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Thursday
September 19, 1985

**Briefings on How To Use the Federal Register—**
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

## Selected Subjects



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# Selected Subjects

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**How To Cite This Publication:** Use the volume number and the page number. Example: 50 FR 12345.



## THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

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

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

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

### WASHINGTON, DC

**WHEN:** November 15; at 9 am.

**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

**RESERVATIONS:** Call JoAnn Harte, Workshop Coordinator, 202-523-5239.

**FUTURE WORKSHOPS:** Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. The January 1986 Washington, D.C. workshop will include facilities for the hearing impaired. Dates and locations will be announced later.

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# Rules and Regulations

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 238

### Contracts With Transportation Lines; Addition of Atlantic Gulf Airlines

**AGENCY:** Immigration and Naturalization Service; Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule adds Atlantic Gulf Airlines to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

**EFFECTIVE DATE:** August 28, 1985.

**FOR FURTHER INFORMATION CONTACT:** Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, N.W., Washington, DC 20536, Telephone: (202) 633-3048.

**SUPPLEMENTARY INFORMATION:** The Commissioner of Immigration and Naturalization entered into an agreement with Atlantic Gulf on August 28, 1985, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

**List of Subjects in 8 CFR Part 238**

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

### PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

**Authority:** Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

**§ 238.3 [Amended]**

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Atlantic Gulf Airlines.

Dated: August 30, 1985.

**Marvin J. Gibson,**

*Acting Associate Commissioner, Examinations Immigration and Naturalization Service.*

[FR Doc. 85-22378 Filed 9-18-85; 8:45 am]
BILLING CODE 4410-10-M

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 611

### Farm Credit System Banks and Associations; Organization; Liquidation

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), adopts new regulations which replace the existing regulation, 12 CFR 611.1130, relating to voluntary and involuntary liquidations of Farm Credit System (System) banks and associations. The final regulations incorporate the provisions contained in the orders that have been issued by the FCA to date in connection with specific receiverships and set forth the powers and duties of receivers, the rights of creditors and stockholders, and the inventory and examination requirements associated with receiverships.

**EFFECTIVE DATE:** Thirty days from this publication date during which either or both Houses of Congress are in session. Notice of the actual effective date will be published.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Norton, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22101-5090, (703) 883-4020.

**SUPPLEMENTARY INFORMATION:** In the February 23, 1985 **Federal Register** (50 FR 6000-6005), the FCA published proposed amendments to its regulation relating to the voluntary or involuntary liquidation of System banks and associations. The comment period closed March 15, 1985. The FCA received approximately 50 comments from System institutions, members of Congress, the attorney generals of two states, and other members of the public. Several parties stated that there was a need for public hearings on the proposed regulations and other parties stated that the comment period should be extended. The Federal Board did not believe there was any need for public hearings since any comments relevant to the proposed regulations could be readily reduced to written form and submitted to the Agency through the mail. Even though the volume of comments suggested the existence of broad public awareness of the regulations, the Federal Board decided to extend the comment period to May 1, 1985. Notification of the comment period extension was published in the April 10, 1985 **Federal Register** (50 FR 14110). The FCA received no additional comments during the extended comment period. The Federal Board considered each comment received during its regular June and August 1985 meetings, made changes to the proposed regulations where appropriate, and adopted final regulations.

Following is a discussion of the significant comments received.

Two respondents recommended changes to § 611.1160 regarding the role of a supervisory bank in a decision to place an association into voluntary or involuntary liquidation. One respondent recommended that no voluntary

liquidation should take place without the approval of the supervisory bank. The other respondent recommended that the Governor should consult with the supervisory bank prior to appointing a receiver for an involuntary liquidation except in the event that the Governor determines such notification would not be in the best interests of the creditors and stockholders of the association.

The Farm Credit Act of 1971, as amended (Act), does not require the approval of the supervisory bank in connection with voluntary and involuntary liquidations, but does authorize the FCA to issue regulations governing such liquidations. This is contrasted with other provisions of the Act, such as the provisions relating to mergers of associations, where the proposed activity requires approval of the supervisory bank.

In the case of an involuntary liquidation, the Federal Board does not believe it would be prudent to prescribe a requirement for bank approval. An involuntary decision is one that often needs to take place in an expeditious manner. While the Governor, as a mattter of practice, avails himself on an ongoing basis of the views of the supervisory bank regarding associations experiencing difficulties, it would be improvident to include a specific requirement for consultation, since circumstances may arise where specific consultation on the liquidation decision is not possible.

In the case of a voluntary liquidation, the Act provides that the decision of an association board to liquidate the association is a corporate decision which, by statute, is subject only to the approval of the FCA. The Federal Board believes that a requirement for bank approval would, in effect, impose conditions upon the FCA, which is the party whose approval of voluntary liquidation is required by the Act. The Federal Board believes that the FCA's authority in such matters should not be impinged upon.

Several respondents believed § 611.1160(b) should be amended to clarify the nature of the obligations upon which an association can default, and to provide procedures and substantive standards regarding a decision to liquidate an association.

The Federal Board agrees that clarification of the regulation is appropriate. Accordingly, the regulation has been amended to include a provision stating that such defaults can occur "on the payment of principal or interest of any financial obligation" of the institution. However, such are not the only circumstances under which default can occur. The Federal Board does not believe it is appropriate to attempt to provide an all inclusive set of procedural requirements on the subject of default since the manner in which a default can occur depends entirely on the type of obligation involved and the circumstances giving rise to the default. Any attempt to quantify those criteria with specific examples would not be especially useful and could cause problems since it would be difficult to anticipate the range of obligations that might be involved and conditions of default that are unique to each one.

Two respondents believed that the regulations should specifically provide for a notice to borrowers prior to the appointment of a receiver by the Governor.

The Federal Board believes that this recommendation is in direct contradiction with the basic responsibilities of the FCA in connection with liquidations. In many respects, the liquidation of a System institution creates the same potential for a "run" on the institution that exists in connection with the liquidation of a depository institution. Prior notification to stockholders of a pending liquidation would provide borrowers who can obtain credit elsewhere an opportunity to pay down their loans and retire their stock. The effect of such a drain on the capital and assets of the institution would jeopardize the ability of creditors to receive equitable payment on their claims. In addition, it could further impair the remaining stock of the institution, which would result in a greater financial burden on those stockholders who were unable to retire their stock.

Two commentators believed that the provision in § 611.1160(d) that provides for the automatic suspension of the officers and directors of an association should be amended to permit the receiver to have some discretion in this area.

The Federal Board does not believe that any change to this regulation is necessary since the regulation already provides the receiver with discretion in this regard. While officers and directors are immediately suspended upon the appointment of the receiver, the receiver has full authority to employ such officers as the receiver deems necessary to carry on the business of the association in liquidation. Additionally, the receiver has the authority to consult with any persons, including the ex-directors of the association, to obtain their input during the conduct of the liquidation.

Several respondents made recommendations regarding § 611.1160 that generally challenged the basic premise of the regulation. These respondents said that the rights, privileges, and powers of an association board of directors should never be suspended except by the shareholders and that the liquidation of an association should only be conducted under the direct supervision of the board.

The Federal Board believes these respondents misconstrued the purpose and function of a receivership. When a financial institution is placed in involuntary liquidation, further operations of that institution are no longer carried on at the discretion of the personnel responsible for its financial condition. Rather, in accordance with appropriate Federal or State law, a third party is placed in direct or indirect control of the institution in order to wind up its affairs in a manner consistent with the best interests of its creditors and stockholders. In the case of System institutions, the Act and FCA Regulations control the appointment of the receiver. State law continues to control the debtor-creditor relationships between the receiver and the borrowers of the institution. Since the directors of the association are the persons directly responsible for the insolvency of the association, it is not appropriate for such directors to exercise control over the liquidation of the institution. Accordingly, no changes were made to accommodate these comments.

One commentator believed that the board of an association in liquidation should have the authority to obtain an independent audit of the association and require the Governor to turn over the association to its previous management on the basis of the results of such audit. The Federal Board believes this recommendation contravenes the essential statutory function of the FCA to examine System institutions. The exercise of this examination authority provides the basis upon which all supervisory and regulatory activities of the FCA are conducted and establishes the foundation for any analysis of the financial condition of individual System institutions or the System as a whole. In order to avoid unnecessary and damaging delays that can injure the creditors and stockholders of an institution, these examinations must be the final, authoritative basis upon which the financial condition of System institutions is determined.

Two respondents inquired whether there was a conflict between § 611.1160(d), which provides for the suspension of the board and management of an association placed in liquidation, and § 611.1161(g), which

authorizes the Governor to remove or replace receivers.

There is no conflict between these two provisions since one provides for the termination of directors and employees of a System institution placed in liquidation, while the other preserves the authority of the Governor to halt a liquidation and return the association to its previous management. However, the Federal Board amended § 611.1160(g) to further clarify that the subsection merely preserves the authority of the Governor to remove or replace the receiver and that, in the event the Governor terminates the receivership and returns the association to its previous management, the provisions of this subpart relating to liquidations would no longer apply.

One commentator was concerned that the regulations appeared to be addressed primarily to liquidations, both voluntary and involuntary, of insolvent institutions, and that the regulations may not be entirely appropriate in all respects for liquidations of solvent institutions. To correct this problem, the respondent recommended that the regulations be amended to provide for input by the board of directors in connection with the voluntary liquidation of a solvent institution.

