When supplied on a voluntary basis, Social Security numbers will also be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is provided by Sections 301, Research Contracting, and 463-4, Health Research Extension Act of 1985, Pub. L. 99-158.

PURPOSE(S) OF THE SYSTEM:

The National Institute on Aging will use the data collected; (1) in research projects on (a) the health status of individuals and changes in health status over time, (b) the incidence and prevalence of certain diseases and problems of the aged in certain populations, and (c) the changes that take place as individuals age; (2) and for program planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to HHS contractors, collaborating researchers and their staffs in order to accomplish the basic research purpose of this system. The recipients will be required to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, or bound notebooks. Stored data may include textual, photographic, X-ray, or other material.

RETRIEVABILITY:

Information will be retrieved by personal identifiers such as name, code number and/or Social Security number, when this is supplied on a voluntary basis.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Access will be limited to principal investigators, collaborating researchers and necessary support staff.

2. Physical Safeguards: Hard copy data will be maintained in locked file cabinets. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor.

3. Procedural Safeguards: Access to the information will be controlled directly by the Project Officer or his or her representative at remote locations, and by the system manager at NIA locations. Contractors and collaborating researchers will be notified that they are subject to the provisions of the Privacy Act, and will be required to make formal agreements to comply with these provisions.

The particular safeguards implemented in each project are developed in accordance with Chapter 45–13 and supplementing Chapter PHS hf: 45–13 of the HHS General Administration Manual and Part 6, ADP Systems Security, of the HHS Information Resources Management Manual, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Epidemiology, Demography and Biometry Program, National Institute on Aging, Room 618 Federal Building, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address below and provide the following information in writing:

1. Full name at time of participation in the study;

2. Date of birth;

3. Home address at the time of study;

4. The facility where the examination was given or where information was collected;

5. Approximate date or dates of participation;

6. Name of study, if known;

7. Current name, address and telephone number.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Contact the system manager at the above address and provide the same information as outlined under the notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the above address. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information will be obtained directly from individual participants and from medical and clinical research observations, or indirectly from existing source documents such as disease registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g., allergic reactions) and related diseases (e.g. Acquired Immunodeficiency Disease Syndrome/AIDS), normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

This system will be used to support (1) Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases; (2) Review and evaluation of the progress of these research projects, and identification of and planning for

improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department. or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

1. Authorized Users: Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system.

2. Physical Safeguards: Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

3. Procedural Safeguards: Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

These and other appropriate safeguards are implemented in each project in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology and Biometry Branch, DMID, National Institute of Allergy and Infectious Diseases, Westwood Building, room 739, Bethesda, Maryland 20892 and;

Chief, Epidemiology Branch, DAIDS, Room 240P, Control Data Building, 6003 Executive Blvd., Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Room 703, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892 and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birth date,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an

individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0145

SYSTEM NAME:

"Clinical Research: Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI."

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Eye Institute (NEI), and in NEI, National Institutes of Health, Building 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

A current list of contractor sites is available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the NEI or its contractors for visual disorders or conditions of the eye, (2) individuals who present physiological symptoms usually preceding or evidencing diseases or disorders of the eye, (3) offspring of previously studied populations, (4) populations at high-risk for development of certain eye disorders, such as age-related, and (5) normal volunteers who have agreed to provide control data germane to these studies. Studies are usually five years in duration and follow-up studies may occur in later years if information indicates they are appropriate.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs of structures of the eye, and correspondence from or about participants in these studies. Social security numbers, disclosed voluntarily, are included to assist in locating patients for follow-up studies, or verifying their existence through mortality registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 301, 401, 405, 455, Public Health Service Act (42 U.S.C. 281, 284, 285i). These sections establish the National Eye Institute and authorize the conduct and support of vision research and related activities.

PURPOSE OF THE SYSTEM:

1. To monitor and evaluate incidence of visual disorders and/or diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases.

2. To monitor the progression of various eye disorders and the efficacy of specific treatments of these disorders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to a private firm or a research institution for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department (A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk, if any, to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that

identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, on magnetic tapes or discs, punched cards, bound note books, and/or photographs.

RETRIEVABILITY:

Information is retrieved by a combination of a coded name and patient identification number.

SAFEGUARDS:

1. Authorized Users: Employees who maintain records in the system are instructed to grant access to principal investigators and other treating physicians, clinic coordinators, and NEI employees whose duties require the use of such information. Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for each record maintained in each project.

2. Physical Safeguards: Clinics are located in University Hospitals and the Clinical Center, NIH. These clinics are locked and records are kept in locked files with access by keys issued to principal investigators, appropriate physicians and coordinators. There is a security force at each center to avoid unauthorized entries. The computer records are accessed by passwords available only to principal investigators and authorized operators. Data is protected by enforcement of State laws applicable to fire and safety at each facility, as well as ADP Security and the Privacy Act regulations for each state.

3. Procedural Safeguards: Routine visits are scheduled by the clinic coordinator who is authorized to access records. New records are generated each time a patient is seen by the physician and a copy of the form which is applicable to that visit is added to the patient's medical folder. (Documents forwarded to the data and reading centers do not bear individual identifiers.) The folder is then returned to the locked file. Clinics are also locked when patients are not being seen, and medical staff is present when patients are in the clinic. If data is entered in computers as part of the hospital record, Privacy Act and hospital safeguards are enforced by access codes and passwords.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions. (Records at contractor sites are retained by the facility consonant with its institutional records retention schedule.)

SYSTEM MANAGER AND ADDRESS:

Associate Director, Biometry and Epidemiology Program, National Eye Institute, 9000 Rockville Pike, Building 31, room 6A–10, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if record exists, write to: NEI Privacy Act Coordinator 9000 Rockville Pike, Building 31, room 6A–17, Bethesda, MD 20892.

The requestors must verify his/her identity by providing: a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the act, subject to $5,000 fine. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

(1) Name, description of study.

(2) Location.

(3) Approximate date of participation.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who is willing to review the record and inform the subject individual of its contents at the representative's discretion. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the Privacy Act Coordinator at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reason(s) for requesting the correction, along with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained by the principal investigator, treating physician, or clinic coordinator, directly from individual study participants, by interview to record certain pertinent historical facts, and by physical examination and photographs to record medical data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

09–25–0148

SYSTEM NAME:

Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication

Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the respective System Managers of the subsystems included in this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with neurological diseases, communicative disorders, stroke, hearing loss, chemosensory deficits, and related diseases; normal, healthy volunteers who serve as controls for comparison with patients; relatives of patients; and other individuals whose characteristics or conditions are suited for possible connections with the occurrence of the diseases and disorders under investigations. Subject individuals include both adults and children.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, biomedical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence, or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 241, Research and Investigation, and 289a, Establishment of Institutes, of the Public Health Service Act (42 U.S.C. 301, 431).

PURPOSE OF THE SYSTEM:

This system will be used to support (l) contracted and contract-related epidemiological, clinical and biometric investigations into the causes, nature, outcome, therapy, prevention and cost of neurological and communicative disorders, hearing loss, chemosensory deficits, and stroke; (2) review and evaluation of the progress of these research projects, and identification and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or patient identification number.

SAFEGUARDS:

1. Authorized Users: Access to or disclosure of information is limited to collaborating researchers, contractors and employees, and other authorized biomedical researchers who are involved in the conduct, support or review and evaluation of the research activities supported by this system.

2. Physical Safeguards: Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or

authorized personnel; all other information is stored in locked files.

3. Procedural Safeguards: Contractors and collaborating or other researchers are required to comply with the provisions of the Privacy Act and with HHS Privacy Act regulations.

These and other appropriate safeguards are implemented in each project in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS AND ADDRESSES:

NINDS and NIDCD research activities are divided, functionally and administratively. In effect, there are six subsystems within this single umbrella system. NINDS has five programs and NIDCD one. System Managers have been designated for each subsystem as follows:

Director, Division of Communication Sciences and Disorders, NIDCD, NIH, Executive Plaza South, 620 Executive Boulevard, Rockville, MD 20852 and
Director, Division of Fundamental Neurosciences, NINDS, NIH, Federal Building, room 916, 7550 Wisconsin Avenue, Bethesda, MD 20892 and
Director, Division of Convulsive, Developmental and Neuromuscular Disorders, NINDS, NIH, Federal Building, room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892 and
Director, Division of Demyelinating Atrophic, and Dementing Disorders, NINDS, NIH, Federal Building, room 810, 7550 Wisconsin Avenue, Bethesda, MD 20892 and
Director, Division of Stroke and Trauma, NINDS, NIH, Federal Building, room 8A08, 7550 Wisconsin Avenue, Bethesda, MD 20892 and
Director, Division of Intramural Research, NIH, Building 10, room 5N14, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NINDS Privacy Act Coordinator, Federal Building, room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892 or NIDCD Privacy Act Coordinator, Building 31, room B2C06, 9000 Rockville Pike, Bethesda, MD 20892 and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birth date,
4. Facility conducting the study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) of whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notifications procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record, specify the information being contested and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information in these records is obtained directly from individual participants, and from physicians, research investigators and other collaborating persons, and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, and collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0151

SYSTEM NAME:

Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/NIH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Management Survey and Review, National Institutes of Health (NIH), Building 31, room 4C02, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects may include (1) researchers currently or formerly employed by the Federal Government; (2) individuals being considered for appointment to Public Health Service (PHS) advisory committees; (3) investigators on research grants, fellowships, cooperative agreements, or contracts awarded by any PHS agency, ("Investigators" may include principal investigators, co-investigators, program directors, trainees, recipients of career awards or fellowships, or other individuals who conduct or are responsible for research or research training funded by PHS.); (4) research investigators, such as guest workers, not employed by PHS but who conduct research in PHS facilities or are closely associated with research conducted by PHS; (5) other individuals, such as subgrantees, subcontractors or assistants on research or research training grants, contracts or cooperative agreements, who by training, experience, occupation or other qualifications are potential candidates for research or research training grants, contracts, cooperative agreements or other benefits.

Such individuals would be subjects of records in this system if they fall within either of the following two categories:

(1) Subjects of formal investigations for scientific misconduct or serious misappropriation of Federal research funds, if the PHS Agency-level/Staff Office Misconduct Policy Officer has determined that the alleged misconduct is serious enough, or that the investigation has produced sufficient information, to warrant attention when a PHS agency considers awarding research or research training funds or other benefits to such individuals.

(2) Subjects of sanctions imposed as a result of determinations that scientific misconduct or serious misappropriation of Federal research funds has occurred. Such sanctions include (a) actions affecting eligibility for research and training awards, such as special conditions for receipt of an award, suspension or termination of an award, or debarment of an individual; (b) actions affecting eligibility for appointment to a committee which advises PHS; (c) special restrictions on regulated research, such as disqualification from eligibility to use investigational drugs or special conditions for protection of human research subjects; and (d) termination of employment or other disciplinary action against an employee of PHS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to investigations or findings of misconduct in science and to actions that PHS has taken in connection with such investigations or findings. Misconduct in science is defined as (1) the serious deviation, such as fabrication, falsification, or plagiarism, from accepted practices in proposing, conducting and reporting the results of research; or (2) the material failure to comply with Federal requirements affecting specific aspects of the conduct of research, e.g., the protection of human subjects and the welfare of laboratory animals.

In addition to records relating to misconduct in science, the system includes records relating to investigations or findings of serious misappropriation of Federal research funds—e.g., diversion of such funds to personal use. It does not include records documenting normal business transactions between a PHS agency and an awardee institution, except to the extent that such records are directly relevant to consideration of the fitness of an individual to receive a PHS award or other benefit.

The system consists of two subsystems which contain the following types of records:

(1) Records on pending or ongoing investigations identifying the alleged misconduct; the individual and/or institution under investigation; any present, past or pending research, and/or research training awards; PHS agencies or offices involved, and the organization responsible for the investigation.

(2) Records summarizing sanctions imposed because of a finding of misconduct, which adversely affect the individual's eligibility for research or research training awards or other benefits for a specified period of time.

Either subsystem may contain responses from subject individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the legislation which authorizes PHS to make awards for biomedical research and research training, and from PHS's concomitant responsibility to assure both that funds disbursed under awards are spent for authorized purposes and that recipients of such funds conform to all appropriate laws and regulations. (Public Health Service Act: 42 U.S.C. 241, 242b, 242c, 242l, 242m, 247c, 281–289h, 290aa–9, 290bb, 290bb–1, 290cc, 300a–2,300 b–1–b–3, 300c–12, 300z–7, as these provisions relate to awards for biomedical research and research training; Occupational Safety and Health Act: 29 U.S.C. 669).

PURPOSE OF THE SYSTEM:

This system of records enables PHS agencies to discharge effectively their responsibilities in the award and administration of research and training grants, cooperative agreements and contracts, while protecting the privacy and other rights of individuals under investigation or sanction for scientific misconduct or misappropriation of funds. The ALERT system is used to collect, control and disseminate to PHS agency officials on a need-to-know basis information that an individual (1) is under investigation for possible misconduct in science or misappropriation of funds, or a decision has been made to undertake such an investigation; or (2) has been subjected to a sanction at the conclusion of an investigation for misconduct or misappropriation of funds.

Specifically—

(1) PHS records the existence of such sanctions in the system so that PHS agencies can track and implement the sanctions, for example by refusing to accept an application or proposal from a debarred person. In addition, PHS informs members of technical merit review groups of actions taken if the disclosure bears directly on the scientific merit of an application or proposal under consideration or the fiscal integrity of the investigator or applicant, or if necessary to ensure an unbiased review by providing an accurate account of the case, for example, when information concerning the conduct investigated has been disclosed by other sources, such as the press or other communications media. PHS does not use this system to make decisions on imposition of sanctions.

(2) When investigative findings fail to confirm an instance of misconduct or show that any misconduct was not of sufficient importance to warrant imposing sanctions, leading to a decision not to impose any sanctions, (a) the individual's name is removed from the ALERT system of records and the individual is notified in writing; (b) responsible PHS agency officials are notified of the outcome; (c) if any interim administrative sanctions had been imposed, they are lifted; and (d) if a competing application or proposal from the individual is pending or anticipated in the near future, the Misconduct Policy Officer of the relevant agency consults with officials responsible for review of the application or proposal to identify and resolve any concerns that might affect the objectivity of the review. For example, technical merit review groups would be informed of the outcome of the investigation if there were reason to believe that reviewers had received incomplete or misleading information about the case.

(3) PHS agencies use ALERT system records on pending or ongoing investigations to make informed decisions on appropriate actions regarding awards of research, research training and related activities or other benefits to individuals under investigation as follows: (a) PHS agency officials responsible for the award of research funds, in consultation with the PHS agency-level Misconduct Policy Officer, weigh information on investigations in deciding whether to take interim administrative action, such as delaying, restricting or denying award of research funds. Any interim action is taken with a view towards protecting the rights of all parties involved and minimizing disruption to an ongoing project, the awardee institution, and the activities of those involved in the project. (b) To obtain independent advice on appropriate actions with respect to potential competing awards to individuals or organizations under investigation, these officials or their designees inform the members of the appropriate National Advisory Council or Board, advisory

bodies legally established to advise PHS on funding of research projects, of the existence and status of an investigation. Such disclosure is made in closed session when the Council or Board is considering the funding of research by the individual or institution. To avoid influencing Technical Reviews, PHS will not inform members of scientific review groups about instances of possible misconduct or ongoing investigations. However, if a given case has received such extensive publicity that review of an application or proposal may be compromised, the responsible PHS agency official may defer the review or inform the reviewers of the status of PHS's activities with respect to the possible misconduct.

(4) The PHS Committee on Misconduct in Science, and individual PHS Agency/Staff Office Misconduct Policy Officers, review ALERT records in order to inform appropriate officials within their organizations who are responsible for deciding on the actions described in other items of this section.