The regulations are primarily directed at the voluntary and involuntary liquidations of insolvent institutions. While the rights, duties, and powers of receivers would be the same in any type of liquidation, the Federal Board agrees that, in the case of the liquidation of a solvent institution, the directors of the institution should have a role regarding the appointment of the receiver and the conduct of the receivership. Therefore, a new paragraph § 611.1160(h) has been added to the regulation that specifically provides that in the case of a voluntary liquidation of a solvent association the Governor shall take into consideration the recommendation of its board of directors in appointing a receiver. In addition, the paragraph specifically authorizes the board of directors, at the discretion of the Governor, to remain in office to provide advice and recommendations to the receiver. While providing for input by the association board, the Federal Board believes it is appropriate for the Governor to retain discretion in these two areas to deal with situations where an association may be technically solvent but where its financial condition has deteriorated to a considerable degree and the Governor determines that further involvement by its directors could jeopardize the best interests of its creditors and stockholders.

One respondent commented about the need to clarify that when a bank serves as a receiver for an association, it enjoys the same immunities against liability as are afforded the FCA under law. This respondent observed that § 611.1161(s) refers generally to immunities "specifically authorized or conferred by the FCA" and recommended that a specific provision be included in the regulation which confers governmental immunities on the banks when they act as receivers.

The regulations establish a relationship among the parties that provides all receivers appointed by the FCA, including banks, with the same immunities against individual liability that are conferred upon officers and agents of the Federal Government. Such immunities only extend to claims against a receiver in the receiver's individual and personal capacity, and do not affect the ability of a litigant to recover damages from the association in liquidation based on contract or tort theories. In that regard, the regulations include specific criteria that establish that agency relationship and specifically refer to such receivers as agents. In order to further clarify that status and to clarify that the receiver is acting as trustee of the association in receivership for the benefit of its creditors and stockholders, § 611.1161 has been amended to explain those roles, immunities, and responsibilities.

One commentator believed that § 611.1161(l), which authorizes a receiver to sell assets for cash, should be expanded to include the authority to sell assets on terms other than cash.

The Federal Board agrees that a situation may arise where a receiver is unable to sell assets for cash and is required to accept other terms, such as contracts for deed. Therefore, the regulation was amended to accommodate sales of assets on terms other than cash.

One respondent recommended that § 611.1161 be amended to clarify: (1) The authority of the receiver to hire accountants, appraisers, and other professionals; (2) the authority of the receiver to exercise all powers in the name of the association in receivership; and (3) the authority of the receiver to sell any real or personal property owned by the receiver. The Federal Board agreed with these recommendations and the final regulations have been amended to clarify these authorities.

One commentator stated that the regulations give excessive authority to the receiver without adequate provisions for review or appeal and that there are no guidelines for loan extensions, renewals, and terminations.

The Federal Board does not agree that the regulations give excessive authority to the receiver. The regulations set forth the general powers and duties of receivers and establish their status as trustees for the associations in liquidation. Receivers must have broad general powers but, as provided for in the regulations, the exercise of those powers is subject to the supervision of the FCA as provided for in the receivership manual and specific controls imposed by the FCA. In addition, the receiverships are examined by the FCA on an annual basis. The regulations do not contain provisions granting borrowers any rights regarding renewals, extensions, etc., because no such rights exist for borrowers of solvent associations who are subject to collection actions by the association. When an association is placed in liquidation, the existing contractual obligations of its borrowers remain the same. Each borower's obligation to pay debts owed to the association continues in accordance with the terms of the contract. The receiver has the same authority that the association had to pursue judicial and nonjudicial remedies under State law to collect obligations of borrowers that are in default. The regulations cannot limit those authorities since such limits would be inconsistent with the receiver's responsibility to maximize return on the assets of the association for the benefit of its creditors and stockholders.

One respondent commented that the provision in § 611.1162 that prohibits the issuance, allocation, retirement, sale, or distribution of stock may come into conflict with outstanding court orders that may require the retirement of stock for application against a borrower's debt.

The Federal Board does not believe that any change to the regulation should be made in response to this recommendation. During the pendency of a liquidation, the regulations prohibit the retirement of stock and there is no basis upon which a value can be placed on that stock. To that extent, the Federal Board believes that this provision preempts contrary State laws, and that no court should issue an order that would require actions that conflict with the regulation. This does not mean that in a collection action involving counterclaims or where the borrower's indebtedness is in dispute, a court cannot require a reduction in the borrower's indebtedness in connection with a requirement that the borrower release any right to receive proceeds

payable to stockholders upon final liquidation. Such judicial orders would not conflict with the regulations.

Upon further review of § 611.1162, the Federal Board adopted a technical amendment which deletes a phrase in paragraph (b) that is redundant with the provisions of paragraph (a).

One respondent recommended that § 611.1164(a) be amended to provide greater flexibility regarding the timing for the publication of notices to creditors. Another respondent recommended that the regulation specify the types of newspapers appropriate for publication and mandate that personal letters regarding claims filing procedures be sent to all shareholders and all parties with whom the association has done business during the past 5 years.

The concern raised by the first comment is that it may not be possible because of publication dates, weekends, etc., to meet the specific 30- and 60-day publication dates provided for in the regulation and that flexibility to accommodate such concerns should be incorporated into the regulation. The Federal Board agrees with the comment and has amended § 611.1164 to provide such flexibility. However, the Federal Board does not believe the regulation need any additional detail regarding the types of papers used for publishing notice. The receiver should exercise his best judgment regarding the types of publication(s) that will afford the best chance of putting affected parties on notice. In response to the second comment, the regulation already requires that personal notices be sent to all creditors of record. It would be burdensome and possibly counterproductive to impose on the receiver the burden of speculating on the names of other parties who may have claims against the association. Such parties are amply protected by the public notices that are provided.

Several comments were received regarding the provisions of § 611.1165 that authorize the receiver to sell loans at their fair market value, including any amount borrowed to purchase stock. Some respondents questioned whether this permitted the sale of loans at a discount and other respondents questioned how one determines the fair market value of stock of an association in liquidation.

In response to this comment, the Federal Board amended the regulation to provide that the receiver may sell loans at "not less than fair market value." This change clarifies that, consistent with the receiver's obligation to administer the receivership in the best interests of its creditors and stockholders, a loan can be sold at a price below book value but not less than fair market value. There is no necessity for determining fair market value of the stock in connection with the sale of loans. The borrower's note is sold, not the stock or any other property acquired with the proceeds of the note. The determination of the value of the note is dependent on the borrower's ability to pay and the collateral supporting the obligation. The borrower's stock in the liquidating association is not transferred and has no value, for collateral purposes, to the transferee association. Therefore, its fair market value need not be determined. When a liquidating association sells a loan for less than book value, the association will continue to have a deficiency claim against the borrower for the difference between book value and sale price. While the liquidating association will try to collect this deficiency, in many instances there will be no other collateral or resources available to satisfy the claim. Finally, when all of the collectible claims of the association have been realized, and all of the creditors have been paid, the receiver will make a final distribution to stockholders. However, immediately prior to such distribution, the receiver will satisfy any remaining deficiency claims against borrowers by retiring their stock and applying those proceeds against the borrowers' outstanding debts. Such retirements will be made at the book value of the stock immediately prior to final distribution. Thereafter, the final distribution of the liquidating dividend will only be made to stockholders against whom the association has no outstanding claims.

One respondent believed § 611.1165 should be amended to authorize the purchaser of a loan from an association in receivership to in turn sell that loan to another association on the same basis as the loan was sold by the association in receivership. This respondent also believed that the regulation should be amended to provide greater specificity regarding agreements between the supervising bank, the borrowers, and the liquidating association in connection with interest-free loans extended by a bank to enable borrowers to purchase stock in a transferee association.

The Federal Board does not believe there is a need for this regulation to deal with subsequent transactions involving loans that were initially made by an association in liquidation. Such subsequent transactions are governed by other regulations and do not put at issue any of the powers, duties, responsibilities, etc., of the receiver. Similarly, the Federal Board does not believe that the regulations should mandate additional terms and conditions for interest-free loans made in connection with the purchase of stock in a transferee association. It should be pointed out that the regulation merely authorizes, and does not require, the bank to make available interest-free stock purchase loans. Subject to the limitations in the regulations, a bank's decision to make such loans is within the discretion of the bank and the terms and conditions of the loan documents are subject to the agreement of the parties.

One commentator believed that § 611.1165 was too restrictive and suggested the regulation be amended to permit interest-free stock purchase loans to be outstanding for a period of time following the final liquidation of an association. The regulation provides that such loans must be repaid on or before the termination of the liquidation. Usually, the loan contracts require repayment within the lesser of 5 years or the completion of the liquidation. If the liquidation occurs before the end of the 5-year period, the payment of the liquidating dividend to the bank on behalf of the borrower will be made before the charter of the association is revoked. Any deficiency between the liquidating dividend and the loan for stock in the transferee association must be paid at that time, either in cash or by increasing the borrower's loan from the transferee association. The Federal Board believes that the regulation provides more than sufficient time to accommodate the transition period for borrowers and that any extension beyond that point would cause an unacceptable drain on the finanical resources of the bank.

One respondent believed that § 611.1165 should be amended to clarify what occurs when a borrower of an association in liquidation refuses to purchase stock in and become a member of the association to which the loan was transferred.

Generally, soon after a receiver is appointed, the association's commercially salable loans are transferred to an association whose charter includes or has been amended to include the territory of the liquidating association. The agreement under which the loans are transferred provides the transferee association with the right to reject any loan for any reason at its sole discretion. Under current practice, transferee associations generally have at least 90 days to exercise this option. Any sale of a loan by a receivership to a transferee association is subject to the statutory requirement that the borrower purchase stock in and execute a

membership agreement with the transferee association. If such an agreement is not executed, the transferee association cannot retain that loan. If a transferee association rejects a loan because the borrower refuses to become a member of the transferee association or because the loan doesn't meet collateral or credit criteria or for any other reason, the loan must be repurchased by the receiver. In response to the comment, the Federal Board amended § 611.1165 to include a new paragraph (c) which explains these rights and obligations of associations and their borrowers.