(5) PHS Committee Management Officers may review records in the system concerning candidates for appointment to advisory committees in order to make informed decisions about making, delaying or denying appointments.

(6) Upon request, the system manager may disclose information to PHS agency officials who are considering hiring a subject individual.

(7) When a research activity within PHS (i.e., intramural research activity) is the subject of an investigation by a PHS regulatory agency, information on that investigation in this system may be communicated to the PHS intramural officials responsible for the research activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. PHS may notify responsible officials of awardee institutions or organizations when, in connection with an investigation or finding of misconduct by an individual employed by or affiliated with the institution or organization, a PHS agency takes an action affecting research and research training awards to the institution or organization. Information disclosed will be limited to the name of the subject individual, description of the action and the reasons for it.

2. Information may be disclosed to qualified experts not within the definition of Department employees as prescribed in Department Regulations to the extent the information is pertinent to the review of applications by those experts.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) HHS employee in his or her individual capacity or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name of the individual under investigation or subject to sanction.

SAFEGUARDS:

1. Authorized Users: Records are available only to the system manager, PHS Agency-level/Staff Office Misconduct Policy Officers, the Deputy Director for Extramural Research and Training, NIH, and other responsible PHS agency officials considering the award of funds for research, research training or related activities or other benefits to a subject individual or institution, the appointment of a subject individual to an advisory committee, the hiring of a subject individual, or the management of a PHS agency research activity under investigation. Any disclosure to other individuals must be authorized by the system manager.

2. Procedural Safeguards: Access to records is strictly controlled by the system manager and the officials specified under "Authorized Users." Individuals who receive disclosures from this system are informed that the information is confidential. They are instructed to address all questions and inquiries from any party either to the system manager or to the appropriate Misconduct Policy Officer for reply. Disclosures to Boards, Councils or review groups are made in sessions which are closed to the public. In addition, PHS staff and others not directly responsible for a potential award may be barred when a Board or Council considers an ALERT case, if they would not have been informed about the case otherwise. Only the PHS Committee on Misconduct in Science or individual PHS agency-level Misconduct Policy Officers, acting on the advice of the system manager, may authorize additions, alterations or deletion of records in this system.

3. Physical Safeguards: Records are kept in locked file cabinets in offices which are locked when not attended. Special measures, commensurate with the sensitivity of the records, are taken to prevent unauthorized copying or disclosure of records.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual and supplementary chapter PHS hf: 45–13.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3, which allows records on an investigation in progress to be retained until the investigation is completed. If the investigation results in a determination that no misconduct occurred, or that any misconduct was not significant enough to warrant official sanction, the record relating to that investigation is destroyed. If an investigation results in official sanction, a record of such sanction is maintained for the duration of the sanction and is then destroyed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Management Survey and Review, National Institutes of Health, Building 31, room 4C02, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Individuals are routinely notified in writing when they become the subject of a record in this system, unless a law enforcement agency has instructed PHS not to do so. Subject individuals are also

informed routinely when their records are deleted from the system. Individuals may request notification by writing to the system manager at the address above; provide your full name and state that the inquiry concerns Privacy Act system of records number 09–25–0151. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a fine of not more than five thousand dollars.

RECORD ACCESS PROCEDURE:

Individuals may write to the system manager at the address above and provide the same information as required for notification. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record and the information being contested; and state your reasons for requesting the change, along with supporting information to show that the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information in these records is obtained from subject individuals, awardee institutions or organizations, PHS agencies and organizations responsible for investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0152

SYSTEM NAME:

Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are collected by contractors and are located in hospitals and clinics; research centers; educational institutions; commercial; local, State and Federal government agencies; and in National Institute of Dental Research (NIDR) facilities. Inactive records may be stored at Federal Records Centers. A list of locations and contracts is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in epidemiological and biometric studies sponsored by NIDR, including adults and minors, both males and females, with known or suspected diseases or disorders of the teeth and supporting structures, as well as normal or nonsuspect individuals in control or study groups for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of medical and dental records and information resulting from personal interviews, questionnaires, or direct observation. The system may also include current addresses of study participants, radiographs, records on biological specimens (e.g., teeth, plaque, etc.), study models, computerized epidemiological data and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, 401, 405 and 453 of the Public Health Service Act (42 U.S.C. 241, 281, 284, 285h). These sections establish the National Institute of Dental Research and authorize the conduct and support of dental and oral research and related activities.

PURPOSE(S) OF THE SYSTEM:

This system is used to; (1) Support research on diseases and disorders of the oral cavity (teeth and their supporting structures); their causes and treatment; the incidence and prevalence of these diseases and disorders; and familial, demographic and behavioral factors related to their causes and treatment; (2) Provide data for program review, evaluation, planning, and administrative accountability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with regards to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose, (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to records.

5. Disclosure may be made to a congressional office from the record to an individual in response to an inquiry from the congressional office made at the request of the individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United

States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

(c) any Department employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this systems are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NIDR project officer; and NIDR employees whose duties require the use of such information. Access to the data controlled by the Project Director, the NIDR Project Officer, and/or the System Manager.

2. Physical Safeguards: Records are stored in locked files or secured areas. Computer terminals are in secured areas.

3. Procedural Safeguards: Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need. Data stored in computers is accessed through the use of keywords known only to the principal investigators or authorized personnel. These keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–4, which does not allow records to be destroyed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Contract Management Section, Extramural, National Institute of Dental Research, Westwood Building, room 521, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to: Privacy Act Coordinator, National Institute of Dental Research, 9000 Rockville Pike, Building 31, room 2C–35, Bethesda, MD 20892, and provide the following information in writing:

1. Full name at time of participation in the study.

2. Name and description of the study.

3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the records, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identify.

RECORD ACCESS PROCEDURES:

Same as notification. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought, and the reason(s) for the corrective action, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical/dental and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0153

SYSTEM NAME:

Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals and clinics, research centers, educational institutions, commercial organizations, local and State agencies, and other Executive Branch agencies of the Federal Government under contract to the National Institute of Child Health and Human Development (NICHD), and in NICHD facilities in Bethesda, Maryland. Inactive records may be stored at Federal Records Centers. A list of specific locations and contractors is available upon request from the System Manager, whose address is listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include adults and children (a) who are presently or have been treated by the NICHD, (b) whose physical, genetic, social, economic, environmental,

behavioral or nutritional conditions or habits are being studied by the NICHD, or (c) normal volunteers who have agreed to provide control data for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and statistical information collected in biomedical and behavioral research studies, such as medical histories, vital statistics, personal interviews, questionnaires, current addresses of study participants, radiographs, records on biological specimens, study models, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301, Research and Investigation, and Section 441, National Institute of Child Health and Human Development, of the Public Health Service Act as amended (42 U.S.C. Sections 241, 298d).

PURPOSE(S) OF THE SYSTEM:

This system is used: (1) For program review, evaluation, planning, and administrative management for research on child health and human development; (2) to monitor the incidence, prevalence or development of the disease, condition, behavior, or health status under investigation; (3) to determine the relation of various factors (e.g., social, economic, environmental, physical, and medical) to the occurrence of the disease, condition, development, behavior, or health status under investigation; (4) to identify abnormal disease, condition, or health status and inform the Centers for Disease Control (CDC) or the Food and Drug Administration (FDA) of the existence of such conditions. CDC uses this information in fulfilling its congressionally mandated responsibility for the monitoring of disease and prevention of epidemics. FDA uses this information in carrying out its congressional mandate for controlling certain potentially harmful products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. Certain infectious diseases are reported to State governments as required by law.

5. A record may be disclosed for a research purpose, when the Department: (A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. In the event of litigation where the defendant is: (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, microfilm, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NICHD project officer; and NICHD employees whose duties require the use of such information. One time and special access to the data is controlled by the System Manager, the NICHD Project Officer, and the Contract and/or Project Director.

2. Physical Safeguards: Records are stored in locked files or secured areas. Computer terminals are in secured areas.

3. Procedural Safeguards: Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked

only if there is a specific need, such as alerting the volunteer subjects to any findings in the study that might affect their health. Data stored in computers is accessed through the use of passwords/keywords known only to the principal investigators or authorized personnel. These passwords/keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13; part 6, "ADP Systems Security," of the HHS ADP Systems Manual, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Contracts Management Branch, NICHD, Executive Plaza North, room 610H, 6130 Executive Blvd., North Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NICHD Privacy Act Coordinator, Building 31, room 2A–17, 9000 Rockville Pike, Bethesda, MD 20892, and provide the following information in writing:

1. Full name and address at time of participation in the study.
2. Name or description of the study.
3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify his or her relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, medical and clinical research observations, and other federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0154

SYSTEM NAME:

Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, room 343K, 6130 Executive Blvd., Bethesda, MD 20892 and National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892 and at hospitals, medical schools, universities, research institutions, commercial organizations, collaborating State and Federal Government agencies, and Federal Records Centers. Write to system manager at the address below for the address of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and children in the following categories: Patients with cancer; persons for whom cancer risk can potentially be lowered; and persons without signs or symptoms who may be identified through screening and detection methods as having cancer or being at increased risk of developing cancer. For certain types of epidemiologic studies, e.g., case-control studies, NCI may also collect, for purposes of comparison, records on other persons. These comparison groups could include normal individuals (e.g., family members or neighborhood controls), or other patient groups (e.g., hospital controls) who do not have cancer or are not at a particularly high risk of developing cancer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying participants (such as name, address, Social Security Number), medical records, progress reports, correspondence, epidemiological data, and records on biological specimens (e.g., blood, tumors, urine, etc).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, Research and Investigation, and Title IV, Part A, National Cancer Institute, of the Public Health Service Act (42 U.S.C. 241, and 281–286).

PURPOSE(S) OF THE SYSTEM:

Records in this system will be used, (1) to evaluate cancer control programs, including prevention, screening, detection, diagnosis, treatment, rehabilitation, and continuing care; (2) to identify characteristics of persons who may be particularly susceptible to environmental or occupational factors for substances which cause or prevent cancer, and/or to cancer; (3) to determine risk factors or substances which cause or prevent cancer, and the ways in which they do so; (4) to evaluate statistical and epidemiological methodologies for risk factor assessment, clinical trials, cancer control studies, and the study of the natural history of cancers; (5) to plan for, administer, and review research activities as described in the above purposes; (6) information from this system may be reported to the Food and Drug Administration (FDA) as a condition for approval of clinical investigations of new drugs, or to report adverse effects of drugs so that FDA can

make informed decisions on authorizing use of such drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name, Social Security Number when supplied voluntarily or contained in existing records used in projects under this system, or other identifying number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists, and support staff of the National Cancer Institute (NCI), or its contractors, grantees or collaborators who need such information in order to contribute to the research or administrative purposes of the system. The system manager specifically authorizes one-time and special access by others on a need-to-know basis consistent with the purposes and routine uses of the system.

2. Physical Safeguards: Records are kept in limited access areas. Offices and records storage locations are locked during off-duty hours. Input data for computer files is coded to avoid individual identification. Where possible, information on individual identities is kept separate from data used for analysis.

3. Procedural Safeguards: Access to manual files is granted only to authorized personnel, as described above. Access to computer files is controlled through security codes known only to authorized users. Names and other details necessary to identify individuals are not included in data files used for analysis. These files are indexed by code numbers. Code numbers and complete identifiers are linked only if there is a specific need, such as for data verification.

Contractors, grantees or collaborators who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project director, contract officers and project officers oversee compliance with these requirements.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Surveillance Program, DCPC, National Cancer Institute, Executive Plaza North, room 343K, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a file exists, write to the system manager and provide the following information:

a. System name: "Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI";

b. Complete name at time of participation;

c. Facility and home address at the time of participation;

d. In some cases, where records are retrieved by an identifying number, such as the Social Security Number or Hospital Identification Number, it may be necessary to provide that number. In some cases, to ensure proper identification it may be necessary to provide date(s) of participation (if known), birth date, disease type (if known), and study name and location (if known).

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a maximum fine of five thousand dollars.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Write to the system manager and provide the same information as requested under the notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the system manager, identify the record, and specify the information contested. State the corrective action sought and your reasons for requesting the correction, and provide supporting information to show that the record is inaccurate, incomplete, irrelevant, untimely, or unnecessary. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, such as universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate System Manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the NIH, other persons who have participated in or benefitted from NIH programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by NIH; (6) persons who provide feedback about the value or usefulness of information they receive about NIH programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions; (8) persons who have worked or studied at U.S. institutions that receive(d) institutional support from NIH.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables NIH to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Information used for evaluation varies according to the program evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of NIH programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 289l-1 and 44 U.S.C. 3101).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by NIH in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits or privileges of any individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department may disclose information from this system of records to the Department of Justice, to court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes or discs).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity. Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. Authorized Users: Regular access to information in a given set of records is limited to NIH or to contractor employees who are conducting, reviewing or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. Physical Safeguards: Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. Procedural Safeguards: Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in mainframe computers is accessed only through the use of keywords known only to authorized personnel. When personal computers are used, magnetic media (e.g. diskettes) are protected as under Physical Safeguards. When data is stored within a personal computer (i.e., on a "hard disk"), the machine itself is treated as though it were a record, or records, under Physical Safeguards. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; NIH project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–C–2. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS AND ADDRESSES:

See Appendix 1.