One respondent questioned why a borrower whose loan is sold to another association is required to purchase stock in the transferee association when there is no similar stock purchase requirement if the loan is sold to a non-System lender. This party apparently overlooked the fact that the requirement for borrowers to purchase stock in a transferee association is a statutory requirement imposed on all association borrowers. There is no comparable requirement for stock purchase in loans sold to non-System lenders since such institutions are not subject to statutory stock purchase requirements.

One respondent inquired whether the priority of claims set forth in § 611.1166 complied with the provisions of the Act that grant Federal intermediate credit banks (FICBs) and Federal land banks (FLBs) first liens on stock issued by such banks to associations. The proposed regulation provides that all secured claims have a priority over the claims of unsecured creditors. In order to clarify that secured claims include FICB and FLB claims secured by both equities and assets of an association, the Federal Board amended the regulation to specifically reference such priority.

One respondent raised a concern regarding the administrative expenses of a bank acting as a receiver, seeking clarification as to whether such expenses would be paid from the receivership assets.

The administrative expenses of a receiver, whether a bank or otherwise, are included in § 611.1166(a)(1) as the claims having the highest priority of claims payable from the receivership assets. The final regulation was amended to eliminate any confusion regarding this matter.

A related question has arisen in connection with the retirement of System bank stock held by an association in liquidation. Under the regulations, the bank in question would normally retire such stock in connection with a corresponding reduction in the bank's claim against the association. However, instances can arise, especially involving the voluntary liquidation of solvent associations, where such retirement could exacerbate existing financial difficulties of the supervising bank. In light of this concern, the Federal Board amended the regulation to include a specific provision requiring FCA approval prior to a bank's retiring such stock. It is recognized that under normal circumstances such approval would be granted as a matter of course since the retirement of bank stock would not jeopardize the capital position of the bank.

One respondent correctly noted that while § 611.1166 provides that final distribution of the association's assets is made in accordance with the bylaws of the association, such bylaws do not specifically set forth the priorities for distribution in the event of liquidation. The regulation was referring (without reference) to the bylaw provisions relating to the priorities set forth with regard to impairment. In order to clarify this point, the regulation has been amended to include a reference to "priorities for impairment."

Two additional technical corrections were incorporated in 12 CFR 611.1167. The final regulation specifically provides that the annual audit of an association in liquidation can be conducted by an independent private auditor appointed by the FCA as well as by FCA examiners. The regulation was also amended to reference the responsibility of the FCA to conduct a final examination of the receivership pursuant to 12 CFR 617.7090.

In response to another comment, the Federal Board amended § 611.1167 to require receivers to provide annual reports and a final report to the shareholders of associations.

One respondent believed the regulation should require that associations be examined more frequently than on an annual basis and should get forth the accounting practices applicable to receiverships.

The requirement for annual examinations is the same frequency applicable to all production credit associations. The regulation merely establishes the minimum frequency of examinations and does not affect the authority of the FCA to conduct examinations on a more frequent basis, as it determines necessary. The accounting practices applicable to receiverships are the same as the comparable provisions relating to ongoing associations. Accounting practices applicable to System institutions are set forth in the Uniform Chart and Description of Accounts, which is distributed to all System institutions and is not required to be published in regulation form.

One respondent inquired whether § 611.1168 should include a provision regarding the final distribution of the records of a liquidated association.

The final disposition of the records of a liquidated association is the responsibility of the FCA. In response to this concern, the Federal Board amended the regulation to include a specific statement clarifying that the records of a receivership shall be stored and maintained in a manner determined by the FCA.

The comments received by the FCA regarding liquidations of associations, to the extent applicable, were also directed at Subpart K, which governs the liquidation of banks. Accordingly, the Federal Board incorporated the amendments made to Subpart J into the appropriate provisions of Subpart K. In addition, one comment was received that was directed specifically at the regulations governing the liquidation of banks.

The commentator questioned the legal basis for § 611.1170(b), which authorizes the Governor to declare a bank insolvent and appoint a receiver upon a determination, in accordance with section 4.4 of the Act, that the bank will default on a portion of its Systemwide and/or consolidated obligations.

This provision was included in the proposed regulation for the purpose of clarifying the interrelationships between two provisions in the Act. Section 4.12 of the Act conditions a declaration of insolvency and appointment of receiver on the default of an obligation by a bank. Concurrently, section 4.4 requires that prior to a default on a Systemwide or consolidated obligation by a bank, the Governor must assess all of the other financial institutes jointly and severally liable on the obligation to ensure payment of the obligation. Therefore, while the bank may default on its portion of the obligation, the obligation itself will be paid. The proposed regulation addresses this matter by specifically providing that in the event the Governor is forced to make a determination that a bank will default unless an assessment is made pursuant to section 4.4 of the Act, the bank will be deemed to have defaulted for purposes of section 4.12.

The Federal Board determined that it was necessary to amend the regulations to clarify that the provisions of Subpart J also govern the liquidation of service organizations chartered by the FCA. While the inclusion of service corporations is implicitly provided for in 12 CFR 611.1140, a specific reference to

service corporations was included in the final regulations in order to avoid any confusion. In connection with the amendment to § 611.1170, the Federal Board also made a conforming amendment to § 611.1174 that specifies the responsibility of the receiver of a service organization to ensure the timely payment of obligations of the service organization on which Systems banks have liability.

The Federal Board made other changes to the final regulation. Section 611.1173 requires that the receiver notify the shareholders of the institution in receivership of various matters, including the number of shares or certificates such holders own. The Federal Board expanded this provision to include a requirement for notification of the value of any equities specifically allocated to such members. This change will provide greater information to the shareholders and a better basis upon which the shareholders can analyze the potential return from the liquidation. Section 611.1174 provides that holders of book entry securities are not required to file claims with the receiver because information regarding the ownership of such securities is readily available and it would be unduly burdensome to make such a requirement. The Federal Board expanded this exemption to include holders of definitive securities. Records regarding such securities are also available and can be provided to the receiver. This will avoid the necessity of filing individual claims regarding such securities.

The Federal Board also reconsidered the provisions of proposed regulation § 611.1174 that govern the process by which creditors of a bank in liquidation must file claims and the priority among such claims. The Act provides that all banks that participate in an issue of consolidated or Systemwide bonds or discount notes are jointly and severally liable on the entire amount of the issue. While there is no distinction in the liability of participating banks to purchasers of an issue of bonds or discount notes, the Act differentiates "primary" and "secondary" liability of the banks to each other on an issue. Under the Act, a bank that participates in an issue of consolidated or Systemwide bonds or discount notes may be called upon by the FCA to make payments of principal and interest on any of those obligations for another participating bank that is primarily liable but is unable to meet its liability on the obligations. The Federal Board determined that it was necessary for the regulation to specify the rights of a bank that is required to make such payments to the collateral supporting the bonds or discount notes so paid.

Accordingly, § 611.1174 was reworded to provide for the Governor to make an assignment of primary liability for the payment of principal and interest on any consolidated or Systemwide bond or discount note to any bank secondarily liable thereon, and to give the bank(s) to which assignment is made the right to and title in those assets of the defaulting bank as are eligible and available as collateral under section 4.3(a) of the Act for those bonds or discount notes. The Federal Board also reworded the final regulation to establish the priority rights of creditors whose claims are secured by specific assets, and the claims of holders of bonds that are the individual obligation of a bank to specific collateral securing those bonds, over claims of holders of consolidated and Systemwide bonds. These changes are necessary in order to clarify the priority of secured creditors and the rights of holders of individual bank bonds issued under prior Farm Credit Acts to specific collateral. In addition, the changes will clarify the prospective priority status of System securities such as mortgage-backed securities and other obligations which may be issued and tied to individual assets.

**List of Subjects in 12 CFR Part 611**

Agriculture, Banks, Banking, Organization and functions (Government agencies), Rural areas.

As stated in the preamble, Part 611 of Chapter VI, Title 12, Code of Federal Regulations, is revised by adding new Subparts J and K to 12 CFR Part 611 to read as follows:

## PART 611—ORGANIZATION

### Subpart J—Liquidation of Associations

Sec.



### Subpart K—Liquidation of Banks



**Authority:** Secs. 1.13, 2.10, 4.12, 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2031, 2091, 2183, 2243, 2246 and 2252).

### Subpart J—Liquidation of Associations

**§ 611.1160 Appointment of receiver.**

(a) The board of directors of an association, by the adoption of an appropriate resolution, may vote to liquidate the association, and upon approval of the resolution by the Farm Credit Administration after consultation with the supervisory bank, the Governor by order may place the association in receivership and appoint a receiver.

(b) Upon default on the payment of principal or interest on any financial obligation by an association, the Governor by order may declare the association insolvent and appoint a receiver.

(c) Upon the appointment of a receiver and acceptance by the receiver of the appointment, the Governor shall immediately notify the institution and its supervisory bank and notice of the appointment shall be published in the **Federal Register**.

(d) Upon the issuance of the order placing an association in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the association are vested exclusively in the receiver, and said individuals are suspended except as provided for in paragraph (h) of this section relating to the voluntary liquidation of a solvent association.

(e) The voluntary or involuntary liquidation of an association shall be conducted by the receiver as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, and paying any liquidating dividend to stockholders of the association. Upon completion of the liquidation and discharge of the receiver by the Farm Credit Administration, the Governor will cancel the charter of the association.

(f) When the Governor approves the voluntary liquidation of an association, except as provided for in paragraph (h) of this section, the Governor shall appoint the supervisory bank as the receiver, except where the Governor determines in his sole discretion that such appointment would not be in the best interests of the creditors and stockholders of the association. Subject to the approval of the Farm Credit Administration, the supervisory bank may appoint liquidating agents for

collecting the assets, paying the creditors, and paying any liquidating dividends to the stockholders of the association. Upon completion of the liquidation and discharge of the receiver by the Farm Credit Administration, the Governor will cancel the charter of the association.

(g) The Governor may at any time remove or replace the receiver or may terminate the receivership and direct the receiver to turn over the association to its previous management, in which event the provisions of this subpart shall no longer apply.

(h) In the case of the voluntary liquidation of an association which is not in default on an obligation or otherwise insolvent, the Governor may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating association. The board of directors of the association may, at the discretion of the Governor, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

**§ 611.1161 Powers and duties of the receiver.**

The receiver of an association serves as the trustee of the receivership estate and conducts its operations for the benefit of the creditors and stockholders of the association. In this capacity, as trustee of the estate, the receiver is an agent of, and is subject to the specific procedures and approval requirements established by the Farm Credit Administration and enjoys the same immunities against personal liability that exist for all employees and agents of the Farm Credit Administration. When a supervising bank is appointed receiver of an association in voluntary liquidation, such bank shall adopt, subject to Farm Credit Administration approval, appropriate procedures governing the activities of its liquidating agents. As the agent of the Farm Credit Administration and acting on behalf of the association in receivership, the receiver is authorized and empowered to:

(a) Exercise all powers as are conferred upon the officers and directors of the association under law and the charter, articles, and by-laws of the association;

(b) Take any action the receiver considers appropriate or expedient to carry on the business of the association during the process of liquidating its assets and winding up its affairs;

(c) Extend credit to existing borrowers as necessary to honor existing commitments and to effectuate the purposes of the receivership;

(d) Borrow such sums as may be necessary to effectuate the purposes of the receivership;

(e) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the association's assets or property, or rehabilitate or improve such property and assets;

(f) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the association has a lien or in which the association has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property;

(g) Investigate any matter related to the conduct of the business of the association including, but not limited to, any claim of the association against any individual or entity, and institute appropriate legal or other proceedings in the name of the association to prosecute such claims;

(h) Institute, prosecute, maintain, defend, intervene, and otherwise participate in the name of the association in any legal proceeding by or against the association or in which the association or its creditors or members have any interest, and represent in every way the association, its members and creditors;

(i) Employ attorneys, accountants, appraisers, and other professionals to give advice and assistance to the receivership generally or on particular matters, and pay their retainers, compensation, and expenses, including litigation costs;

(j) Hire any employees necessary for proper administration of the receivership, including the hiring of liquidation agents, which employees shall be covered by a bond satisfactory to the receiver and the Farm Credit Administration;

(k) Execute, acknowledge, and deliver, in person or through a general or specific delegation, any instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effectual as if it had been executed by the association's officers by authority of its board of directors;

(l) Sell for cash or otherwise, any mortgage, deed of trust, chose in action, note, contract, judgment or decree, stock, or debt owning to the association, or any property (real or personal, tangible or intangible);

(m) Purchase or lease office space, automobiles, furniture, equipment, and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the receivership;

(n) Release any assets or property of any nature, regardless of whether the subject of pending litigation, and repudiate, with cause, any lease or executory contract the receiver considers burdensome;

(o) Settle, release, or obtain release of, for cash or other consideration, claims and demands against or in favor of the association or the receiver;

(p) Pay out of the assets of the association all expenses of the receivership and all costs of carrying out or exercising the rights, powers, privileges, and duties as receiver;

(q) Pay out of the assets of the association all approved claims of indebtedness in accordance with priorities established in this subpart;

(r) Take all actions in the name of the association in receivership, and have such rights, powers, and privileges as are necessary and incident to the exercise of any specific power; and

(s) Take such actions, and have such additional rights, powers, privileges, immunities, and duties as the Farm Credit Administration authorizes, directs, confers, or imposes by order or by amendment of an order or by regulation.

**§ 611.1162 Preservation of equity.**

(a) Except as provided for upon final distribution of the assets of the association, no capital stock, participation certificates, equity reserves, or other allocated equities of an association in receivership shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities.

(b) Immediately upon the adoption of a resolution by its board of directors to liquidate the association, the capital stock, participation certificates, equity reserves, and allocated equities of the association shall not be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities until such time as the Farm Credit Administration disapproves such resolution. In the event the resolution is approved and the association is placed in receivership, the provisions of paragraph (a) of this section shall govern further disposition of the equities of the association.

**§ 611.1163 Notice of stockholders.**

As soon as practicable after the receiver takes possession of the association, the receiver shall notify, by first class mail, each holder of stock and participation certificates of the following matters:

(a) The number of shares such holder owns;

(b) That the stock and other equities of the association may not be retired or transferred until the liquidation is completed; whereupon, the receiver will distribute a liquidating dividend, if any, to the owners of such equities.

(c) The options available to such holder regarding the repayment or transfer of loans;

(d) The services available to current borrowers during the winding up of the affairs of the association;

(e) The name(s) and location(s) of the other association(s) to which the territory has been transferred; and

(f) Such other matters as the receiver or the Farm Credit Administration deems necessary.

**§ 611.1164 Creditors' claims.**

(a) The receiver shall publish promptly a notice to creditors to present their claims against the association, with proof thereof, to the receiver by a date specified in the notice, which shall be 90 calendar days after the first publication. The notice shall be published again on or about 30 days and 60 days, respectively, after the first publication. Claims filed after the specified date shall be disallowed, except as the receiver may approve them for full or partial payment from the association's asets remaining undistributed at the time of approval. The receiver shall promptly send, by first class mail, a similar notice to any creditor shown on the association's books at the creditor's last address appearing thereon.

(b) The receiver shall allow any claim that is timely received and proved to the receiver's satisfaction. The receiver may disallow in whole or in part any creditor's claim or claim of security, preference, or priority which is not proved to the receiver's satisfaction or is not timely received and shall notify the claimant of the disallowance and reason therefor. Sending the notice of disallowance by first class mail to the claimant's address appearing on the proof of claim shall be sufficient notice. The disallowance shall be final, unless, within 30 days after notice of disallowance is mailed, the claimant files a written request for payment regardless of the disallowance. The receiver shall reconsider any claim upon the timely request of the claimant and may approve or disapporve such claim in whole or in part.

(c) The receiver shall cause to be filed with the Farm Credit Administration, at such times and in such manner as the Farm Credit Administration shall require, a complete list of claims presented, indicating the character of each claim and whether allowed by the receiver.

(d) Creditors' claims that are allowed shall be paid by the receiver from time to time, to the extent funds are available therefor and in accordance with the priorities established in this subpart and in such manner and amounts as the receiver deems appropriate. In the event the asociation has a claim agaisnt a creditor of the association, the receiver shall offset the amount of such claim against the claim asserted by such creditor.

**§ 611.1165 Sale and transfer of loans.**

(a) The receiver is authorized to sell loans to any commercial lending institution at fair market value (including any amount borrowed to purchase stock in the asocition); and

(b) The receiver is authorized to sell loans to an association (hereafter referred to as "purchasing association") that has been authorized, by charter amendment, agreement, or otherwise, to make loans in the territory heretofore served by the association in liquidation only on the following basis:

(1) A loan may be sold at not less than its fair market value (including the amount borrowed to purchase stock or participation certificates in the liquidating association) and the borrower will immediately make the required capital investment in the purchasing association by providing cash sufficient therefor or by increasing the loan by an amount necessary to make such capital investment; or

(2) The loan may be sold at not less than its fair market value (including the amount borrowed to purchase stock or participation certificates in the liquidating association) in conjunction with an agreement between the borrower, the receiver, the supervising bank, and the purchasing association, which provides for a loan from the supervising bank to the borrower or the purchasing association in the amount of the required capital investment in the purchasing association, to be repaid on or before the completion of the liquidation of the association, on terms set forth in the agreement.

(c) An association to which the receiver proposes to sell a loan shall have not less than 90 days to purchase the loan. The association may purchase any such loan at its discretion provided that the borrower agrees to buy stock and become a member of the association.

**§ 611.1166 Priority of claims.**

(a) The following priority of claims shall apply to the distribution of the assets of an association in liquidation:

(1) All costs, expenses, and debts that were incurred by the receiver in connection with the administration of the receivership.

(2) All claims for taxes.

(3) All claims of creditors, including the supervisory bank, which are secured by assets or equities of the association in accordance with Federal or State law.

(4) All claims of the supervising bank, other than as provided for in paragraph (a)(3) of this section, based on the financing agreement between the association and the bank, including interest accrued before and after the appointment of the receiver, minus any setoff for stock or other equity of the supervising bank owned by the association made in accordance with this paragraph or paragraph (a)(3) of this section. Prior to making such setoff, the supervising bank must obtain the approval of the Farm Credit Administration for the retirement of such equities.

(5) All claims of general creditors.

(b) All claims of each class described in paragraph (a) of this section shall be paid in full, or provision made for such payment, prior to the payment of any claim of a lesser priority. If there are insufficient funds to pay any class of claims in full, distribution on such class shall be on a pro rata basis.

(c) Following the payment of all claims, the receiver shall distribute the remainder of the assets of the association to the owners of stock, participation certificates, and other equities in accordance with the priorities for impairment set forth in the bylaws of the association.

**§ 611.1167 Inventory, examination, audit, and report to stockholders.**

(a) As soon as practicable after taking possession of an association, the receiver shall make an inventory of the assets and liabilities as of the date possession was taken. Such inventory shall include the book value and the fair market value of the association's assets. The method of listing assets must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The association in receivership shall be examined and audited on an annual basis by the Farm Credit Administration or, at the discretion of the Farm Credit Administration, by an independent private auditor. The cost of

such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the association in receivership.