Policy coordination for this system is provided by: Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, National Institutes of Health, Building 31, room 4B25, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization responsible for the evaluation, as listed in Appendix 2. If you are not certain which component of NIH was responsible for the evaluation study, or if you believe there are records about you in several components of NIH, write to: NIH Privacy Act Coordinator, Building 31, room 3B07, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information:

1. Full name, and name(s) used while studying or employed;

2. Name and location of the evaluation study or other NIH program

in which the requester participated or the institution at which the requester was a student or employee, if applicable;

3. Approximate dates of participation, matriculation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of records 09–25–0036, "Grants: IMPAC (Grants/Contract Information), HHS/NIH/DRG;" 09–25–0112, "Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD"; NSF–6, "Doctorate Record File", NSF–43, "Doctorate Work History File" (previously entitled "NSF–43, "Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences, professional associations such as the AAMC and ADA, and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—System Managers

National Institutes Health, Office of the Director, Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, Building 31, room 4B25, 9000 Rockville Pike, Bethesda, MD 20892

National Institutes Health, Office of the Director, Director, Division of Personnel Management, Building 1, room B1–60, 9000 Rockville Pike, Bethesda, MD 20892

National Heart, Lung, and Blood Institute (NHLBI), Director, Office of Program Planning & Evaluation, Building 31, room 5A03, Bethesda, MD 20892

National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, room 2S18, Bethesda, MD 20894

National Eye Institute (NEI), Associate Director for Program Planning, Analysis and Evaluation, Building 31, room 6A25, Bethesda, MD 20892

National Cancer Institute (NCI), Public Health Educator, OCC, NCI, National Institutes of Health Building 31, room 4B43, Bethesda, MD 20892

National Institute on Aging (NIA), Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892

National Institute of Allergy and Infectious Diseases (NIAID), Chief, Information Technology and Evaluation Branch, Office of Administrative Management, Building 31, room 7A47, Bethesda, MD 20892

National Institute of Child Health and Human Development (NICHD), Chief, Office of Science Policy and Analysis, Building 31, room 2A10, Bethesda, MD 20892

National Institute on Deafness and Other Communication Disorders, Chief, Program Planning and Health Reports Branch, Building 31, room 1B62, 9000 Rockville Pike, Bethesda, MD 20892

National Institute of Dental Research (NIDR), Chief, Office of Planning, Evaluation Section, Building 31, room 2C36, Bethesda, MD 20892

National Institute of Environmental Health Sciences (NIEHS), Program Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, N.C. 27709

National Institute of General Medical Sciences (NIGMS), Chief, Office of Program Analysis, Westwood Building, room 934, 5333 Westbard Avenue, Bethesda, MD 20892

Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, room B2C32, Bethesda, MD 20892

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, room 457, 5333 Westbard Avenue, Bethesda, MD 20892

National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, Westwood Building, room 8A03, Bethesda, MD 20892

National Center for Nursing Research (NCNR), Chief, Office of Planning, Analysis and Evaluation, Building 31, room 5B13, Bethesda, MD 20892

Appendix 2—Notificiation and Access Officials

NIH, Office of the Director, Associate Director for Science, Policy and Legislation, Building 1, room 137, 9000 Rockville Pike, Bethesda, MD 20892

National Institutes of Health, Office of the Director, Director, Division of Personnel Management, Building 1, room B1–60, 9000 Rockville Pike, Bethesda, MD 20892

National Heart, Lung, and Blood Institute (NHLBI), Privacy Act Coordinator, Building 31, room 5A29, Bethesda, MD 20892

National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, room 2S18, Bethesda, MD 20894

National Eye Institute (NEI), Executive Officer, Building 31, room 6A25, Bethesda, MD 20892

Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, room B2C32, Bethesda, MD 20892

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, room 457, 5333 Westbard Avenue, Bethesda, MD 20892

National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, NIH, Westwood Building, room 8A03, Bethesda, MD 20892

National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, room 10A30, Bethesda, MD 20892

09–25–0158

SYSTEM NAME:

Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Associate Director for Intramural Affairs, National Institutes of

Health, Building 1, room 140, 9000 Rockville Pike, Bethesda, MD 20892 and Office of Education, Building 10, room 1C125, 9000 Rockville Pike, Bethesda, MD 20892 and at locations in each of the intramural offices and laboratories Mere the Intramural Research Training Awards (IRTA) Fellow is located and assigned, including the respective Scientific Director's office, the administrative and personnel offices, and in Division of Personnel Management branches responsible for administering the IRTA Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRTA Fellowships, current IRTA Fellows, and former IRTA Fellows.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, scientific publications; research goals; letters of reference; and personal information such as name, date of birth, Social Security number, home address and citizenship; and information related to fellowship awards such as stipend levels, training assignments, training expenses and travel allowances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 284(b)(l)(C) authorizes PHS to make awards for biomedical research and research training.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to determine individuals' eligibility and evaluate their qualifications for IRTA Fellowships; to document the basis for management actions relating to Fellowships that are awarded; and to provide data for program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to the Office of Personnel Management for evaluation of NIH Personnel programs.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual.

3. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a Federal, State or local agency maintaining civil, criminal or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the selection or retention of a fellow.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with hiring or retention of an employee, the issuance of a security clearance, an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or institute list number.

SAFEGUARDS:

1. Authorized Users: Access is granted only to NIH scientists, administrative office staff, personnel staff and financial management staff directly involved in the administration of the IRTA Program.

2. Physical Safeguards: File folders are kept in locked drawers or locked rooms when system personnel are not present.

3. Procedural Safeguards: Access to file folders is controlled by system personnel. Records may be removed from the files only with the approval of the system manager or other authorized employees. Data stored in the automated system is accessed through the use of keywords known only to authorized personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Intramural Affairs, NIH, Building I, room 103, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORDS ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under the notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, persons and institutions supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0160

SYSTEM NAME:

United States Renal Data System (USRDS), HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at contractor operated coordinating center. Write to the System manager at address below for address of current location.

U.S. Renal Data System, Coordinating Center (CC), 2100 M Street NW., suite 400, Washington, DC 20037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons with end-stage renal disease (ESRD), providers of ESRD services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Health and medical record data; fiscal information; patient names, social security number, Health Care Financing Administration (HCFA) beneficiary ID, patient demographic, epidemiologic and survival characteristics; physician provider characteristics; facility provider characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241a, 289c, as last amended by Pub. L. 100-607, November 4, 1988 under the Health Omnibus Programs Extension of 1988.

PURPOSE(S) OF THE SYSTEM:

(1) To design and implement a consolidated renal disease system that will provide the biostatistical, data management and analytical expertise necessary to characterize the total renal patient population and describe the distribution of patients by sociodemographic variables across treatment modalities.

(2) To report on the incidence, prevalence, and mortality rates of renal disease by primary diagnosis.

(3) To identify the modalities of treatment best suited to individual patients. To compare the various treatment alternatives to examine the prevention and progression of renal disease by morbidity, mortality, and quality of life criteria.

(4) To identify problems and opportunities for more focused investigations of renal research issues currently unaddressed by the consolidated data system.

(5) To share data with other PHS agencies and HCFA for their use in research analysis and program administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure from the record of an individual may be made to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her official capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

2. Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the written request of the Individual.

3. Disclosure may be made to the HHS contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications systems containing or supporting records in the system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) Has secured a written statement attesting to the recipients understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic medium; selected hard copy backup.

RETRIEVABILITY:

Information will be retrieved by patient identification number such as social security number and HCFA beneficiary ID. Individual patient data provided only as noted above. Statistical data provided as noted above and to the general public as part of periodic published reports.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the records:

1. Authorized Users: Regular access is limited to National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), HCFA and contract personnel who have a need for the data in performance of their duties as determined by the system manager.

2. Physical Safeguards: Records are stored in areas where access is restricted to areas where data are maintained and processed; data tapes and hard copy data are stored in locked files in secured areas; terminal access controlled by user ID and keywords; off-site data backups in two locations—a remote area of the same building and a separate building; and fire protection

secured by Halon fire extinguisher system and fire alarm system present in the computer room.

3. Procedural Safeguards: Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project directors, contract officers, and project officers oversee compliance with these requirements.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3(b), which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Epidemiology Program Director, DKUHD, National Institute of Diabetes and Digestive and Kidney Diseases, Division of Kidney, Urologic and Hematologic Diseases, 5333 Westbard Avenue, Westwood Building, room 621, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager at the address noted above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) title of project individual participated in; and (c) approximate dates of participation.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

The majority of health, medical, fiscal and other demographic information on patients and health care providers is from the end stage renal disease program of the Health Care Financing Administration (HCFA). Additional data comes from other HCFA Medicare patient records, the National Death Index, and other sources of non-Medicare ESRD patient records such as the NIH Continuous Ambulatory Peritoneal Dialysis (CAPD) Registry, the United Network of Organ Sharing (UNOS) transplant patients, the Veteran's Administration, and the Indian Health Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0161

SYSTEM NAME:

Administration: NIH Consultant File, HHS/NIH/DRG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH.

Division of Computer Research and Technology Data Management Branch, Building 12A, room 4041B, National Institutes of Health, Bethesda, Maryland 20892.

Write to the appropriate system manager listed in Appendix I for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants who provide the evaluation of extramural grants and cooperative agreement applications and research contract proposals, including the NIH Reviewers' Reserve.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, resumes, curriculum vitae (C.V.s), areas of expertise, publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation, and Section 402 of the Public Health Service Act, describing the appointment and authority of the Director of the National Institutes of Health, (42 USC 241 and 282).

PURPOSE OF THE SYSTEM:

This umbrella system comprises separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH. These records are used: (1) To identify and select experts and consultants for program reviews and evaluations; and (2) To identify and select experts and consultants for the review of special grant and cooperative agreement applications and research contract proposals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors to process or refine the records. Contracted services may include transcription, collation, computer input, and other records processing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders and computer tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, address, or expertise.

SAFEGUARDS:

1. Authorized Users: Data on computer files is accessed by keyword known only to authorized users who are NIH or contractor employees involved in managing a review or program advisory committee, conducting a review of extramural grant applications, cooperative agreement applications, or research contract proposals, performing an evaluation study or managing the consultant file. Access to information is thus limited to those with a need to know.

2. Physical Safeguards: Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

3. Procedural Safeguards: Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

The policy coordinator for this system is also the system manager listed for the Division of Research Grants.

Chief, Physiological Sciences Review Section, Referral and Review Branch, Division of Research Grants, Westwood Building, room 203A, 5333 Westbard Avenue, Bethesda, Maryland 20892 and see Appendix I.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is whom he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—System Managers

Office of the Director (OD), Extramural Programs Management Officer, Building 1, room 328, Bethesda, MD 20892.

National Center for Research Resources (NCRR), Director, Office of Review, Westwood Building, room 10A14, Bethesda, MD 20892.

National Cancer Institute (NCI), Chief, Review Logistics Branch, Westwood Building, room 850, Bethesda, MD 20892.

National Eye Institute (NEI), Review and Special Projects Officer, Building 31, room 6A06, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), Associate Director for Review, Westwood Building, room 557A, Bethesda, MD 20892.

National Institute on Aging (NIA), Chief, Scientific Review Office, Building 31, room 5C12, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases (NIAID), Deputy Director, Division of Extramural Activities, Westwood Building, room 703, Bethesda, MD 20892.

National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Chief, Grants Review Branch, Westwood Building, room 5A07, Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD), Director, Division of Scientific Review, Executive Plaza North, room 520, Bethesda, MD 20892.

National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Scientific Review Branch, Executive Plaza South, room 750, Rockville, MD 20852.

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), Chief, Review Branch, Westwood Building, room 406, Bethesda, MD 20892.

National Institute of Dental Research (NIDR), Chief, Scientific Review Branch, Westwood Building, room 519, Bethesda, MD 20892.

National Institute of Environmental Health Sciences (NIEHS), Deputy Director, Division of Extramural Research and Training, P.O. Box 12233, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences (NIGMS), Chief, Office of Review Activities, Westwood Building, room 9A18, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke (NINDS), Chief, Scientific Review Branch, Federal Building, room 9C10A, Bethesda, MD 20892.

National Center for Nursing Research (NCNR), Executive Secretary, NRRC and NACNR, Building 31, room 5B19, Bethesda, MD 20892.

National Library of Medicine (NLM), Chief, Biomedical Information Support Branch, Building 38A, room 5S522, Bethesda, MD 20894.

National Center for Human Genome Research (NCHGR), Chief, Office of Scientific Review, Building 38, room 6N813, Bethesda, MD 20892.

Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Associate Director for Referral and Review, Parklawn Building, room 13–103, Rockville, MD 20857.

[FR Doc. 91–167 Filed 1–10–91; 8:45 am]

BILLING CODE 4101–01–M

Public Health Service

Centers for Disease Control

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Centers for Disease Control, HHS.

ACTION: Publication of minor changes to notices of systems of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Centers for Disease Control (CDC) is publishing the table of contents and minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: CDC has completed the annual review of its systems of records and is publishing below the table of contents and those minor changes which affect the public's

right or need to know, such as clarifications of categories of individuals or records covered by systems, changes in the system location of records, or the designation and address of system managers.

1. Centers for Disease Control

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A. The following CDC active systems of records were last published in the **Federal Register**, 51 FR 42449, November 24, 1986:

09–20–0000 Cooperative Mycoses Study, HHS/CDC/CID.
09–20–0001 Certified Interpreting Physician File, HHS/CDC/NIOSH.
09–20–0055 Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications, HHS/CDC/NIOSH.
09–20–0059 Division of Training Mailing List, HHS/CDC/NIOSH.
09–20–0089 Studies of Treatment of Tuberculosis and Other Mycobacterioses, HHS/CDC/CPS.
09–20–0090 Studies of Testing for Tuberculosis and Other Mycobacterioses, HHS/CDC/CPS.
09–20–0096 Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/CPS.
09–20–0102 Alien Mental Waiver Program, HHS/CDC/CPS.
09–20–0103 Alien Tuberculosis Follow-up Program, HHS/CDC/CPS.
09–20–0106 Specimen Handling for Testing and Related Data, HHS/CDC/CID.
09–20–0112 CDC Exchange Visitor and Guest Researcher Records, HHS/CDC/PMO.
09–20–0113 Epidemic Investigation Case Records, HHS/CDC/CID.
09–20–0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies, HHS/CDC/NIOSH.
09–20–0118 Study at Work Sites Where Agents Suspected of Being Occupational Hazards Exist, HHS/CDC/NIOSH.
09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/CID.
09–20–0137 Passport File, HHS/CDC/IHPO.
09–20–0138 Epidemic Intelligence Service Officers Files, HHS/CDC/EPO.
09–20–0147 Occupational Health Epidemiological Studies, HHS/CDC/NIOSH.
09–20–0149 Morbidity Studies in Coal Mining, Metal and Non-metal Mining and General Industry, HHS/CDC/NIOSH.
09–20–0153 Mortality Studies in Coal Mining, Metal and Non-metal Mining and General Industry, HHS/CDC/NIOSH.
09–20–0154 Medical and Laboratory Studies, HHS/CDC/NIOSH.
09–20–0157 Clinical Laboratory Personnel Proficiency Test Results (Medicare), HHS/CDC/PHPPO.
09–20–0159 Records of Subjects in Certification, Testing, Studies of Personal Protective Devices, and Accident Investigations, HHS/CDC/NIOSH.
09–20–0160 Records of Subjects in Health Promotion and Education Studies, HHS/CDC/CCDPHP.
09–20–0161 Records of Health Professionals in Disease Prevention and Control Training Programs, HHS/CDC/CPS.
09–20–0162 Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies, HHS/CDC/CEHIC.

B. The following National Center for Health Statistics (NCHS) systems, renumbered to reflect the organizational realignment under CDC, were last published in the **Federal Register**, 51 FR 42368, November 24, 1986:

09–20–0163 Applicants for National Center for Health Statistics Technical Assistance, HHS/CDC/NCHS. (Formerly numbered 09–37–0009.)
09–20–0168 Curricula Vitae of Consultants to the National Center for Health Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0014.)
09–20–0169 Users of Health Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0016.)

C. The following NCHS systems, similarly renumbered to reflect the organizational realignment under CDC, were last published in the **Federal Register**, 49 FR 37692, September 25, 1984:

09–20–0164 Health and Demographic Surveys Conducted in Probability Samples of the United States Population, HHS/CDC/NCHS. (Formerly numbered 09–37–0010.)
09–20–0165 Health Manpower Inventories and Surveys, HHS/CDC/NCHS. (Formerly numbered 09–37–0011.)
09–20–0166 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages, and Divorces Occurring in the United States During Each Year, HHS/CDC/NCHS. (Formerly numbered 09–37–0012.)
09–20–0167 Health Resources Utilization Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0013.)

2. The following systems are amended to reflect changes in the system location of records or the system manager and address category:

09–20–0103

SYSTEM NAME:

Alien Tuberculosis Follow-up Program, HHS/CDC/CPS.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Office of the Director, Division of Quarantine, Center for Prevention Services, 1644 Freeway Office Park, Rm. 1327, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09–20–0106

SYSTEM NAME:

Specimen Handling for Testing and Related Data, HHS/CDC/CID. Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Infectious Diseases, Bldg. 4, Rm. B–35, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

San Juan Laboratories, Center for Infectious Diseases, Centers for Disease Control, San Juan, Puerto Rico 00936.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Chief, Dengue Branch, Division of Vector-Borne Infectious Diseases, Center for Infectious Diseases, Centers for Disease Control, GPO Box 4532, San Juan, Puerto Rico 00936.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09–20–0112

SYSTEM NAME:

CDC Exchange Visitor and Guest Researcher Records. HHS/CDC/PMO. Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Commissioned Corps and Fellowship Program Section, Personnel Management Office, Bldg. 1, Rm. 1421, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Chief, Commissioned Corps and Fellowship Program Section, Personnel Management Office, Bldg. 1, Rm. 1421, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09-20-0137

SYSTEM NAME:

Passport File, HHS/CDC/IHPO. Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

International Health Program Office, Bldg. 11 South, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Director, International Health Program Office, Bldg. 11 South, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09-20-0138

SYSTEM NAME:

Epidemic Intelligence Service Officers Files, HHS/CDC/EPO. Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Epidemiology Program Office, Bldg. 1, rm. 5127, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

09-20-0159

SYSTEM NAME:

Records of Subjects in Certification, Testing, Studies of Personal Protective Devices, and Accident Investigations, HHS/CDC/NIOSH.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Division of Safety Research, National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, WV 26505.