(c) The Farm Credit Administration may from time to time prescribe accounting practices to be followed and require such audit or other reports covering any matters related to the operations of the association or the receivership as it deems appropriate on such forms as it may prescribe. One copy of the reports required by this section shall be filed with the Office of Examination and Supervision, Farm Credit Administration, and one copy shall be retained in the receiver's principal office.

(d) The receiver shall cause to be sent to each stockholder of record of the association, not later than 90 days following the end of each fiscal year, a report on the financial condition of the association in receivership. Upon the final liquidation of the association, the receiver shall cause to be sent to each stockholder of record a report summarizing the activities of the receiver and describing the disposition of the assets of the receivership and claims against the receivership.

**§ 611.1168 Final discharge and release of receiver.**

The association shall continue as an association chartered in accordance with the Act until such time as the liquidation has been completed and the charter of the association has been canceled by the Governor of the Farm Credit Administration. When the receiver recommends final distribution of assets or is otherwise relieved of its duties by the Farm Credit Administration, the receiver shall file with the Farm Credit Administration a detailed report in a form satisfactory to the Farm Credit Administration. Upon final liquidation of the receivership or when the receiver completes or is otherwise relieved of its duties, the receivership shall be examined and audited pursuant to § 617.7090 of this chapter. The receiver's accounts shall thereupon be approved or disapproved, and if approved, the receiver shall thereby be completely and finally released. The records of the receivership shall be stored and maintained in the manner directed by the Farm Credit Administration.

## Subpart K—Liquidation of Banks

**§ 611.1170 Appointment of receiver.**

(a) The board of directors of a bank, by the adoption of appropriate resolution, may vote to liquidate the bank, and upon approval of the resolution by the Farm Credit Administration, the Governor may, by order, place the bank in receivership and appoint a receiver.

(b) Upon default on the payment of principal or interest on any financial obligation by a bank, or upon a determination by the Governor, in accordance with section 4.4 of the Act (12 U.S.C. 2155), that the bank will default on its portion of a Systemwide and/or consolidated obligation in the absence of an assessment by the Governor of other System banks that are jointly liable on such obligation, the Governor, by order, may declare the bank insolvent and appoint a receiver.

(c) Upon the issuance of an order placing a bank in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the bank are vested exclusively in the receiver, and such individuals are suspended, except as provided for in paragraph (g) of this section relating to the voluntary liquidation of a solvent bank.

(d) Upon the appointment of a receiver, and acceptance by the receiver of the appointment, the Governor shall immediately notify the institution, and notice of the appointment shall be published in the **Federal Register**.

(e) A voluntary or involuntary liquidation of a bank shall be conducted by the receiver, as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, paying any liquidating dividend to stockholders, and winding up the affairs of the bank. Upon completion of the liquidation, the Governor will revoke the charter of the bank.

(f) The Governor may at any time remove and replace the receiver or may direct the receiver to return the bank to the previous management, in which event the provisions of this subpart shall no longer apply.

(g) In the case of the voluntary liquidation of a bank which is not in default on an obligation or otherwise insolvent, the Governor may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating bank. The board of directors may, at the discretion of the Governor, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

(h) For purposes of this subpart, the term "bank" shall be read to include any service organization chartered pursuant to Part D of Title IV of the Act.

**§ 611.1171 Powers and duties of the receiver.**

A receiver of a bank is an agent of the Farm Credit Administration and has the same powers and duties with respect to a bank in receivership as the receiver of an association has in accordance with § 611.1161. In interpreting § 611.1161 for purposes of this section, the word "bank" shall be read for the word "association."

**§ 611.1172 Preservation of equity.**

(a) Except as provided for upon a final distribution of the assets of the bank, no capital stock, participation certificates, equity reserves, or other allocated equities of a bank in receivership shall be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owners of such equities.

(b) Immediately upon the adoption of a resolution by its board of directors to liquidate a bank, the capital stock, participation certificates, equity reserves, and allocated equities shall not be issued, allocated, retired, sold, distributed, transferred, assigned, or applied against any indebtedness of the owner of such equities until such time as the Farm Credit Administration disapproves such resolution. In the event the resolution is approved and the bank is placed in receivership, the provisions of paragraph (a) of this section shall govern further deposition of the equities of the bank.

**§ 611.1173 Notice to associations, cooperative borrowers, and other financing institutions.**

As soon as practicable after the receiver takes possession of the bank, the receiver shall notify, by first class mail, the production credit associations, Federal land bank associations, cooperative borrowers, and other financing institutions that own stock or other equities of the bank of the following matters:

(a) The number of shares or certificates such holder owns and the value of any equity specifically allocated to such member.

(b) The steps that will be taken to provide for the purchase of assets and assumption of liabilities by the bank that is or will be chartered to serve the territory formerly served by the bank in liquidation.

(c) Such other matters as the receiver or the Farm Credit Administration deems necessary.

**§ 611.1174 Creditors' claims and priority of claims.**

(a) Except as provided for in paragraph (b) of this section, the

provisions of § 611.1164 regarding the claims of creditors of associations in receivership shall also apply to the claims of creditors of a bank in receivership. In interpreting § 611.1164 for purposes of this section, the word "bank" shall be read for the word "association."

(b) The holders of long-term notes, bonds, debentures, or other similar obligations, or discount notes (hereinafter referred to collectively as "bonds") in book entry and definitive form issued by the bank individually or jointly with one or more System banks pursuant to 12 U.S.C. 2153(b), (c), (d), or (e) are not required to submit claims in accordance with this section. The Farm Credit Administration shall advise the receiver of the outstanding amount of bonds issued by or on behalf of the bank for which the bank is primarily liable within the meaning of 12 U.S.C. 2155(a).

(c) Except for any consolidated or Systemwide bonds issued on behalf of a bank which are assumed by one or more other banks of the System, when a bank is placed in receivership the Governor shall assign such bank's primary liability (as that term is used in 12 U.S.C. 2155(a)) on bonds to the other banks of the System in accordance with 12 U.S.C. 2155(a) as of the date of the appointment of the receiver. Upon such assignment, the assignee banks shall acquire rights to and title in such assets of the bank as shall be eligible and available as collateral under 12 U.S.C. 2154(b) up to an aggregate value equal to the total amount of the bonds so assigned, with priority of claims as provided in paragraph (d) of this section.

(d) The following priority of claims shall apply to the distribution of assets of a bank in liquidation:

(1) All costs, expenses, and debts that were incurred by the receiver in connection with the administration of the receivership.

(2) All claims for taxes.

(3) All claims of creditors which are secured by specific assets of the bank, with priority of conflicting claims of creditors within this same class to be determined in accordance with priorities of applicable Federal or State law.

(4) All claims of holders of bonds issued by the bank individually to the extent such are collateralized in accordance with 12 U.S.C. 2154.

(5) All claims of holders of consolidated and Systemwide bonds and claims of the other banks of the System related to assignments made by the Governor under paragraph (c) of this section.

(6) All claims of general creditors.

(e) All claims of each class described in paragraph (d) of this section shall be paid in full, or provisions shall be made for such payment prior to the payment of any claim of lesser priority. The receiver shall immediately reserve funds sufficient to pay all claims provided for in paragraphs (d) (1) and (2) of this section. Thereafter, the receiver may enter into a purchase and assumption agreement with a System bank authorized to serve the territory, pursuant to which the purchasing bank will acquire loan assets of the receivership and assume a like amount of obligations of the bank in receivership on its notes and bonds. The receiver shall then liquidate the remaining assets of the bank in a manner that minimizes the potential for any interruption in the timely repayment of principal and interest on claims provided for in paragraphs (d) (4) and (5) of this section in accordance with the maturity dates of such obligations.

(f) Following the payment of all claims, the receiver shall distribute the remainder of the assets of the bank to the owners of stock, participation certificates, and other equities in accordance with the priorities for impairment set forth in the bylaws of the bank.

**§ 611.1175 Inventory, examination, and audit.**

(a) As soon as practicable after taking possession of a bank, the receiver shall make an inventory of the assets and liabilities of the bank as of the date possession was taken. Such inventory shall include the book value and fair market value of the bank's assets and the book value of the bank's liabilities and any security therefor. The method of listing assets and liabilities must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The bank in receivership shall be examined and audited on an annual basis by the Farm Credit Administration or, at the discretion of the Farm Credit Administration, by an independent private auditor. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the bank in receivership.

(c) The Farm Credit Administration may from time to time prescribe accounting practices to be followed and require such audit or other reports covering any matters related to the operations of the bank or the receivership as it deems appropriate on such forms as it may prescribe. One copy of the reports required by this section shall be filed with the Office of Examination and Supervision, Farm Credit Administration, and one copy shall be retained in the receiver's principal office.

**§ 611.1176 Final discharge and release of receiver.**

The bank in receivership shall continue as a bank chartered in accordance with the Act until such time as the liquidation has been completed and the charter of the bank has been canceled by the Governor of the Farm Credit Administration. When the receiver recommends final distribution of assets or is otherwise relieved of its duties by the Farm Credit Administration, the receiver shall file a detailed report with, and in a form satisfactory to the Farm Credit Administration. Unless the Farm Credit Administration otherwise directs, upon final liquidation of the receivership or when the receiver completes or is otherwise relieved of its duties, the receivership shall be examined and audited pursuant to § 617.7090 of this chapter. The receiver's accounts shall thereupon be approved or disapproved, and if approved, the receiver shall thereby be completely and finally released. The records of the receivership shall be stored and maintained in the manner directed by the Farm Credit Administration.