* * * * *

3. To reflect the relocation of the National Center for Health Statistics, system notices 09-20-0163, 09-20-0164, 09-20-0165, 09-20-0166, 09-20-0167, 09-20-0168, and 09-20-0169 are amended to reflect changes in the system location of records and the system manager and address category. The revised categories are published in their entirety below:

* * * * *

SYSTEM LOCATION:

National Center for Health Statistics, Presidential Building, rm. 1140, Centers for Disease Control, 6525 Belcrest Road, Hyattsville, MD 20782.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Director, National Center for Health Statistics, Presidential Building, rm. 1140, Centers for Disease Control, 6525 Belcrest Road, Hyattsville, MD 20782.

* * * * *

4. The following system notices have been updated to clarify and more accurately describe the categories of individuals and the categories of records within the systems:

09-20-0096

SYSTEM NAME:

Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/CPS. Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adult participants in the study, their spouses, and their direct offspring.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to medical treatment of Tuskegee Study Health Benefit Program beneficiaries.

* * * * *

09-20-0167

SYSTEM NAME:

Health Resources Utilization Statistics, HHS/CDC/NCHS. Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing information on: (1) The utilization of long-term care and nursing home care through data on clients and residents (demographic and social characteristics, health status and charges paid for care) and the facility (general characteristics, certification services offered and expenses); (2) the demographic characteristics, medical and other problems of persons visiting physicians, and the physicians' diagnoses, treatment, and disposition decisions made during such visits as obtained from physicians during randomly assigned 1-week survey periods; (3) the demographic characteristics, administrative information (admission and discharge dates, discharge status, and medical record number), and medical information (diagnoses and surgical procedures) abstracted from the face sheet of short-stay hospital medical records.

In many cases, these records do not contain individual identifiers when they come under control of the National Center for Health Statistics; they carry only sequence numbers which only the originating agency would be able to translate into a personal identifier—and even then, not in all cases. Names of residents and staff of nursing homes and patients of physicians are listed on separated forms for sampling purposes only and are not included in the final statistical records.

* * * * *

Dated: October 17, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91-390 Filed 1-10-91; 8:45 am]

BILLING CODE 4160-18-M

Public Health Service

Agency for Toxic Substances and Disease Registry

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Agency for Toxic Substances and Disease Registry, HHS.

ACTION: Publication of minor changes to notice of system of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Agency for Toxic Substances and Disease Registry (ATSDR) is publishing the table of contents and minor changes to its notice of system of records.

SUPPLEMENTARY INFORMATION: ATSDR has completed the annual review of its system of records and is publishing below the table of contents.

Toxic Substances and Disease Registry

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09–19–0001 Records of Persons Exposed or Potentially Exposed to Toxic or Hazardous Substances. HHS/ATSDR/DHS.

This system of records was revised in the **Federal Register**, 54 FR 221, November 17, 1989, to reflect changes in the system location and the system manager and address category.

Dated: October 18, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 91–391 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–70–M

Public Health Service

Indian Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records about Individuals," the Indian Health Service (IHS) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: IHS has completed the annual review of its systems of records. Since the publication of November 17, 1989: (1) IHS has not added to or deleted from its inventory of three systems of records. (2) Except for systems of records 09–17–0002, described below, IHS has made no other changes to its system notices that affect the public's right or need to know, such as changes in the location of records or the address of a system manager. (3) IHS has made no organization changes that affect these Privacy Act systems of records. (4) A table of contents of active systems of records is published below. The complete texts of these three systems of records notices were last published in the **Federal Register** on November 22, 1988, Vol. 53, No. 225, pages 47347 to 47358.

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09–17–0001 Health and Medical Records Systems, HHS/IHS/OHP.
09–17–0002 Indian Health Service Scholarship Programs/HHS/IHS/OHP.
09–17–0003 Indian Health Service Staff Credentials and Privileges Records, HHS/IHS/OHP.

CHANGES:

The following minor changes have been made to two IHS systems of records:

a. 09–17–0001—Health and Medical Records System, HHS/IHS/OHP. A minor alteration has been made to routine use number 3 of this system to permit IHS to provide health and medical record information to organizations which accredit or certify the activities of health care programs. The complete text of routine use number 3 will now read as follows.

1. * * *

2. * * *

3. Records may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, utilization review or to provide accreditation or certification to health care programs.

* * * * *

b. 09–17–0002—Indian Health Scholarship Program, HHS/IHS/OHP. The addresses of the system location and system manager have been revised. These two sections now read as follows.

SYSTEM LOCATION:

Scholarship Branch, Indian Health Service, Room 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, and Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

SYSTEM MANAGER AND ADDRESS:

Chief, Scholarship Branch, Indian Health Service, Room 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852.

Dated: November 27, 1990.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 91–394 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services; Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the address of systems managers.

1. HRSA has added the following systems of records during the year:

09–15–0055 Organ Procurement and Transplant Network (OPTN) Data System, HHS/HRSA/BHRD, 54 FR 51080–51082, December 12, 1989.

2. New routine uses were added to the following systems:

09–15–0001 Division of Federal Occupational and Beneficiary Health Services, Health and Counseling Records, HHS/HRSA/BHCDA, 55 FR 21443–21445, May 24, 1990.

09–15–0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BHCDA, 55 FR 21443–21445, May 24, 1990.

09–15–0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr, 55 FR 7035–7038, February 28, 1990 (name of system or record also changed).

09–15–0055 Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD, 55 FR 36900–36902, September 7, 1990.

3. The following system of records was altered:

09–15–0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr, 55 FR 27567–37570, September 12, 1990.

4. Other minor system notice changes affecting individual categories are published below.

Dated: October 25, 1990.

James A. Walsh,

Associate Administrator for Operations and Management.

Table of contents

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09–15–0001 Division of Federal Occupational and Beneficiary Health Services, Health and Counseling Records, HHS/HRSA/BHCDA.
09–15–0002 Record of Patients' Personal Valuables and Monies, HHS/HRSA/BHCDA.

09–15–0003 Contract Physicians and Consultants, HHS/HRSA/BHCDA.
09–15–0004 Federal Employee Occupational Health Data System, HHS/HRSA/BHCDA.
09–15–0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BHCDA.
09–15–0008 Emergency Non/PHS Treatment Authorization File, HHS/HRSA/BHCDA.
09–15–0022 Accounts Receivable, HHS/HRSA/OA.
09–15–0026 Medical Fellowships and Educational Loans, HHS/HRSA/OA.
09–15–0028 PHS Clinical Affiliation Trainee Records, HHS/HRSA/BHCDA.
09–15–0029 PHS Beneficiary-Contract Medical/Health Care Records, HHS/HRSA/BHCDA.
09–15–0037 Public Health Service (PHS) and National Health Service Corps (NHSC) Health Care Provider Records System, HHS/HRSA/BHCDA.
09–15–0038 Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr.
09–15–0039 Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.
09–15–0040 Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr.
09–15–0041 Health Professions Student Loan Cancellation, HHS/HRSA/BHPr.
09–15–0042 Physician Shortage Area Scholarship Program, HHS/HRSA/BHCDA.
09–15–0043 Cuban Loan Programs, HHS/HRSA/OA.
09–15–0044 Health Educational Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.
09–15–0045 Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.
09–15–0046 Health Professions Planning and Evaluation, HHS/HRSA/OA.
09–15–0052 Nurse Practitioner and Midwifery Traineeship Program, HHS/HRSA/BHPr.
09–15–0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.
09–15–0055 Organ Procurement and Transplantation Network (OPTN) Data Systems, HHS/HRSA/BHRD.
09–15–0056 National Vaccine Injury Compensation Program, HHS/HRSA/BHPr.
09–15–0057 Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr.

09–15–0001

SYSTEM NAME:

Division of Federal Occupational Health Services, Health and Counseling Records, HHS/HRSA/BHCDA.

Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

System manager(s) and address:

Director, Division of Federal Occupational and Beneficiary Health Services, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, 5515 Security Lane, Suite 901, Rockville, MD 20852.

* * * * *

09–15–0003

SYSTEM NAME:

Contract Physicians and Consultants, HHS/HRSA/BHCDA.

Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health Services Support Branch, Division of Federal Occupational and Beneficiary Health Services, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0004

SYSTEM NAME:

Federal Employees Occupational Health Data System, HHS/HRSA/BHCDA.

Changes have been made for clarification and editorial purposes.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Federal Occupational and Beneficiary Health Service, Bureau of Health Care Delivery and Assistance, 5515 Security Lane, Suite 901, Rockville, MD 20852. Data are maintained at the respective service provision sites throughout the United States and Puerto Rico where services are provided to employees of various Federal agencies.

Data are also occasionally located at medical laboratories, medical consultants, or computer processing firm sites. A list of sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees provided occupational health services in PHS/Division of Federal Occupational and Beneficiary Health Services (DFOBHS) service provision sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records documents are maintained at service provision sites. Health services data organized and presented for Agency billing and program planning purposes are maintained in the automated Program Operations Information System (POIS).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V (5 U.S.C. 7901), Health Service to Employees, and OMB Circular No. A–72).

PURPOSE:

The system is designed to provide occupational health record data for clinical and program operations, analysis, planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP), may be given access to files of those persons claiming compensation benefits due to personal injury while on the job.

2. Certain records may be disclosed to medical laboratories, medical consultants, or computer processing facilities under service contract agreement. Recipients are required to maintain adequate safeguards with respect to such records.

3. In the event of a change in sponsorship of a PHS/DFOBHS service provision site or in case of mass transfer of employees covered by a PHS/DFOBHS service provision site to one served by a nondepartmental organization, the occupational health records will be transferred to the custodianship of the new organization.

4. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

5. In the event of litigation where the defendant is:

(a) The Department, any component of the Department, or any employee of the Department in his or her official capacity;

(b) The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

(c) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, in defending a claim against the Public Health Service based upon an

individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual employee medical documents in locked files. Magnetic tape and disc storage of automated Agency billing and program planning and evaluation data.

RETRIEVABILITY:

Name and Social Security numbers, which are supplied on a voluntary basis, are used for retrieval.

SAFEGUARDS:

1. Authorized Users: DFOBHS personnel, service provision site physicians, nurses, and other allied health professionals with a need to know.

2. Physical Safeguards: Magnetic tapes, discs, and other computer equipment and computerized data are stored in areas where fire and life safety codes and security requirements are strictly enforced. All documents are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas.

3. Procedural Safeguards: A user verification and validation code is required to access POIS computer software and internal programming enables file and data element specific access control on a user specific basis. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. Access to automated records is strictly limited to those staff members trained in accordance with the DFOBHS POIS user's manual. Contractors are required to maintain confidentiality safeguards with respect to these records. These safeguards are in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Number of years held: Automated records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Federal Occupational and Beneficiary Health Services, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, 5515 Security Lane, Suite 901, Rockville, MD 20852.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager at the address above. Individuals must provide positive identification, such as a driver's license, passport, voter registration card, union card, or a written certification verifying his or her identity. Individuals must provide treatment locations and approximate date of treatment. Requestors should also reasonably specify the record contents being sought. An individual who requests access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the above address and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting justification.

RECORD SOURCE CATEGORIES:

Information is obtained from the Federal employee, occupational health services provision contractors, health service provider notes, DOL, OWCP and personnel officers of beneficiary Departments and Agencies.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

None.

09–15–0007

SYSTEM NAME:

Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BHCDA.

Minor alterations have been made to this system. The following categories should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Medical Records Department, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

NOTIFICATION PROCEDURES:

To determine the existence of a record, write to the facility where treatment was rendered if listed in Appendix I. (Note that the facility may now be operated under a different name by the successor organization.) If the facility is not listed, write to: Public Health Service Data Center, Gillis W. Long Hansen's Disease Center, Carville, LA 70721. If requesting records by mail, a written certification verifying identity must be provided. If appearing in person at the Gillis W. Long Hansen's Disease Center, Carville, LA, positive identification such as a driver's license, passport, or voter's registration card must be provided. An individual who requests access to a medical/dental record shall designate in writing, at the time the request is made, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. Finally, a parent or guardian who requests notification of access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

* * * * *

09–15–0008

SYSTEM NAME:

Emergency Non-PHS Treatment Authorization File, HHS/HRSA/BHCDA.

Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Name and contract number.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Commissioned Personnel, Room 4A–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0026

SYSTEM NAME:

Medical Fellowships and Educational Loans, HHS/HRSA/OA.

Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Fiscal Services, Health Resources and Services Administration, Room 16–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, and Regional Federal Records Center.

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Debt Management Branch, Division of Fiscal Services, OA/HRSA, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0038

SYSTEM NAME:

Disability Claims of the Nursing Loan Program, HHS/HRSA/BHPr.

Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8–48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Washington National Records Center, 4204 Suitland Road, Washington, DC 20409.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student and Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8–34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0043

SYSTEM NAME:

Cuban Loan Program, HHS/HRSA/OA.

Minor alterations have been made to this system notice. The following categories should be revised.

* * * * *

SYSTEM LOCATION:

Debt Management Branch, Division of Fiscal Services, OA/HRSA, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Debt Management Branch, Division of Fiscal Services, OA/HRSA, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

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09–15–0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/BHPr.

The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Fiscal Services, Office of the Administrator, HRSA, Parklawn Building, Room 16–05, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Professions, HRSA, Parklawn Building, Room 8–05, 5600 Fishers Lane, Rockville, MD 20857.

Indian Health Service, Parklawn Building, Room 6–05, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Care Delivery and Assistance, HRSA, Parklawn Building, Room 7–05, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Drug Abuse, Grants Management Branch, Room 10–25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

National Institute on Alcohol Abuse and Alcoholism, Grants Management Branch, Room 16–86, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Mental Health, Grants Management Branch, OPS, Room 7C–23, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

National Institutes of Health, Division of Financial Management, Federal Assistance, Accounting Branch, Building 31, Room B1B04, 9000 Rockville Pike, Bethesda, MD 20892.

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Policy-Coordination Official: Associate Administrator for Operations and Management, Health Resources and Services Administration, Room 14A–03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Office of the Administrator: Chief, Debt Management Branch, Division of Fiscal Services, Health Resources and Services Administration, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Indian Health Service: Director, Division of Resource Management, Indian Health Service, Room 5A–38, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Professions: Director, Student Assistance Division, Bureau of Health Professions, Room 8–48, 5600 Fishers Lane, Rockville, MD 20857.

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09–15–0054

SYSTEM NAME:

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.

Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

SYSTEM LOCATION:

The Unisys Corporation (the Contractor) operates the National Practitioner Data Bank (the Bank) under contract with the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA). Records are located at the following addresses: (1) National Practitioner Data Bank, P.O. Box 6050, Camarillo, CA 93011–6050; (2) Unisys Corporation, 8301 Greensboro Drive, McLean, VA 22102; and (3) Division of Quality Assurance and Liability Management, BHPr, HRSA, Room 8–67, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0056

SYSTEM NAME:

National Vaccine Injury Compensation Program, HHS-HRSA/BHPr.

Minor alterations have been made to this system notice. The following categories should be revised:

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SYSTEM LOCATION:

Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA), Room 702, 6001 Montrose Road, Rockville, MD 20852.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Health Professions, HRSA, Room 702, 6001 Montrose Road, Rockville, MD 20852.

* * * * *

[FR Doc. 91–392 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Food and Drug Administration (FDA) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: FDA has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in FDA, and (2) those minor changes which affect the public's right or need to know. The last complete text of the system notices was last published in the office of the **Federal Register's** 1987 Annual Compilation of Privacy Act Issuances.

Dated: October 23, 1990.

Jeffrey A. Nesbit,

Associate Commissioner for Public Affairs.

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09–10–0002 Regulated Industry Employee Enforcement Records, HHS/FDA/OC
09–10–0003 FDA Credential Holder File, HHS/FDA/OC
09–10–0004 Communications (Oral and Written) With the Public, HHS/FDA/OC
09–10–0005 State Food and Drug Official File, HHS/FDA/ORA
09–10–0007 Science Advisor Research Associate Program (SARAP), HHS/FDA/ORA
09–10–0008 Radiation Protection Program Personnel Monitoring System, HHS/FDA/CDRH
09–10–0009 Special Studies and Surveys on FDA-Regulated Products, HHS/FDA/OMO
09–10–0010 Bioresearch Monitoring Information System, HHS/FDA
09–10–0011 Certified Retort Operators, HHS/FDA/CFSAN
09–10–0013 Employee Conduct Investigative Records, HHS/FDA/OMO
09–10–0015 Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research, HHS/FDA/CBER
09–10–0017 Epidemiological Research Studies of the Center for Devices and Radiological Health, HHS/FDA/CDRH
09–10–0018 Employee Identification Card Information Record, HHS/FDA/OMO

Minor alterations have been made to the storage and safeguards categories of the following system notice. These categories are being republished in their entirety:

09–10–0013

SYSTEM NAME:

Employee Conduct Investigative Records, HHS/FDA/OMO.

* * * * *

STORAGE:

Paper and automated records, in folders, in file cabinets, and on the FDA central computer.

SAFEGUARDS:

1. *Authorized Users:* Limited access to Division of Ethics and Program Integrity Staff and authorized support staff of the Office of Management and Operations.

2. *Physical Safeguards:* Records are maintained in locked rooms within a locked secured area protected by a 24-hour building guard service.

3. *Procedural Safeguards:* Users of personal information in connection with the performance of their jobs have been instructed to protect such information from public view and from unauthorized personnel. Access is strictly limited to those employees trained in accordance with the Privacy Act. Access to computer records is via user passwords and system access codes.

4. *Implementation Guidelines:* Safeguards are established in accordance with Chapter 45–13 and PHS hf–45–13 of the Department's General Administration Manual.

[FR Doc. 91–393 Filed 1–10–91; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
January 11, 1991

Part III

Small Business Administration

13 CFR Part 107

Small Business Investment Companies; Notice of Intent To Adopt Audit Guide and Reopen Comment Period

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Audit Guide; Government Auditing Standards

AGENCY: Small Business Administration.

ACTION: Notice of intent to adopt an audit guide and reopen comment period.

SUMMARY: This document presents for review and comment an audit guide for use in the performance of independent audits of small business investment companies (SBICs) in accordance with government auditing standards (GAS) issued by the Comptroller General of the United States. This document also reopens the period to submit comments on the proposed rule requiring the adoption of GAS until February 25, 1991.

DATES: Written comments on the audit guide and the proposed rule must be received on or before February 25, 1991.

ADDRESSES: Written comments on the audit guide should be directed to Peter L. McClintock, Assistant Inspector General for Auditing, U.S. Small Business Administration, Office of Inspector General, 4040 North Fairfax Drive, room 501, Arlington, VA 22203. Written comments on the proposed GAS rule should be directed to Thomas C. Bresnan, Staff Accountant, U.S. Small Business Administration, Office of Investment, 1441 L Street NW., room 808, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Peter L. McClintock, Assistant Inspector General for Auditing, (703) 235–8203.

SUPPLEMENTARY INFORMATION: On August 23, 1990, the Small Business Administration published a proposed rule which, if adopted in final form, would require that audits of SBICs by independent public accountants be conducted pursuant to GAS. The proposed rule and a discussion of the significance of the adoption of GAS as an auditing standard appear at 55 FR 34650.

Comments on the proposed rule indicated that without audit guidelines established by the Agency, a regulatory compliance audit under GAS would be extremely difficult to perform and could be prohibitively costly. The commenters argued that an informed response to the proposed rule could not be made until an audit guide was made available for review and comment.

The SBA agreed that final action on the proposed rule should be deferred until an audit guide containing the Agency's audit guidelines was published and an opportunity for review and comment had been afforded the public. The Agency recently published a notice to that effect in the **Federal Register.**

The SBA's audit guide set forth below is being published for review and comment by the public. The guide provides information on regulatory compliance, including suggested compliance tests, as well as sample audit reports. The guide is not intended to be a complete manual of procedures, nor is it intended to supplant the auditor's judgment as to work that may be necessary under specific circumstances. The auditor must use professional judgment in tailoring the procedures contained in the audit guide to a particular audit so that the audit objectives are achieved. At a minimum, however, all compliance requirements contained in the guide must be addressed by the auditor if GAS is adopted as a standard. In that event, the guide will be available from the Agency as a Standard Operating Procedure of the Small Business Administration.

In order to allow interested parties the opportunity to review the audit guide in conjunction with the proposed adoption of GAS, the comment period on the proposed GAS rule is hereby reopened. The Agency will accept comments on GAS until February 25, 1991.

Dated: December 21, 1990.

Susan Engeleiter,

Administrator.

Audit Guide For Use by Independent Public Accountants in Audits of Small Business Investment Companies

Foreword

The United States Small Business Administration (SBA) requires that Small Business Investment Companies (hereinafter referred to as "SBICs"), submit to SBA, in a form acceptable to the SBA Administrator, annual audited financial statements and supporting data as a condition for continued approval to participate in the SBIC program.

SBA's Office of Inspector General developed this guide to provide Independent Public Accountants (IPAs) with information on compliance testing as well as samples of acceptable reporting.

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Chapter 1. General Information

1–1. Purpose

This guide is to assist independent public accountants (IPAs) in performing audits of SBA licensed small business investment companies (SBICs). These audits must be performed in accordance with (1) generally accepted auditing standards as established by the American Institute of Certified Public Accountants (AICPA) and government auditing standards as described in the U.S. General Accounting Office's (GAO) *Government Auditing Standards,* issued by the Comptroller General of the United States (also known as the "Yellow Book").

The objectives of an audit of an SBIC include the objective normally associated with a financial statement audit—whether financial statements submitted to SBA present fairly, in all material respects, the SBIC's financial position, results of operation and cash flows, in accordance with generally accepted accounting principles. However, audits of SBICs have other important objectives which consist of: (1) Determining whether the SBICs are maintaining an internal control structure, consisting of policies and procedures which provides reasonable assurance that it is managing its operations of SBA programs in compliance with applicable laws and regulations and; (2) ascertaining whether SBICs are operating in accordance with applicable laws and regulations.

This guide is primarily designed to provide guidance for compliance testing and related substantive testing used in

the formulation of an opinion on the fairness of the entity's financial statements. This guide is not intended to be a complete manual of procedures, nor is it intended to supplant the auditor's judgment of work that is required in various situations. Moreover, audit procedures contained herein may not cover all circumstances or conditions encountered in the audit of a particular SBIC. The auditor should use professional judgment to tailor the procedures so that the audit objectives are achieved. However, all compliance requirements contained in this guide must be addressed by the auditor. The IPA should contact the appropriate SBA Inspector General personnel (appendix 3) if the auditor desires technical assistance related to performing audits of SBICs.

1–2. Auditor Qualifications

"Independent public accountant" means a public accountant who meets qualification and independence standards, contained in government auditing standards. An accountant will be considered not independent with respect to any SBIC with which he/she has, or had, during the period covered by the audit, any direct financial interest or any material indirect financial interest; or with which he/she is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, employee, or provider of bookkeeping services. Therefore, if such conditions exist, the accountant does not meet the definition of an independent auditor and cannot perform an audit in accordance with SBA requirements. IPAs are (1) licensed certified public accountants or persons working for a licensed certified public accounting firm or (2) public accountants licensed on or before December 31, 1970, or persons working for a public accounting firm licensed on or before December 31, 1970. Accountants and accounting firms meeting these licensing requirements should also comply with the applicable provisions of the public accountancy law and rules of the jurisdiction(s) where the SBIC is located and the jurisdiction(s) in which they are licensed. This jurisdiction(s) must make the IPA subject to regulations, disciplinary measures, or codes of ethics prescribed by law.

The standard on auditor qualifications requires that IPAs comply with the applicable provisions of the public accountancy laws and rules of the jurisdiction where the audit is being conducted. If the SBIC is located in a state other than the state of the auditor, the auditor shall submit evidence or a certification that he or she is permitted to perform audit related services in both locations.

Part 145 of title 13 of the Code of Federal Regulations prohibit IPAs from contracting for services when their name is shown on the U.S. General Services Administration Government-Wide Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees.

1–3. Future Revisions

SBA periodically revises the SBIC program compliance requirements and plans to issue revisions to this guide to reflect these changes as well as changes applicable to audit standards. Revisions to AICPA Statements on Auditing Standards (SAS) are contemplated. The IPA should modify audit procedures to accommodate these revisions as they are issued for those audits performed prior to issuance of the next version of this guide. Furthermore, SBA reserves the right to make periodic revisions to this guide, as circumstances indicate the need to do so. Where revisions are made, SBICs will be promptly notified, but the IPA is responsible for using the most current version of this guide.

1–4. Background

a. Legal Authority

The Small Business Investment Act of 1958, as amended, provides SBA with the authority to administer the SBIC program. The purpose of this Act is to improve and stimulate the National economy, in general, and the small business segment thereof, in particular, by establishing a program to stimulate and supplement the flow of private equity capital and long term loan funds which small business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization.

Section 310 of the Small Business Investment Act of 1958, as amended, and part 107 of title 13 of the Code of Federal Regulations provide for IPAs to audit the books and records of SBICs. The regulations require each SBIC to submit to SBA, at the end of each fiscal year, a report containing financial statements for the fiscal year as well as other management information. The report is to be prepared in accordance with guidance provided by SBA.

b. General Nature of the Program

The SBICs licensed by SBA, are privately organized and privately managed investment firms, yet they are participants in a vital partnership between government and the private sector economy. With their own capital, borrowed funds guaranteed by SBA and preferred stock, where appropriate, the SBICs provide venture capital to small independent businesses, both new and existing.

c. Office of Inspector General

The Inspector General Act of 1978 established the Office of Inspector General (OIG) to conduct and supervise audits of SBA programs, prevent and detect fraud and abuse in those programs, establish guidelines for determining when to use non-Federal auditors, take appropriate steps to assure that any work performed by non-Federal auditors complies with government auditing standards and keep the Administrator and Congress informed about any related problems.

Authority to establish the requirements contained in this guide is pursuant to the Inspector General Act of 1978, as amended. The Inspector General is required to monitor the work of IPAs to ensure audit work meets government auditing standards. This is done, through quality control reviews of selected IPAs' reports and working papers. Therefore, the IPA must make the audit working papers available to representatives of SBA upon request. The audit engagement letter or arrangements for audit between the IPA and the SBIC must allow duly authorized agents of the SBA to examine the IPA's working papers supporting the auditor's reports. Work conducted for financial statement audit purposes and for the compliance and reporting requirements of this guide *must* be conducted by the same IPA. Audit working paper reviews will normally take place at the IPA's office. However, if the IPA requests, working papers may be sent to the SBA OIG office for the review. It is expected that selected copies of the IPAs working papers will be reproduced by OIG.

Whenever an evaluation of an audit report or working papers discloses inadequacies, the IPA may be asked to take corrective action. If the OIG determines that the audit report and/or working papers are substandard or contain major inadequacies, referral to the cognizant State Board of Accountancy and/or AICPA will be considered.

d. Reference Material.

It is essential that the IPA have an adequate understanding of the various aspects and requirements of the SBIC program. In this regard, it is highly recommended that IPAs obtain the necessary materials to become familiar with program requirements. The SBA's

regulations and requirements for SBICs are published in the Code of Federal Regulations (13 CFR part 107) and SBA Policy and Procedural Releases. Each SBIC should have a complete and current set of SBA's issuances in its offices.

Chapter 2. Planning and Completing the Audit

2–1. Audit Objectives, Scope and Coverage

a. Audit Objectives

The objectives of the audit are to determine:

(1) Whether the SBIC's financial statements and required supporting data fairly present the financial position and results of operations in accordance with generally accepted accounting principles.

(2) Whether an adequate internal control structure has been established to ensure compliance with laws and regulations that may have a material impact on the financial statements. Note: Portfolio values and changes in values of securities held by investment companies normally can have the most material impact of the financial statement presentation. Therefore, emphasis must be placed on the auditor's assessment of the SBIC's valuation policies and procedures during the auditor's evaluation of the internal control structure.

(3) Whether the SBIC has complied with laws and regulations for those transactions and events that may have a material effect on the financial statements.

b. Audit Scope

(1) The audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements and supporting data in the reports and must be performed in accordance with government auditing standards and audit requirements as set forth in this guide. The IPA's report must state that the audit was performed in accordance with government auditing standards and the requirements set forth in this audit guide. As used in these instructions, the term "expression of opinion" includes, (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion. If either a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefore must be stated.

(2) SBA's Office of Inspector General also conducts periodic audits of SBICs. These audits are classified as performance audits in accordance with government auditing standards. The OIG's performance audits generally concentrate on the SBIC's compliance with SBA's laws and regulations.

This guide is not intended to require the IPA to perform audit steps that duplicate the OIG's audit work. Therefore, the SBIC can limit the audit scope based on the audit work done by the OIG. This may only be done during years where the OIG's audit period includes at least six months of the audit period under review by the IPA and the OIG's report has been issued. The IPA need not issue a report on compliance with laws and regulations and may eliminate substantive audit tests for compliance. The IPA should consider the results of the OIG work and any corresponding corrective action taken by SBA to determine if it impacts on the IPA's opinion of the SBIC's financial statements. The guidance found in generally accepted auditing standards AU section 543 should be followed.

c. Auditor's Opinion

The opinion should state whether the basic financial statements present fairly the financial position of the SBIC as of the audit date, and the results of its operations for the period then ended, in conformity with generally accepted accounting principles.

In addition, the opinion should state that the supporting data has been subjected to the audit procedures applied in the audit of the basic financial statements and is fairly stated in all material respects in relationship to the financial statements taken as a whole. (Guidance for this may be found in AICPA AU 551.)

d. Internal Control Evaluation and Tests of Compliance With Laws and Regulations

The IPA is also required to review, evaluate and comment on the adequacy of the system of internal controls maintained by the SBIC. The IPA shall report on his/her understanding of the SBIC's internal control structure and the assessment of control risk as part of the financial audit. The IPA must identify at a minimum, (1) the SBIC's significant internal accounting controls, (2) the controls identified that were evaluated, (3) the controls identified that were not evaluated (the IPA may satisfy this requirement by identifying any significant classes of transactions and related assets not included in the evaluation), and (4) any material weaknesses identified as a result of the SBIC's failure to adhere to the certain specific provisions of SBA regulations and procedures applicable to the SBIC's operations. A separate report pertaining to the evaluation of the SBIC's internal control structure must be submitted to SBA under the same requirements as the annual report.