**Donald E. Wilkinson,**

*Governor.*

[FR Doc. 85-22427 Filed 9-18-85; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 85-AWA-16]**

## Alteration of the Detroit, MI, Terminal Control Area

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

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the Detroit, MI, Terminal Control Area (TCA). Runway 3R/21L was added after the initial design of the Detroit TCA. Its addition had provided an availability of simultaneous instrument landing system (ILS) approaches. Consistent with the purpose of a TCA, the new capability created a need to modify the TCA airspace configuration to totally contain aircraft inbound to Detroit Metropolitan Airport.

**EFFECTIVE DATE:** 0901 G.m.t., October 24, 1985.

**FOR FURTHER INFORMATION CONTACT:** Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–8783.

**SUPPLEMENTARY INFORMATION:**

### History

One June 25, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Detroit, MI, TCA (50 FR 26218). The addition of Runway 3R/21L provides the availability of simultaneous ILS approaches. Consistent with the purpose of a TCA, the new capability creates the need to modify the TCA to totally contain aircraft inbound to Detroit Metropolitan Airport in the TCA. The intended effect of the action is to return to general aviation use a significant amount of airspace which is presently unavailable for use while making adjustments to the TCA configuration to assure proper containment of aircraft within TCA limits.

This amendment to the Detroit TCA entails no increase in the heights of TCA airspace, no impact on air traffic or air navigation facilities, no need for additional equipment or personnel and no change to flight patterns. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received in response to the NPRM. The Air Line Pilots Association supports the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401(b) of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

### The rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Detroit, MI, TCA as follows:

*Area A. Surface to 8,000 Feet Area (Surface to 80).* The airspace area of the core of the TCA area is expanded to a 7-nautical-mile arc. This change allows for maneuvering room for aircraft inbound to Runway 3R.21L. The expansion eliminates the small wedge of airspace created by control zone extensions and allows the 2,300 to 8,000 feet area to be eliminated in all areas except a small portion southwest of Detroit Metropolitan Airport, which is raised to 2,500 to 8,000 feet mean sea level (MSL) to accommodate arrivals on Runways 3L and 3R and departures on Runway 21L.

*Area B. 2,300 to 8,000 feet Area (23/80).* This area has been eliminated with the exception of that airspace from 2,500 feet to 8,000 feet between the 7- and 11-nautical-mile distance measuring equipment (DME) arcs of the Detroit ILS Localizer, Runway 3L (I–DTW) and which generally begins at the southern boundary of the Willow Run (YIP) (Ypsilanti) Control Zone and proceeds easterly to YIP Terminal Very High Frequency Omni-Directional Radio Range (TVOR) 105° radial.

*Area C. 3,000 to 8,000 feet Area (30/80).* This area extends to the east and encompasses airspace over an existing Canadian Positive Control Zone. It provides for VFR operation below 3,000 feet MSL along the Detroit River. A lower altitude is not needed in this area and it is believed the airspace user will be better served by improved availability of VFR arrival and departure routes for airports underlying this airspace.

*Area D. 5,000 to 8,000 feet Area (50/80).* Both north and south ends of the TCA were reduced in lateral size and altitude. The redesigned area has a lowered floor of 4,000 feet. The lower floor permits simultaneous ILS approaches to Runways 21L/3R and 21R/3L. The reduced lateral limits allow VFR flights a more direct route to or from the Salem VORTAC.

The amended description of the Detroit TCA utilizes existing navigational aids rather than geographical lines.

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

### List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

### Adoption of the Amendment

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

## PART 71—[AMENDED]

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

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

2. Section 71.401(b) is amended as follows:

**Detroit, MI [Revised]**

Primary Airport, Detroit Metropolitan Wayne County Airport (lat. 42°13'07" N., long. 83°20'55" W.).

*Boundaries*

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within the lateral limits of the airspace beginning at the intersection of the Willow Run, MI, VOR 050° radial and the Detroit Willow Run Airport, MI, Control Zone; thence northeast along the Willow Run VOR 050° radial until intercepting the 7-mile DME arc of the Detroit Instrument Landing System (ILS) Localizer Runway 3L (I–DTW); thence clockwise along the I–DTW 7-mile DME arc until intercepting the Detroit Willow Run Airport Control Zone; thence counterclockwise along the Detroit Willow Run Airport Control Zone to the point of origin.

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits of the airspace beginning at the intersection of the I–DTW 7-mile DME arc and the Detroit Willow Run Airport Control Zone counterclockwise along the I–DTW 7-mile DME arc until intercepting the Willow Run VOR 105° radial; thence southwest on a 216° bearing from that intersection until intercepting the I–DTW 11-mile DME arc; thence clockwise along the I–DTW 11-mile DME arc until intercepting the Willow Run VOR 190° radial; thence direct to the point of origin.

Area C. That airspace from 3,000 feet MSL to and including 8,000 feet MSL within the airspace (excluding Areas A and B) beginning at the intersection of the Salem, MI, VORTAC 200° radial and the I–DTW 17-mile DME arc, counterclockwise along the I–DTW 17-mile DME arc until intercepting the Windsor, Canada, VOR 226° radial; thence northeast along the Windsor VOR 226° radial until intercepting the I–DTW 20-mile DME arc; thence counterclockwise along the I–DTW 20-mile DME arc until intercepting the Windsor VOR 323° radial; thence northwest along the Windsor VOR 323° radial until intercepting the U.S./Canadian international boundary; thence southwest along the U.S./Canadian international boundary until intercepting the I–DTW 11-mile DME arc; thence counterclockwise along the I–DTW 11-mile DME arc until intercepting the Salem VORTAC 5-mile DME arc; thence clockwise

along the Salem VORTAC 5-mile DME until intercepting the Salem VORTAC 200° radial; thence southwest along the Salem VORTAC 200° radial to the point of origin.

Area D. That airspace from 4,000 feet MSL to and including 8,000 feet MSL within lateral limits beginning at the intersection of the Salem VORTAC 050° radial and the I–DTW 19-mile DME arc; thence clockwise along the I–DTW 19-mile DME until intercepting the Windsor VOR 323° radial; thence southeast along the Windsor VOR 323° radial until intercepting the U.S./Canadian international boundary; thence southwest along the U.S./Canadian international boundary until intercepting the I–DTW 11-mile DME arc; thence counterclockwise along the I–DTW 11-mile DME arc until intercepting the Salem VORTAC 5-mile DME arc; thence counterclockwise along the Salem VORTAC 5-mile DME arc until intercepting the Salem VORTAC 050° radial; thence northeast along the Salem VORTAC 050° radial to the point of origin; and that airspace within the lateral limits beginning at the intersection of the Salem VORTAC 200° and the I–DTW 17-mile DME arc counterclockwise along the I–DTW 17-mile DME arc until intercepting the Windsor VOR 226° radial, thence southwest along a 216° bearing until intercepting the I–DTW 20-mile DME arc, thence clockwise along the I–DTW 20-mile DME arc until intercepting the Salem VORTAC 200° radial, thence north along the Salem VORTAC 200° radial to the point of origin.

Issued in Washington, D.C., on September 11, 1985.

**Daniel J. Peterson,**

*Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 85–22371 Filed 9–18–85; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### 15 CFR Part 373

**[Docket No. 40110–5076]**

### Revision of Distribution License Procedure

*Correction*

In FR Doc. 85–12598, beginning on page 21562, in the issue of Friday, May 24, 1985, make the following corrections:

On page 21573, first column, § 373.3:

1. In the first complete paragraph, *Amendments of Distribution Licenses* should be codified as paragraph (l), not paragraph (1).

2. In § 373.3(l)(3)(i), eighth line, "paragraph (k)(3)(ii)" should read "paragraph (l)(3)(ii)".

BILLING CODE 1505–01–M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 6

**[T.D. 85–157]**

### Customs Regulations Amendment Relating to Entry and Clearance of Civil Aircraft

**AGENCY:** Customs Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations relating to the size, type of paper, and ink used on forms required for the entry and clearance of civil aircraft by Customs. These changes are less restrictive than current standards. They are minor changes which will apply only to the forms involved. They will facilitate the procedures involved in entering and clearing civil aircraft without making any substantive changes in those procedures.

**EFFECTIVE DATE:** October 21, 1985.

**FOR FURTHER INFORMATION CONTACT:** Operational Aspects: Jerry Worley, Office of Cargo Enforcement and Facilitation (202–566–8151). Legal Aspects: John Mathis, Carriers, Drawback and Bonds Division (202–566–5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 6.6(a), Customs Regulations (19 CFR 6.6(a)), currently provides that the size of Customs Form 7507 (General Declaration) and Customs Form 7509 (Cargo Manifest), required for the entry and clearance of civil aircraft, shall be approximately but not to exceed 8½ inches wide and 14 inches long. Additional specifications provided for in § 6.6(a) are that the forms shall be on white bond paper that will not discolor or become brittle within 20 years; that if these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17 inches by 22 inches, 1,000 sheet basis; if printed or typewritten, at least 25 percent rag, substance 26, 17 inches by 22 inches, 1,000 sheet basis. Also, these forms and the entries thereon must be dittoed, typewritten, or printed with ink, or dye that will not fade or "feather" within 20 years.

Section 6.6(b), Customs Regulations (19 CFR 6.6(b)), currently provides that these forms may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the official forms currently in use, with respect to size, wording arrangement, style and size of type, and paper specifications.

After a review of these requirements, Customs believes the specifications for these two forms are too restrictive, particularly with regard to their size. Therefore, by a document published in the **Federal Register** on January 11, 1985 (50 FR 1544), Customs proposed to reduce the size of the forms to 8½ inches by 11 inches, with a provision permitting the private printing of the forms up to a maximum size of 8½ inches by 14 inches. Customs recognizes that there also may be some justification, due to the exigencies of aircraft operation of which we are unaware, for permitting some minimum size that is smaller than 8½ inches by 11 inches. The proposed changes provide for these extenuating circumstances. In addition to the change in size specifications, Customs also proposed to eliminate all restrictions with regard to the type of paper and ink used on the forms.

Customs does not believe that Annex 9 to the Convention on International Civil Aviation precludes any of the proposed changes. No restrictions on the type of paper or ink to be used for the forms exist. With regard to size, Annex 9 does not specify a size, but does provide specimen copies of forms in metric sizes equal to 8¼ inches by 11¾ inches. However, the size recommended by Annex 9 is not binding as evidenced by the fact that the present forms measure 8½ inches by 14 inches.

#### Discussion of Comments

The only comment received in response to the notice document favored the proposal and urged that it be implemented as soon as possible. Accordingly, after a further review of the matter, Customs has determined to adopt the proposal as described in the notice.

#### Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review is not required.

#### Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

**Drafting Information**

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service Headquarters. However, personnel from other Customs offices participated in its development.

**List of Subjects in 19 CFR Part 6**

Air carriers, Aircraft, Airports, Cuba, Customs duties and inspection, Freight, Penalties, Reporting and recordkeeping requirements.

**Amendment to the Regulations**

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below.

**Alfred R. De Angelus,**

*Acting Commissioner of Customs.*

Approved:

**David D. Queen,**

*Acting Assistant Secretary of the Treasury.*

## PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 49 U.S.C. 1474, 1509; § 6.2 also issued under 19 U.S.C. 1322, 1448, 1450, 1451, 1644; § 6.6 also issued under 19 U.S.C. 1431; § 6.7 also issued under 19 U.S.C. 1644; § 6.8 also issued under 19 U.S.C. 1644, 46 U.S.C. 91, 92; § 6.17 also issued under 19 U.S.C. 1551, 1552, 1553; §§ 6.18 and 6.20 also issued under 19 U.S.C. 1552, 1553.

2. Sections 6.6 (a) and (b) are revised to read as follows:

**§ 6.6 Document; form.**

(a) The forms described in §§ 6.7 and 6.8 shall be the primary documents required for the entry and clearance of the aircraft, passengers, crewmembers and merchandise carried thereon. The forms shall be approved by the Commissioner of Customs. The forms shall be approximately 8½ inches wide and 11 inches long and shall be on white writing paper. If a document or the entries thereon are in a foreign language, a translation in English shall be furnished with the original and with each copy.

(b) The Customs forms described in §§ 6.7 and 6.8 are in the English language and are obtainable from district directors upon payment by the owner or operator of the aircraft. A small quantity of each of the forms shall be set aside by district directors for free distribution and official use. These forms may be printed by private parties, provided the forms so printed conform to the official forms currently in use with regard to wording arrangement, style and size of type and quality of paper. While minimal variation in size of the forms is acceptable, the size of the forms shall not exceed 8½ inches wide and 14 inches long.

* * * * *

[FR Doc. 85-22422 Filed 9-18-85; 8:45 am]
BILLING CODE 4820-02-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 178

**[Docket No. 84F-0151]**

### Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of bis (*beta*-carbobutoxyethyl) tin bis (isooctylmercaptoacetate) and *beta*-carbobutoxyethyltin tris (isooctylmercaptoacetate) as stabilizers for polyvinyl chloride and vinyl chloride copolymers intended for use in contact with food. This action responds to a petition filed by Interstab Chemicals, Inc.

**DATES:** Effective September 19, 1985; objections by October 21, 1985.

**ADDRESS:** 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:** 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 June 6, 1984 (49 FR 23455), FDA announced that a petition (FAP 4B3776) had been filed by Interstab Chemicals, Inc., 500 New Jersey Ave., New Brunswick, NJ 08903, proposing that § 178.2650 *Octyltin stabilizers in vinyl chloride plastics* (21 CFR 178.2650) be amended to provide for the safe use of bis (*beta*-carbobutoxyethyl) tin bis (isooctylmercaptoacetate) and *beta*-carbobutoxyethyltin) tris (isooctylmercaptoacetate) as stabilizers for polyvinyl chloride and vinyl chloride copolymers intended for use in contact with food.

Recently, the agency has reconsidered the statement in § 178.2650 indicating that the isooctyl radical in the mercaptoacetate is derived from oxo process isooctyl alcohol. Oxo process isooctyl alcohols used to prepare the mercaptoacetate portion of the tin stabilizers listed in this section can be manufactured by at least two oxo processes. To permit both processes of manufacture and to accommodate the variable composition of the alcohol mixtures that result from each process, the agency has determined that the isooctyl alcohol portion of the mercaptoacetates, which are authorized by the present order, should be described as oxo process primary octyl alcohols. Furthermore, the agency has evaluated the appropriate codification of the two stabilizers and has decided that they should be listed in 21 CFR 178.2650. However, because the two tin stabilizers listed in this order are not octyltin stabilizers, FDA is making an editorial change. The title of 21 CFR 178.2650 is being changed to a more generic "organotin stabilizers" replacing the current "octyltin stabilizers."

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use is safe and that the regulations should be amended 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 (address above) 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 and 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 may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any

time on or before October 21, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. 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 regulation. Received objections may be seen in the office above 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 Center for Food Safety and Applied Nutrition, 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(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.2650 by revising the section heading, the introductory paragraph, and the introductory text of paragraph (a), and by adding new paragraph (a)(5) and (6) to read as follows:

**§ 178.2650 Organotin stabilizers in vinyl chloride plastics.**

The octyltin chemicals identified in paragraph (a) of this section may be safely used alone or in combination, at levels not to exceed a total of 3 parts per hundred of resin, as stabilizers in polyvinyl chloride and vinyl chloride copolymers complying with the provisions of § 177.1950 or § 177.1980 of this chapter and that are intended for use in contact with food of types I, II, III, IV (except liquid milk), V, VI (except malt beverages and carbonated nonalcoholic beverages), VII, VIII, and IX described in table 1 of § 176.170(c) of this chapter, except for the octyltin chemical identified in paragraph (a)(3) of this section which may be used in contact with food of types I through IX at temperatures not exceeding 75 °C (167 °F), and further that the octyltin chemicals identified in paragraph (a)(5) and (6) of this section may be used in contact with food of types I through IX, at temperatures not exceeding 66 °C (150 °F), conditions of use D through G described in table 2 of § 176.170(c) of this chapter, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the octyltin chemicals are those identified in paragraph (a)(1), (2), (3), (4), (5), and (6) of this section.

* * * * *

(5) Bis(*beta*-carbobutoxyethyl)tin bis(isooctylmercaptoacetate) (CAS Reg. No. 63397–60–4) is an estertin chemical having 14.0 to 15.0 percent by weight of tin (Sn) and having 7.5 to 8.5 percent by weight of mercapto sulfur. It is made from bis(*beta*-carbobutoxyethyl)tin chloride. The isooctyl radical in the mercaptoacetate is derived from oxo process primary octyl alcohols. The bis(*beta*-carbobutoxyethyl)tin dichloride has an organotin composition that is not less than 95 percent by weight of bis(*beta*-carbobutoxyethyl)tin chloride and not more than 5 percent by weight of bis(*beta*-carbobutoxyethyltin chloride. The triestertin chloride content of bis(*beta*-carbobutoxyethyltin) dichloride shall not exceed 0.02 percent.

(6) *Beta*-carbobutoxyethyltin tris(isooctylmercaptoacetate) (CAS Reg. No. 63438–80–2) is an estertin chemical having 13.0 to 14.0 percent by weight of tin (Sn) and having 10.5 to 11.5 percent by weight of mercapto sulfur. It is made from *beta*-carbobutoxyethyltin trichloride. The isooctyl radical in the mercaptoacetate is derived from oxo process primary octyl alcohol. The *beta*-carbobutoxyethyltin trichloride has an organotin composition that is not less than 95 percent by weight of *beta*-carbobutoxyethyltin trichloride and not more than 5 percent total of triestertin chloride and diestertin chloride.

* * * * *

Dated: September 6, 1985.

**Richard J. Ronk,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 85–22377 Filed 9–18–85; 8:45 am]

BILLING CODE 4160–01–M

## DEPARTMENT OF TRANSPORTATION

**Coast Guard**

**33 CFR Part 100**

**[CGD3 85–60]**

## Special Local Regulations; Head of Connecticut Regatta, Connecticut River, Middletown, Connecticut

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special Local Regulations are being adopted for the Head of Connecticut Regatta being sponsored by the City of Middletown, Connecticut. This event will be held on October 13, 1985 between the hours of 9:00 a.m. and 6:00 p.m. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

**EFFECTIVE DATE:** This regulation becomes effective on October 13, 1985 from 9:00 a.m. to 6:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lucas A. Dlhopolsky (212) 668–7974.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Final details of the operation of the race were unable to be completed until August 27, 1985 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

**Drafting Information**

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

**Discussion of Regulations**

The eleventh annual Head of Connecticut Regatta sponsored by the City of Middletown, Connecticut is well known to the boaters and residents of this area. In the past few years it has grown to become one of the largest crew shell race events of its type on the East Coast. Approximately 410 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6 to 8 vessels in conjunction with Coast Guard and local authorities to patrol this event. Several of the sponsors vessels may assist in controlling the spectator fleet which has been growing larger in the past few years despite the late date of this event. Although the race

course has not been altered, several changes to these Special Local Regulations have been made as a result of a Coast Guard review of last year's event. In the Special Local Regulations for last year's (1984) regatta, a period of time (12:30 p.m. to 1:45 p.m.) was set aside for transit of vessels larger than 20 meters in length. Due to difficulty in adhering to those specific times and the need for the Patrol Commander to exercise his judgment concerning the safety of the race participants, this specific time period will not be in effect for this year's event. There is minimal commercial traffic this far up the Connecticut River at this time of the year. On the average, fewer than 2 fuel barges transit this section of the river on any given day en route to oil facilities along the river. The Coast Guard will restrict vessel movement within the regulated section of the Connecticut River during this event to provide for the safety of the participants and spectators on navigable waters. All non-participating vessels wishing to transit through the regulated area will be permitted to do so only at the discretion of the Coast Guard Patrol Commander and only with Coast Guard or Coast Guard Auxiliary escort at no wake speeds. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard Captain of the Port, New London has made notification to and requested the cooperation of the upstream commercial facilities in scheduling any vessel deliveries prior to or after completion of the races. The Coast Guard will issue a safety voice broadcast on the day of the race and this regulation will be published in the Local Notice To Mariners to advise the general boating public and commercial users of the Connecticut River of the event.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water).