In reviewing the SBIC's internal control structure, the IPA must determine if the SBIC has established (preferably in writing), adequate policies, practices, procedures and controls particularly with regard to safeguarding of its assets and monitor the reliability of its financial data, personnel, portfolio, funds and equipment. The establishment of formal portfolio valuation policies by an SBIC as well as the implementation, administration and amplification of such policies by management are of considerable importance. The IPA should determine whether or not such policies have been put in place and are operating. Note: SBA policy and procedural release #2006 (1975) provides guidance to SBICs as to proper techniques and standards to be followed in valuing their portfolios.

The IPA is not expected to perform a property appraisal or to attest to the soundness of SBIC's underwriting. However, the IPA can effectively determine compliance with SBA requirements and/or SBIC's operating procedures and should report on significant deviations. Basically, the auditor should determine if the operating procedures are acceptable, consistently applied and reasonably supported by underlying documentation.

Furthermore, the IPA shall provide a separate report on compliance with applicable laws and regulations, specifically those required to be reviewed by this guide.

Audit Compliance and Internal Control suggested tests provided in this audit guide are designed to assist the IPA in the audit of compliance and internal control matters which are of particular interest to SBA. The IPA's conclusions on compliance and internal controls should be based on a review of procedures and/or audit tests of transactions. The working papers should document the actual audit work performed and should be appropriately cross-referenced. The IPA may also cite conditions which mitigate disclosed weaknesses. The documentation must become a permanent part of the IPA's working papers which are subject to review by a duly authorized SBA representative.

Materiality should be determined in accordance with SAS No. 47, *Auditing Risk and Materiality in Conducting an Audit.* For purposes of reporting on conditions that relate to an entity's internal control structure, reportable conditions should be determined in

accordance with SAS No. 60, *Communication of Internal Control Structure Related Matters Noted in the Audit.* While determining a "reportable condition" is a matter of IPA judgment, SBA expects that any condition showing a lack of compliance with the SBA requirements included in this guide is such a condition and should be reported to SBA.

e. Consideration of Internal Controls

Government Auditing Standards require that a sufficient understanding of the internal control structure be obtained to plan the audit and to determine the nature, timing, and extent of tests to be performed. In fulfilling the audit requirement relating to an understanding of the internal control structure and assessing the level of control risk, the auditor should follow, at a minimum, the guidance contained in SAS No. 55, *Consideration of the Internal Control Structure in a Financial Statement Audit.* In addition, when auditing an SBIC, the auditor is required to determine and report on whether the SBIC has an internal control structure designed to provide reasonable assurance that it is managing its operations of SBA program activities in compliance with applicable laws and regulations. Thus, the internal control structure must be tested regardless of whether the auditor intends to place reliance on it.

f. Audit Sampling and Other Requirements

Generally, the auditor should use professional judgment to determine how many items to test in support of his/her report on the SBIC's compliance with applicable SBA laws and regulations. However, some evidence of testing of the areas contained in this guide must be in place. Where the auditor decides not to undertake detailed testing, the reasons must be appropriately explained and documented in the IPA's working papers.

The auditor is required to obtain written representations from management as part of an audit made in accordance with generally accepted auditing standards. Written representations by management should also be obtained for matters concerning compliance with SBA laws and regulations, noncompliance with which, has or could have a material effect on the financial statements. Additional guidance is provided in SAS No. 19, Client Representation in SAS No. 12 Inquiry of a Client's Lawyer Concerning Litigation, Claims, and Assessments.

2–2. Audit Standards

The audit work must be performed in accordance with government auditing standards (Yellow Book) which pertain to financial audits. The AICPA issued generally accepted auditing standards are incorporated in the Yellow Book by reference.

2–3. Audit Requirements

The following audit requirements are not intended to limit the scope of audit, the examination of transactions, or the extent of testing. The audit coverage and testing will be determined by the IPA in accordance with prescribed auditing standards and should be shown in the audit working papers. Except as indicated, the IPA must report on the results of each of the follows:

a. Audit of Annual Financial Statements

Each SBIC must submit annual audited financial statements and supporting schedules no later than the last day of the third month following the close of the period covered by the audit. Consolidated financial statements are to be filed with SBA only where the corporate SBIC has a management consulting subsidiary. Combined financial statements are to be filed with SBA only where the limited partnership SBIC has an investment in a management company.

Under SBA regulations, management consulting companies are to be wholly owned are to be consolidated or combined with the SBIC.

Under certain circumstances, a SBIC may temporarily own more than 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the SBIC.

b. Compliance Testing

The IPA's audit of SBICs will include testing for compliance with the applicable laws and regulations. The suggested minimum areas for compliance tests included in this guide (appendix 1) are only intended to assist the IPA in reviewing the SBIC's files and fulfilling the audit requirements of testing for compliance. These areas do not purport to be all-inclusive, nor are they intended to supplant any laws, regulations or policies applicable to the SBIC program.

The evaluation of the significance of departures from compliance with SBA laws and regulations requires the exercise of professional judgment by the IPA. The use of this guide for compliance testing is not intended to limit that judgment. However, if the IPA does not perform the suggested compliance tests, the IPA must justify such departures in the audit working papers.

c. Evaluation of Internal Control Structure

The audit shall include an evaluation of the internal control structure. Both AICPA standards and government auditing standards specify the need for a proper evaluation of the internal control structure as part of the audit. The evaluation establishes a basis for determining the extent to which auditing procedures are to be restricted and are intermediate steps in forming an opinion on the financial statements.

Note: Whenever possible, the auditor's reports should include recommendations to effect compliance with laws and regulations and improve internal controls when significant instances of noncompliance or significant weaknesses in the internal control structure are noted.

2–4. Exit Conference

At the conclusion of the audit, an exit conference is to be held with SBIC officials to discuss the audit findings and obtain comments from those officials on, (1) the correctness and completeness of the facts presented and whether they agree with the audit conclusions, and (2) any action the SBIC officials plan to take or reasons for not taking action.

Chapter 3. Reporting Requirements

3–1. General

The IPA is responsible for preparing a report rendering an opinion on the SBIC's fiscal year-end financial statements and supporting schedules, as well as reporting on tests for compliance and the evaluation of the SBIC's internal control structure. The IPA's opinion and statements regarding the compliance tests and study of the internal control structure must be provided in separate reports. When the IPA submits a management letter to the SBIC's management discussing other matters and exceptions, the IPA's management letter and any response to the letter should accompany the other three reports.

The original and one copy of each of the IPA's reports is submitted by an SBIC to SBA as soon as practicable after completion but not later than the last day of the third month following the close of the period covered by the audit. Copies of any transmittal letter, special reports, or similar communications furnished to the SBIC by the IPA should

be attached to the report. One copy of the report and related correspondence shall be submitted by the IPA to the Office of Inspector General-Assistant Inspector General for Auditing (see Section 3–4 for the address).

3–2. Audit Reports

a. Independent Auditor's Report

Sample IPA reports are illustrated in appendix 2 of this guide. The report must contain an opinion on the fairness with which the SBIC's statements show the financial position and the results of operations. The IPA must also express an opinion as to whether the supporting schedules are fairly stated in all material respects in relation to the basic financial statements taken as a whole. In addition, an opinion must be expressed as to the SBIC's securities valuation procedures and the appropriateness of the supporting documentation.

b. Report on the Internal Control

The IPA must report on the SBIC's internal control structure. The report shall include as a minimum, (1) the scope of the IPA's work in obtaining an understanding of the internal control structure and in assessing the control risk, (2) the SBIC's significant internal controls or control structure including the controls established to ensure compliance with laws and regulations that have a material impact on the financial statements, and (3) the reportable conditions, including the identification of material weaknesses, identified as a result of the IPA's work in understanding and assessing the control risk.

Appendix 2 contains sample Reports on Internal Control (one for instances of no reportable conditions and one for instances of reportable conditions).

c. Report on Compliance With Laws and Regulations

The IPA's audit of SBICs should include, at a minimum, the compliance testing included in this guide. The compliance tests are intended to guide the IPA in reviewing the SBIC's records and in fulfilling audit requirements. Reporting material instances of noncompliance with laws and regulations is a matter of the IPA's professional judgment. However, it is expected that errors or exceptions which the IPA judges to be significant or that represent a pattern of noncompliance with SBA regulations or instructions must be included in the auditor's report. Minor procedural noncompliances that are not material to the financial statements or illegal need only be disclosed in the management letter. Therefore, all events of noncompliance whether judged to be material or otherwise must be reported to SBA (i.e., formal report and/or a copy of the management letter). Normally, events of noncompliance judged to be immaterial are noted and reported in a management letter. This fact should be indicated in the compliance report by using the following language, "We also noted additional matters of noncompliance which were not considered material and we have reported these matters to management in a separate letter dated [date]."

The IPA should attempt to identify the conditions, criteria, cause and effect of each weakness to permit timely and proper corrective actions.

The report on compliance testing should include the IPA's recommendations and observations warranting the attention of the SBIC and SBA officials. The reviews and comments of SBIC management should be included for each item. Comments should also be made as to the status of the corrective action taken by the SBIC on these items.

Appendix 2 contains sample Reports on Compliance (one for no instances of noncompliance and one for instances where noncompliances are noted).

3–3. Reporting Errors, Irregularities or Illegal Acts

The auditor should assess the risk that errors and irregularities may cause the financial statements to contain a material misstatement. The auditor should design the audit to provide reasonable assurance of detecting errors or irregularities that are material to the financial statements. The auditor should also apply audit procedures specifically directed to ascertain whether an illegal act has occurred. When the auditor becomes aware of information concerning a possible illegal act, the auditor should obtain an understanding of the nature of the act, the circumstances in which it occurred, and sufficient other information to evaluate the effect on the financial statements. If the auditor becomes aware of illegal acts or indications of such acts, the auditor will promptly prepare a separate written report concerning the acts and include all facts and circumstances surrounding the matter. The IPA shall promptly advise the highest responsible official of the SBIC concerning any apparent defalcation or fraudulent or illegal act that may come to his/her attention in connection with the audit. The IPA must obtain documented assurance, prior to issuance of the audit report, that the SBIC has fully disclosed the particulars of the possible illegal act to SBA's Investment Division and Office of Inspector General. If the SBIC does not make such notifications to SBA within 30 days or does not provide the IPA evidence of notification, the IPA must make the notifications.

The auditor should also use discretion to avoid any actions which would compromise the protection of an individual's right and the integrity of any official inquiries. For supporting guidance, see Government Auditing Standards and the AICPA's statements on auditing standards No. 53 and 54 entitled The Auditors Responsibility to Detect and Report Errors or Irregularities and Illegal Acts by Clients, respectively.

3–4. Other

Questions relative to audit testing or the handling of irregularities disclosed during the audit should be addressed to: Office of Inspector General, Assistant Inspector General for Auditing, SBA, 4th & D St. SW., Rm _____, Washington, DC 204____, (202) _____–_____.

Questions relative to SBA SBIC regulations or requirements should be addressed to: Director, Office of Investment, SBA, 4th & D St. SW., Rm _____, Washington, DC 204____, (202) _____–_____.

Appendix 1—Suggested Tests for Compliance

To assist the IPA in conducting the compliance aspects of the audit, this Appendix includes suggested minimum compliance tests pertaining to the regulatory requirements stated in the Small Business Investment Act of 1958 as amended. These tests are not intended to be substitutes for the applicable laws, regulations and policies and are not to limit the IPA's judgment as to the work needed to fulfill the audit requirements and to meet government auditing standards.

In addition to the testing necessary to report on the required financial statements, supporting data and on the internal control structure, the IPA should also perform procedures to provide reasonable assurance that the SBIC is complying with laws and regulations pertaining to the SBA SBIC program. The objectives of tests of compliance with laws and regulations are to (1) determine whether there have been events of noncompliance that may have material effect on the financial statements, and (2) provide a basis for reporting on the SBIC's compliance with such laws and regulations. Accordingly, the tests of compliance with laws and regulations are substantive tests usually

accomplished by examining supporting documentation. In determining the extent of substantive tests of compliance with laws and regulations that are required, the IPA may choose to rely on the internal control structure designed to ensure compliance in order to reduce the extent of substantive testing.

To rely on the internal control structure, the IPA must obtain a sufficient level of understanding about its operation. Gaining a strong understanding of the internal control structure is important to adequately assess compliance with laws, regulations and SBA requirements, and should be documented through the use of flow charts and/or narrative descriptions.

In general, "good" internal control exists when no one person is in a position to make significant efforts to perpetrate significant irregularities without timely detection. Therefore, an internal control structure should include those procedures necessary to assure timely detection of a failure of accountability, and such procedures should be performed by competent persons who have no incompatible duties. Existence of prescribed internal control procedures is necessary but not sufficient for effective internal control. For example, prescribed procedures that are not actually performed do nothing to establish control. Consequently, the IPA must give thoughtful attention, not only to the prescribed set of procedures, but also to the practices actually followed. That can be accomplished through inquiry, observation, testing, or a combination thereof.

While specific compliance requirements and suggested minimum audit areas are provided in this guide, the IPA should be familiar with relevant statutes and sections of the Code of Federal Regulations to obtain a complete understanding of the compliance requirements. Specific requirements may change periodically, and IPAs should be alert to this possibility through their contacts with the SBIC organization and other means. Although each suggested compliance requirement should be tested by the IPA; the IPA should apply professional judgment to determine specific audit procedures necessary to be applied under the circumstances.

Suggested Compliance Tests

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a. Overline Limitation.....
b. Cost of Money Limitation.....
c. Operations Under the Act.....
d. Control of Small Concern.....
e. Prohibited Use of Funds.....
f. Conflicts of Interest.....
g. Minimum Period of Financing.....

Overline Limitation (13 CFR 107.303)

Without SBA's written approval, a section 301(c) SBIC shall not provide financial assistance, including commitments and guarantees, to an individual small concern (including any affiliated concerns) that in aggregate exceeds 20 percent of the SBIC's private capital. For section 301(d) SBICs, the limitation is 30 percent of its private capital. For this computation only, the SBIC's private capital may be increased by including the net unrealized gains of the SBIC represented by marketable securities subject to the conditions set forth in 13 CFR 107.303(b).

Concerns are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party or parties control or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists. For example, a party owning 50 percent of the voting stock of a concern would have negative power to control such concern since the party can block any action of the other stockholders.

While reviewing the SBIC's portfolio of financed concerns, the IPA should:

1. Ascertain whether the SBIC has provided financings to an individual small concern (including their affiliates) in an aggregate amount that exceeds the limitation.

2. Determine whether the SBIC has written correspondence from SBA granting approval to exceed the financing limitation for financed small concerns and, if applicable, their affiliates.

3. Assure, where the increased financing limitation is used, that the SBIC has documentation supporting the increased limitation and applicable maintenance features as set forth in 13 CFR 107.303(b).

Cost of Money Limitation (13 CFR 107.3 and 107.302)

Subject to lower ceilings prescribed by local law, the cost of money (see 13 CFR 107.3 for definition) charged by a SBIC shall not exceed the following:

Loans

(1) If the current debenture rate is 8 percent per annum or lower, the cost of money shall not exceed 15 percent, or

(2) If the current debenture rate is in excess of 8 percent per annum, the cost of money shall not exceed the sum of the current debenture rate plus 7 percentage points, but rounded off to the next lowest eighth of one percent.

Debt Securities

(1) If the current debenture rate is 8 percent per annum or lower, the cost of money shall not exceed 14 percent, or

(2) If the current debenture rate is in excess of 8 percent per annum, the cost of money shall not exceed the sum of the current debenture rate plus 6 percentage points, but rounded off to the next lowest eighth of one percent.

Ceiling on Specific financing

The maximum cost of money on any specific financing shall be determined with reference to the debenture rate in effect at the time of first disbursement or when a legally binding written commitment was issued, whichever occurs first. A fluctuating interest rate is nevertheless subject to the maximum cost of money limitation in effect at the time of commitment, or of first disbursement if no legally binding written commitment was issued.

Applicability to existing financings

The maximum annual cost of money on any financing made or committed before April 16, 1980 shall in no event exceed the lesser of 15% or any lower rate prescribed by local law.

While reviewing the SBIC's portfolio of financed concerns, the IPA should:

1. Determine whether the SBIC has provided financings to small concerns in the form of loans or debt securities that exceed the cost of money limitation.

2. Where the interest rate is fluctuating, e.g., prime plus, determine whether the cost of money charged by the SBIC is limited to an amount not to exceed that allowed by SBA at the time of financing.

Note. A cost of money violation usually occurs from excessive fees, unusual fees and/or discounts on loans. Therefore, audit emphasis should be placed on the fee aspect of financings.

Operations Under The Act (13 CFR 107.703)

An SBIC shall be an incorporated body or a limited partnership organized and chartered or otherwise existing

under State law solely for the purpose of performing the functions and conducting lawful activities that are contemplated under the Small Business Investment Act of 1958, as amended.

In connection with the audit engagement, the IPA should obtain representatives from the SBIC regarding its compliance with State and Federal laws and regulations and its lawful operation as contemplated by the Act. While conducting the audit, the IPA should be alert for situations which may indicate the SBIC has engaged in unlawful or other activities not contemplated by the Act. Of special concern to SBA, is that SBICs are financing concerns not meeting the definition of "small" (13 CFR, part 121) and the financing proceeds are used for nonbusiness purposes.

Control of Small Concern (13 CFR 107.801)

The SBIC, or an SBIC and its associates, or two or more SBICs are prohibited from assuming control of a small concern. However, if control is deemed necessary for the SBIC to protect its investment, the SBIC may assume control of a small concern if (1) it has entered into a written plan, (2) the plan is enforceable by the small concern or its shareholders, providing for relinquishment of control within a reasonable time, not to exceed seven years. The plan shall be filed with SBA and the small concern within 30 days after control is acquired and is subject to SBA's post approval as to form and substance.

Control, as defined in 13 CFR 107.3, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a SBIC or a small concern whether through the ownership of voting securities, by contract, or otherwise.

While reviewing the SBIC's investment files, the IPA should:

1. Determine whether the SBIC has assumed control of small concerns.

2. Ascertain whether the SBIC has submitted plans of relinquishment to SBA in a timely manner for small concerns of which the SBIC has assumed control.

Prohibited Use of Funds (13 CFR 107.901)

The SBIC is prohibited from providing financial assistance to small concerns:

(a) For relending or reinvesting if the primary business activity involves directly or indirectly providing funds to others, the purchase of debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair. However, venture capital financing, as defined in 13 CFR 107.202(b), of any disadvantaged small concern engaged primarily in relending or reinvesting activities is permitted, except for banks and savings and loans association not insured by agencies of the Federal government, and agricultural credit companies. Without SBA's prior written approval, the aggregate of such financings shall not exceed the SBIC's private capital as of the close of any full fiscal year.

(b) For purchasing stock directly or indirectly in or otherwise providing capital for a SBIC, or to repay an indebtedness to accomplish such purpose.

(c) That is classified under Major Groups 65 (Real Estate) of the Standard Industrial Code Manual (SIC Manual) with the exception of eligible categories provided for in the regulations.

(d) For purposes contrary to the public interest, including but not limited to activities which are in violation of law, or inconsistent with full competitive enterprise.

(e) For use outside the United States with exceptions provided for in the regulations.

(f) That is not engaged in a regular and continuous business operation; however, this prohibition shall not apply to any small concern wholly owning another eligible small concern engaged in a regular and continuous business operation.

(g) If 50 percent or more of the funds are used to purchase goods or services from a supplier which is an associate of the SBIC. However, (1) such funds may not be used to purchase capital goods from an associate supplier, (2) with a section 301(d) SBIC, such limit shall be 75 percent, and (3) goods and services shall be at a price no greater than those charged to other customers of the associate supplier.

While reviewing the SBIC's portfolio of financed concerns, the IPA should:

1. Determine whether the SBIC has provided financings to small concerns that are engaged in relending or reinvesting its funds. If so, determine whether the assistance qualifies as venture capital financing to disadvantaged small concerns.

2. Ascertain whether the SBIC has provided financial assistance to small concerns that have directly or indirectly purchased stock in or otherwise provided capital for an SBIC, or to repay an indebtedness for such purpose.

3. Ascertain whether the concerns financed by the SBIC are classified under Major Group 65 of the SIC Manual. If so, determine whether the concerns qualify as eligible for financing under the exceptions provided for in the regulations.

4. Determine whether the SBIC has financed concerns for purposes contrary to public interest as set forth in SBA's Policy and Procedural Release #2015.

5. Ascertain whether the SBIC provided financings to small concerns for uses outside the United States. If so, determine whether the uses are permitted under the exceptions in the regulations.

6. Determine whether the small concerns financed by the SBIC are engaged in regular and continuous business operations. If not, determine whether the concerns wholly own other eligible concerns engaged in regular and continous business operations.

7. Ascertain whether the SBIC has financed small concerns where 50 percent or more of the funds are used to purchase goods and services, at prices no greater than other customers, from a supplier which is an associate of the SBIC or whether such funds are used to purchase capital goods from an associate. (**NOTE:** 13 CFR 301(d) SBICs limit is 75 percent)

Conflicts of Interest (13 CFR 107.903)

The Act contemplates the establishment of a system of licensed SBICs to provide equity and long-term financing to independent small business concerns. It does not contemplate use of program funds in situations wherein the same parties or their associates have substantial interests in both the small concern and the SBIC. Also the Act does not contemplate evasion of this principle by circular or cross arrangements between SBICs whereby each undertakes to finance a concern affiliated with the principals of other SBICs. Except where written exemption is granted by SBA in special instances, a SBIC shall not engage in transactions that would constitute conflicts of interest as described in 13 CFR 107.903.

Prior to reviewing the SBIC's investment records for possible conflicts of interest, the IPA should be thoroughly familiar with the definition of an "associate" as described in 13 CFR 107.3 and have a comprehensive understanding of the regulations pertaining to "conflicts of interest" as set forth in 13 CFR 107.903.

Other suggestions that could assist the IPA while reviewing the SBIC's investment records are included with the suggested compliance tests shown below. It should be noted, however, that these suggestions are not intended to be all-inclusive, nor are they intended to replace the IPA's professional judgment in conducting the audit.

1. Determine whether the SBIC has written correspondence from SBA granting exemptions for transactions involving conflicts of interest. This documentation, if any, should be included in the SBIC's correspondence files.

2. Ascertain whether the SBIC has provided financings directly or indirectly to associates as defined in 13 CFR 107.3 of the regulations. The IPA could, (1) request the SBIC's management to provide specific statements in its management representation letter addressing financings relative to 13 CFR 107.3 and 107.903, (2) include questions about this subject in the confirmation letters sent to the financed concerns, and (3) review names (officers, directors, owners and employees) of the concerns financed by the SBIC to determine whether commonalty exists with names associated with the SBIC. If names are in common, further inquiry should be made to determine whether a relationship exists.

3. Determine whether the SBIC has directly or indirectly engaged in reciprocal financial arrangements with associates of other SBICs. The IPA review names associated with other SBICs that may have some connection with the SBIC (e.g., joint, financings, national origin, etc.) for commonality of names associated with concerns financed by the SBIC.

4. Ascertain whether the SBIC or any of its associates has borrowed money directly or indirectly from small concerns financed by the SBIC, or associates of those concerns. When borrowings are indicated, the IPA could review documentation applicable to the loans and, if deemed necessary, contacts with the lenders could be made. The IPA could also request the SBIC's management to address this subject in its representation letter.

5. Ascertain whether the SBIC has provided financings directly or indirectly to discharge or free other funds for use in discharging obligations of associates. If so, determine whether the financings are permitted by SBA's exception for associate lending institutions. The IPA could review all documentation relative to the stated purposes for the financings. The IPA could include questions about this subject in confirmation letters sent to the financed concerns. For those financing indicating problems, personal contacts could be made with the concerns to verify the use of the funds.

6. Determine whether the SBIC has provided financings to small concerns to purchase property from associates of the SBIC. The IPA could include questions about this subject in its confirmation letters to the financed concerns. The SBIC's representation letter could also address this subject. For those financings indicating the funds were used for property purchases, personal contacts with the financed concerns and/or sellers of the properties should be made.

7. Ascertain whether the SBIC has provided financings to non-associates that are also financed by associates of the SBIC contemporaneously or within six months before or after the SBIC's financing. If so, determine whether the financing was on terms less favorable to the SBIC than the associates. 13 CFR 107.903 (c)(1) requires the SBIC to retain written evidence of this type of financing. The IPA could review this documentation for confirmation.

8. Determine whether an associate of the SBIC has received compensation directly or indirectly from small concerns in connection with assistance rendered by the SBIC. If so, determine whether the SBIC received SBA's written approval to receive the compensation. The IPA could request the SBIC's management to address this subject in its representation letter. The IPA could also include questions about this subject in its confirmation letters to the financed concerns. For those financings indicating problems, the IPA should make personal contacts with the applicable concerns for additional information.

Minimum Period Of Financing (13 CFR 107.301(a) and 107.403(b)(1))

All SBICs are permitted to finance disadvantaged small concerns, as defined in SBA's Policy and Procedural Release # 2017, for a minimum period of four years; however, the aggregate of such financings for less than five years shall not exceed 50 percent of the SBIC's portfolio at the end of any fiscal year. With the exception of allowable short-term financings as discussed below all other financings, including those made by Section 301(d) SBICs, shall be for a minimum period of five years.

All SBICs may provide short-term financings (less than five years) to small concerns when they constitute: (1) interim financing in contemplation of long-term financing, (2) the protection of prior investments, or (3) financing ownership change in accordance with 13 CFR 107.711. The maximum aggregate period for these short-term financings cannot exceed one year.

While reviewing the SBIC's investment documents, the IPA should:

1. Determine whether the SBIC has provided financings to disadvantaged small concerns for minimum periods of four years. If so, determine whether the aggregate of such financings exceeds 50 percent of the SBIC's portfolio at the end of the fiscal year.

2. Ascertain whether the SBIC has financed small disadvantaged concerns with maturity periods less than four years, or other small concerns with maturity periods of less than five years.

3. For those financings with maturity periods less than four years for disadvantaged small concerns and five years for other small concerns, determine whether the financings qualify as short-term. If so, determine whether the maturity periods of such financings exceed one year.

Appendix 2—Sample Audit Reports

This appendix provides examples of the three auditor's reports that are required to be filed annually with the SBA Form 468. These examples are for illustration only. They represent the position of SBA regarding the application of professional auditing standards on reports of SBICs as of the date of this guide. However, when changes in standards occur or the circumstances of an audit dictate otherwise, the auditor is responsible to revise his/her reports accordingly.

Independent Auditor's Report

To the Shareholders and Board of Directors, XYZ Investment Company

We have audited the accompanying statement of financial condition of (SBIC name) including the schedule of investments as of (date for close of fiscal period), and the related statements of operations and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and supplementary schedules based on our audits.

We conducted our audit in accordance with generally accepted auditing standards and government auditing standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Our procedures included confirmation of securities owned as of (insert date for close of fiscal period), by correspondence with the custodian and brokers. An audit also includes

assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The supporting data contained in Schedules 1 through 6 is presented for purposes of additional analysis and to conform with the requirements of preparing the SBIC's annual report to the Small Business Administration and is not a required part of the financial statement of (SBIC's name). Such information has been subjected to the audit procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

As explained in note (identify the note or notes), the financial statements include securities valued at $_____, whose values have been estimated by the Board of Directors in the absence of readily ascertainable market values. We have reviewed the procedures used by the Board of Directors in arriving at its estimate of value of such securities and have inspected underlying documentation and, in the circumstances, we believe the procedures are reasonable, and the documentation is appropriate. However, because of the inherent uncertainty of valuation, those estimated values may differ significantly from the values that would have been used had a ready market for the securities existed, and the differences could be material.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of (SBIC name) as of [date] the results of its operations and its cash flows for the year than ended in conformity with generally accepted accounting principles.

Independent Auditor
(Manually Signed)
City & State
Date

Note: The auditor's report above includes an explanatory paragraph when the financial statements contain securities whose values were estimated by the board of directors in the absence of readily ascertainable market values, and the range of possible values of those securities is significant. The report, as illustrated above, should be used only if the auditor concludes that, after examining the underlying documentation supporting the board's good-faith estimate of value, the valuation principles are acceptable, are being consistently applied, are reasonable supported by the documentation, and the range of possible values is significant. If the range of possible values is not significant, the explanatory paragraph is not needed.

If the auditor concludes that the valuation procedures are inadequate or unreasonable, or that the underlying documentation does not support the valuation, the auditor would normally express a qualified opinion as follows:

Independent Auditor's Report

(Securities valuation problems noted)

To the Shareholders and Board of Directors, XYZ Investment Company

[Same first, second and third paragraphs as in the prior illustrated report]

As explained in note (identify the note or notes), the financial statements include securities valued at $_____, whose values have been estimated by the Board of Directors in the absence of readily ascertainable market values. We have reviewed the procedures used by the Board of Directors in arriving at its estimate of value of such securities and have inspected underlying documentation. In our opinion, those procedures are not reasonable, and/or the documentation is not appropriate to determine the value of the securities in conformity with generally accepted accounting principles. The effect on the financial statements of not applying adequate valuation procedures is not readily determinable.

In our opinion, except for the effects on the financial statements of the valuation of investment securities determined by the Board of Directors, as described in the preceding paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of (SBIC name) as of [date] the results of its operations and its cash flows for the year than ended in conformity with generally accepted accounting principles.

Independent Auditor
(Manually Signed)
City & State
Date

Report on Compliance with Laws and Regulations

(No material Noncompliance Noted)

To the Shareholders and Board of Directors, (SBIC Name)

We have audited the financial statements of (SBIC name) as of and for the year ended [date] and have issued our report thereon dated (date of report). We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws and regulations applicable to the Company is the responsibility of the Company's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the Company's compliance with certain provisions of laws and regulations. We also considered and made tests of the compliance matters comprehended in Small Business Administration's Audit Guide for use by Independent Public Accountants in audits of Small Business Investment Companies. However, our objective was not to provide an opinion on overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, the Company complied, in all material respects, with the provisions referred to in the preceding paragraph. With repect to the items not tested, nothing came to our attention that caused us to believe that the Company had not complied, in all material respects, with those provisions. (However, we noted additional matters of noncompliance which were not considered material and we have reported these matters to management in separate letter dated [date].)

This report is intended for the information of the audit committee, Board of Directors, management, and the Small Business Administration. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Independent Auditor
(Manually Signed)
City & State
Date

Report on Compliance with Laws and Regulations

(Material Noncompliance Noted)

To the Shareholders and Board of Directors, (SBIC Name)

[Same first and second paragraphs as in the report illustrated above]

Material instances of noncompliance are failures to follow requirements, or violations of prohibitions, contained in

statutes or regulations that cause us to conclude that the aggregation of the misstatements resulting from those failures or violations is material to the financial statements. The results of our tests of compliance disclosed the following material instances of noncompliance.

[Include paragraphs describing the material instances of noncompliance noted and the auditor's recommendations to correct the noncompliance and/or prevent reoccurrence.]

We considered these material instances of noncompliance in forming our opinion on whether [SBIC's Name] 199X financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles, and this report does not affect our report dated [date of report] on those financial statements.

Except as described above, the results of our tests indicate that, with respect to the items tested, the Company complied, in all material respects, with the provisions referred to in the second paragraph of this report. With respect to the items not tested, nothing came to our attention that caused us to believe that the Company had not complied, in all material respects, with those provisions.

[Note: If pervasive noncompliance is noted, the auditor should consider revising his/her statement with respect to items not tested. In addition, pervasive noncompliance may be cause for an opinion on the financial statements other than unqualified.]

We also noted additional matters of noncompliance which were not considered material and we have reported these matters to management in a separate letter dated [date].

This report is intended for the information of the audit committee, Board of Directors, management, and the Small Business Administration. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Independent Auditor
(Manually Signed)

City & State
Date

Report on the Internal Control Structure

(No Reportable Conditions)

To the Shareholders and Board of Directors, (SBIC name)

We have audited the financial statements of (SBIC name) as of and for the year ended [date] and have issued our report thereon dated (date of report). We conducted our audit in accordance with generally accepted auditing standards and government auditing standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of (SBIC name) for the year ended [date] we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

In connection therewith, we have also made a study of internal control procedures established by (SBIC name) in accordance with the Small Business Administration requirements and guidance set forth in Small Business Administration's Audit Guide for use by Independent Public Accountants in Audits of Small Business Investment Companies. Our study included tests of compliance with such procedures.

The management of (SBIC name) is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories (identity internal control structure categories).

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions, (as defined by generally accepted auditing standards) and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure element does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

We understand that the objectives of the control procedures referred to in the third paragraph of this report are to provide assurance concerning compliance with Small Business Administration's related requirements and procedures that do not accomplish such objectives indicate some inadequacy for such purposes. Based on this understanding and on our study, we believe that the Company's procedures would be adequate for such purposes.

This report is intended for the information of the audit committee, the Board of Directors, management, and the Small Business Administration. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Independent Auditor
(Manually Signed)

City & State
Date

Report on the Internal Control Structure

(Reportable conditions noted)

To the Shareholders and Board of Directors (SBIC Name)

[Same as the first four paragraphs as above.]

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the organization's

ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

[Include paragraphs to describe the reportable conditions noted and the auditor's recommendation(s) to correct the condition.]

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure element does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We believe none of the reportable conditions described above is a material weakness. [However, we noted certain other matters not considered to be reportable conditions which involve the internal control structure and its operation. We have reported these matters to the management of the (SBIC Name) in a separate letter dated [date].]

We understand that the objectives of the control procedures referred to in the third paragraph of this report are to provide assurance concerning compliance with Small Business Administration's related requirements; and procedures that do not accomplish such objectives indicate some inadequacy for such purposes. Based on this understanding and on our study, we believe that the Company's procedures would be adequate for such purposes.

This report is intended for the information of the audit committee, the Board of Directors, management, and the Small Business Administration. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Independent Auditor
(Manually Signed)

City & State
Date

Appendix 3—Directory of Inspectors General For Auditing

Mr. Peter L. McClintock, Assistant Inspector General for Auditing, Small Business Administration, Washington, DC _____, (202) _____-_____

Eastern Region

Mr. Dale C. Williams, Regional Inspector General for Auditing, Small Business Administration, Washington, DC _____, (202) _____-_____

Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Virginia, Washington, DC, Puerto Rico

Central Region

Mr. James. L. Thompson, Regional Inspector General for Auditing, Small Business Administration, 1720 Peachtree Street, N.W., Suite 900N, Atlanta, Georgia 30367, 404-257-0353

North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Tennessee, Kentucky, Ohio, Indiana, Michigan, Wisconsin, Illinois, Minnesota, Iowa, Nebraska, Kansas, North Dakota, South Dakota

Western Region

Mr. Richard N. Hobaugh, Regional Inspector General for Auditing, Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105, (415) 484-6819

California, Oregon, Washington, Alaska, Hawaii, Idaho, Nevada, Arizona, Utah, Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma

[FR Doc. 91-711 Filed 1-10-91; 8:45 am]
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Friday, January 11, 1991

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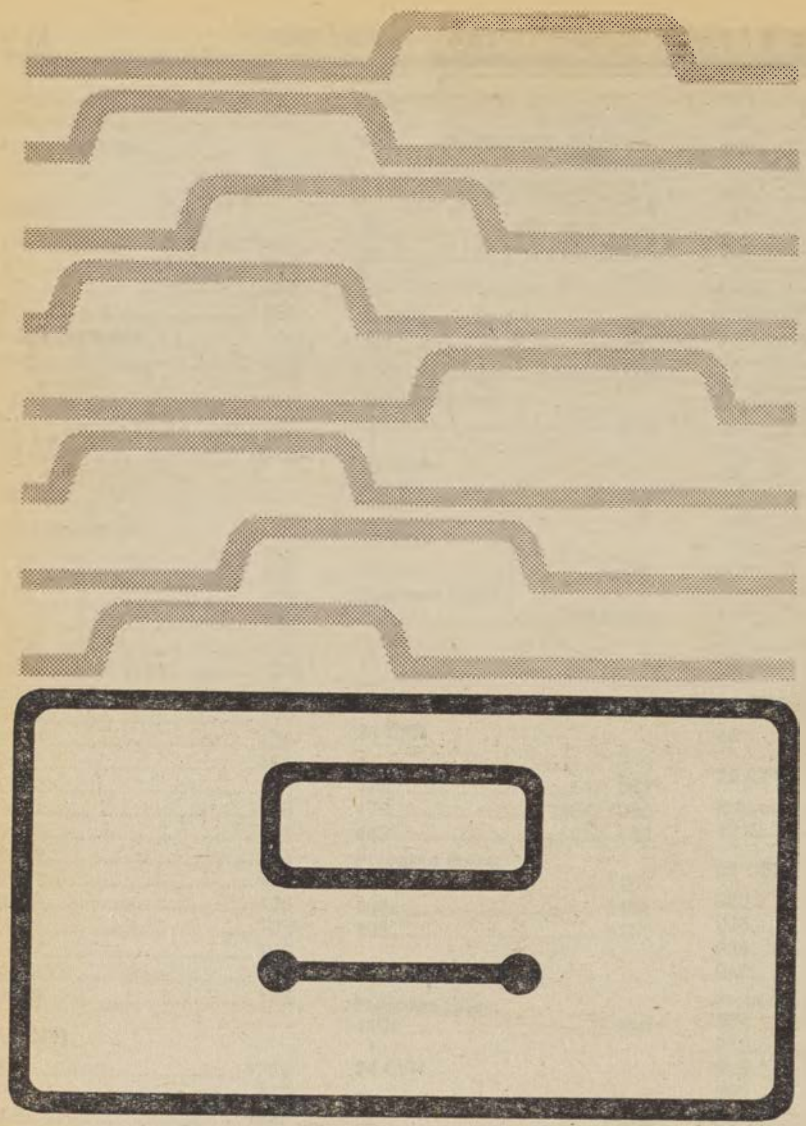
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LIST OF PUBLIC LAWS

Note: The list of Public Laws for the second session of the 101st Congress has been completed and will resume when bills are enacted into law during the first session of the 102d Congress, which convenes on January 3, 1991.

A cumulative list of Public Laws for the second session was published in Part II of the **Federal Register** on December 10, 1990.



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in the Code of Federal Regulations (CFR)

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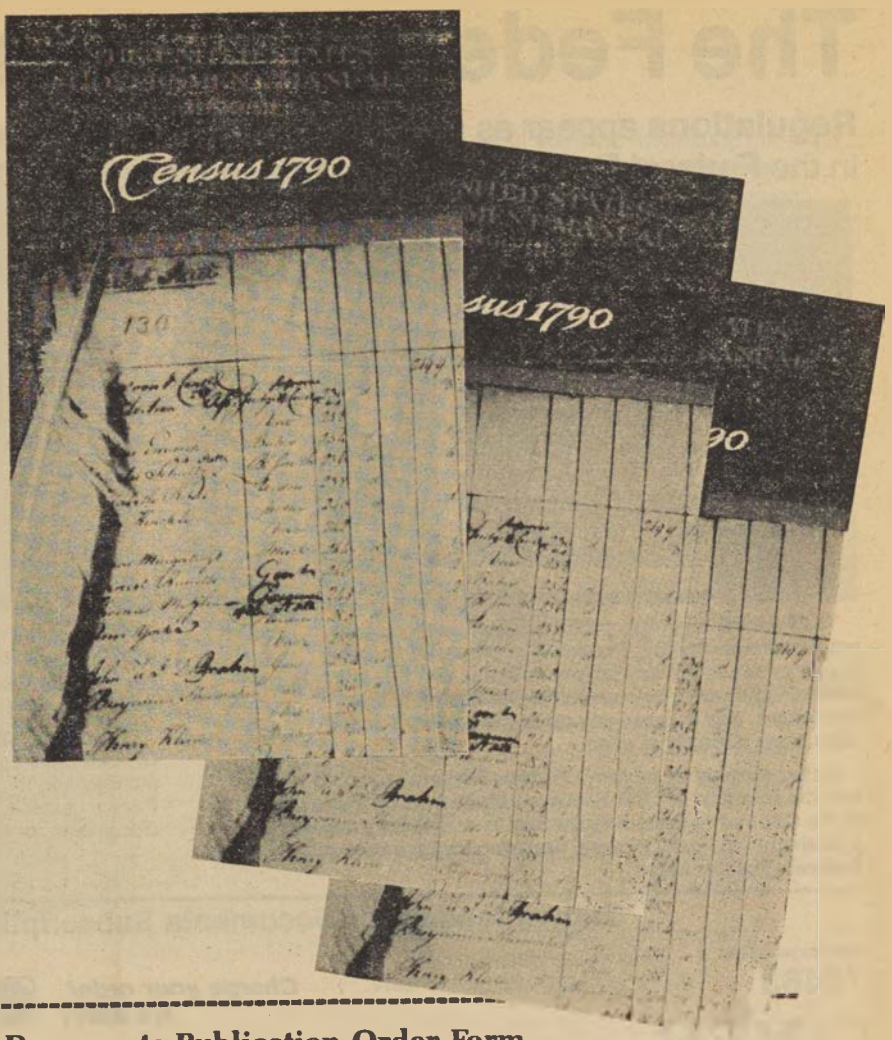
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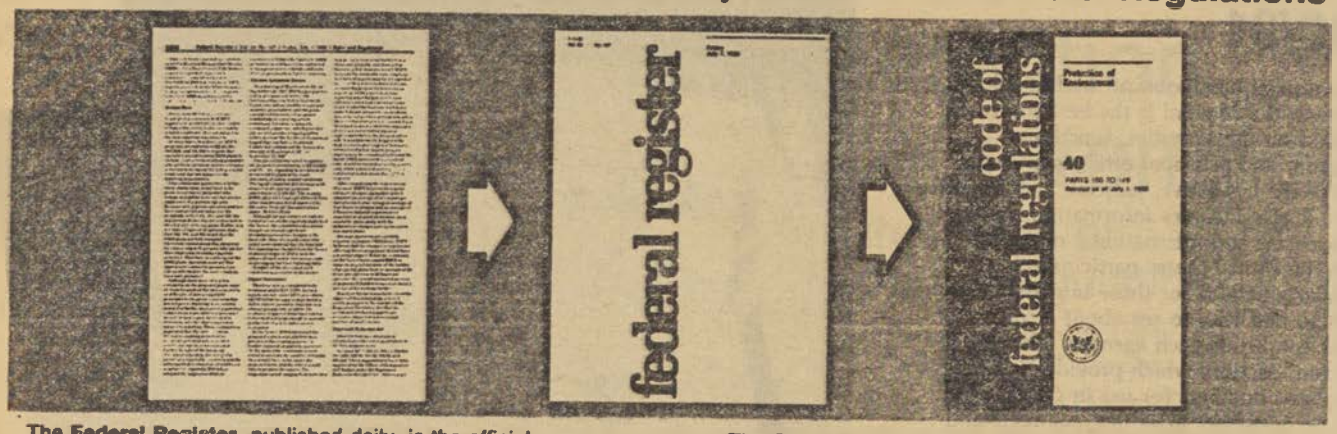
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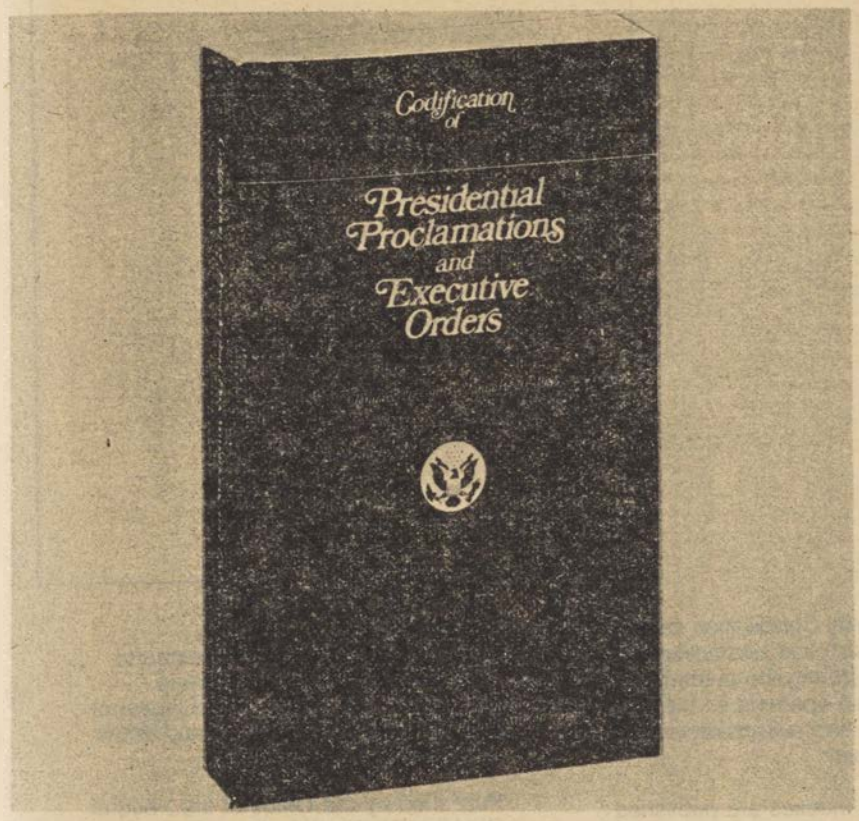
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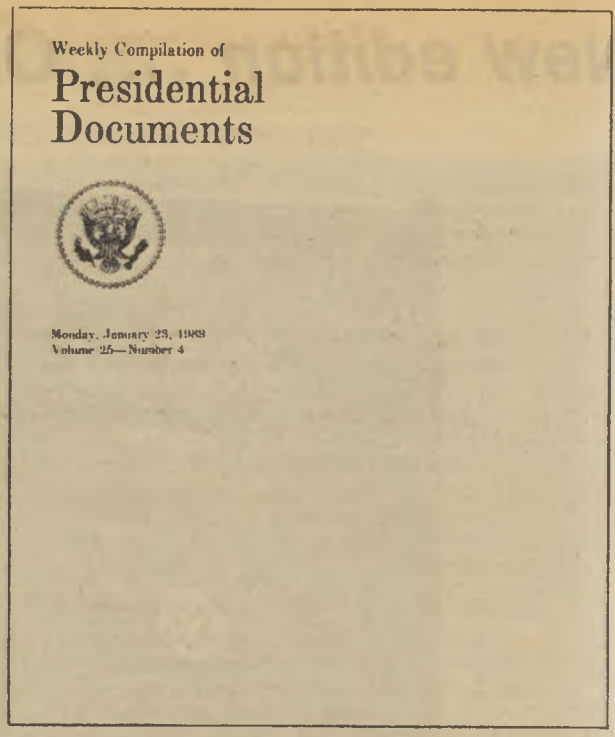
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