**PART 100—[AMENDED]**

**Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation of 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 a temporary § 100.35–321 to read as follows:

**§ 100.35–321 Head of Connecticut Regatta, Middletown, Connecticut.**

(a) *Regulated Area.* That section of the Connecticut River between the southern tip of Gildersleeve Island and aids to navigation light Number 87.

(b) *Effective Period.* This regulation will be effective from 9:00 a.m. to 6:00 p.m. on October 13, 1985.

(c) *Special Local Regulations.* (1) The regulated area shall be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless participating in the event or authorized by the event sponsor or the Coast Guard Patrol Commander.

(2) Vessels awaiting passage through the regulated area shall be held in the vicinity of the southern tip of Gildersleeve Island, if southbound; and at Light 87 if northbound, until escorted at no wake speeds by Coast Guard or Guard Auxiliary patrol vessels through the race course.

(3) The sponsor shall ensure that all races are completed by 6:00 p.m. on October 13, 1985.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: September 12, 1985.

**P.A. Yost,**

*Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.*

[FR Doc. 85–22464 Filed 9–18–85; 8:45 am]

BILLING CODE 4910–14–M

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**33 CFR Part 100**

**[CGD2–85–47]**

**Special Local Regulations; Madison Fall Regatta, Indiana**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special local regulations are being adopted for Mile 557.0 to 558.0 OHIO RIVER. The "MADISON FALL REGATTA", an approved marine event, will be held on September 21 and 22, 1985, at MADISON, INDIANA. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

**EFFECTIVE DATES:** These regulations will be effective from 12:00 noon of September 21, and terminate at 6:00 p.m. on September 22, 1985.

**FOR FURTHER INFORMATION CONTACT:** LCDR. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103.

**SUPPLEMENTARY INFORMATION:** These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Ohio River between miles 557.0 and 558.0 during the "MADISON FALL REGATTA", September 21 and 22, 1985. This event will consist of several classes of hydroplane races, which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was not received until July 22, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

**Drafting Information**

The drafters of this regulation are BMCM W.L. Giessman, USCGR, project officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG, project attorney, Second Coast Guard District Legal Office.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water).

**PART 100—[AMENDED]**

**Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended 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. In Part 100, a new temporary § 100.35–0247 is added, to read as follows:

**§ 100.35–0247 Ohio River, mile 557.0 through 558.0.**

(a) *Regulated Area.* The area between Mile 557.0 and 558.0 Ohio River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 12:00 noon on September 21, and 6:00 p.m. on September 22, 1985. All times listed are local time. These times represent a guideline for possible intermittent river closures not to exceed THREE (3) hours in duration. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations.* The Coast Guard will maintain a patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be 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". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

(c) The Patrol Commander may direct the anchoring, mooring or movement of any boat or vessel within the regatta 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. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) 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.

(g) This § 100.35–0247 will be effective from 12:00 noon on September 21, and terminate at 6:00 p.m. on September 22, 1985. (local time).

Dated: September 3, 1985.

**B.F. Hollingsworth,**

*Rear Admiral, U.S. Coast Guard, Commander, Second Coast Guard District.*

[FR Doc. 85–22465 Filed 9–18–85; 8:45 am]

BILLING CODE 4910–14–M

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**33 CFR Part 117**

**[CGD7–85–23]**

## Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Florida Department of Transportation and the Venice Chamber of Commerce the Coast Guard is changing the regulations governing the Venice Avenue and Hatchett Creek drawbridges by permitting the number of openings to be limited during certain periods. This change is being made because of the proximity of these drawbridges to a major vehicular intersection in downtown Venice. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** These regulations become effective on October 21, 1965.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walt Paskowsky, (305) 350–4103.

**SUPPLEMENTARY INFORMATION:** On June 10, 1985 the Coast Guard published (50 FR 24238) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on June 21, 1985. In each notice interested persons were given until July 25, 1985 to submit comments.

**Drafting Information**

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

**Discussion of Comments**

Eight letters were received in response to the proposal. Five supported it. One opposed it, favoring continual on demand openings. Another favored opening once an hour. Another favored regulations only during rush hours on weekdays. These restrictions are beyond the scope of the proposed regulation. Other comments in the letters received asked that the bridges be opened and closed expeditiously. This matter is addressed in 33 CFR 117.9. Another suggested the installation of signs with the opening times posted one-half to three-quarter mile from the bridges. Placing of signs is addressed in 33 CFR 117.55. One commentor suggested the installation of VHF radios on the drawbridges. The matter is under study by the Florida Department of Transportation.

**Economic Assessment and Certification**

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

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

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

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

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

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

2. Section 117.287 is revised by adding a new paragraph (a–1) and revising paragraph (b) to read as follows:

**§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.**

* * * * *

(a–1) The draw of the Venice Avenue bridge, mile 56.6 at Venice, shall open on signal; except that, from 7 a.m. to 6 p.m., Monday through Friday except federal holidays, the draw need open only at 10 minutes after the hour, 30 minutes after the hour, and 50 minutes after the hour.

(b) The draw of the Hatchett Creek (US 41) bridge, mile 56.9 at Venice, shall open on signal, except that, from 7 a.m. to 6 p.m., Monday through Friday except federal holidays, the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. On Saturdays, Sundays and federal holidays from 7:30 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: September 6, 1985.

**R.P. Cueroni,**

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

[FR Doc. 85–22462 Filed 9–18–85; 8:45 am]

BILLING CODE 4910–14–M

## 33 CFR Part 117

**[CGD8–85–10]**

## Drawbridge Operation Regulations; Company Canal, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the operation of the vertical lift bridge over Company Canal, mile 8.1, on LA24 at Bourg, Terrebonne Parish, Louisiana, by requiring that at least four hours advance notice be given for an opening of the draw between 10 p.m. and 6 a.m. The draw would continue to open on signal from 6 a.m. to 10 p.m. The draw presently is required to open on signal at all times.

This change is being made because of the infrequent requests for opening the draw during the advance notice period. This action will relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 10 p.m. to 6 a.m. and will still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** This regulation becomes effective on October 21, 1985.

**FOR FURTHER INFORMATION CONTACT:** Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589–2965.

**SUPPLEMENTARY INFORMATION:** On 8 July 1985, the Coast Guard published a proposed rule (50 FR 27832) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated 17 July 1985. In each notice interested persons were given until 22 August 1985 to submit comments.

### Drafting Information

The drafters of this regulation are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

### Discussion of Comments

The only comments received were letters of no objection from the Louisiana Department of Natural Resources and the National Marine Fisheries Service.

### Economic Assessment and Certification

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

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass this bridge during the advance notice period of 10 p.m. to 6 a.m., as evidenced by the 1983 and 1984 bridge opening statistics which show that the bridge averaged one opening about every three days. These vessels can reasonably give four hours advance notice for a bridge opening by placing a collect call to the bridge owner at any time. The advance notice for opening the draw is given by placing a collect call during normal working hours to the LDOTD office in Houma, Louisiana, telephone (504) 851–0900, or, at any time to the LDOTD District Office in Lafayette, Louisiana, telephone (318) 233–7404. The LDOTD recognizes that there may be an unusual occasion to open the bridge on less than four hours notice for an emergency or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at the bridge at the appointed time should involve little or no additional expense to them. Since the economic 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.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulation

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

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; and 49 CFR 1.46(c)(5) and 33 CFR 1.05–1(g).

2. Section 117.438a is redesignated as § 117.438, the text is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

**§ 117.438 Company Canal.**

* * * * *

(b) The draw of the S24 bridge, mile 8.1 at Bourg, shall open on signal; except that, from 10 p.m. to 6 a.m. the draw shall open on signal if at least four hours notice is given. During the advance notice period, the draw shall open on less than four hours notice for an emergency and shall open on demand should a temporary surge in waterway traffic occur.

Dated: September 6, 1985.

**E.B. Acklin,**

*Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.*

[FR Doc. 85–22463 Filed 9–18–85; 8:45 am]

BILLING CODE 4910–14–M

## 33 CFR Part 165

**[COTP San Diego Reg. 85–05]**

## Safety Zone Regulations; San Clemente Island, CA, Pacific Ocean

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the vicinity of West Cove, San Clemente Island, California. This safety zone is being established at the request of the United States Navy and is needed to protect an underwater cable array in that location from damage due to vessels anchoring in this location. Vessels may transit this zone without restriction, but are prohibited from anchoring in this zone.

**EFFECTIVE DATES:** This regulation becomes effective on September 19, 1985. It terminates on January 17, 1986.

**FOR FURTHER INFORMATION CONTACT:** LCDR Steven P. Mojonnier, USCG, c/o U.S. Coast Guard Captain of the Port, 2710 N. Harbor Drive, San Diego, CA 92101-1064, telephone (619) 293-5860.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking (NPRM) was not published for this regulation and it is being made effective in less than 30 days from the date of publication. Publishing an NPRM and delaying its effective date would have been contrary to the public interest since immediate action is needed to prevent damage to the underwater cable array.

### Drafting Information

The drafters of this regulation are LCDR Steven P. Mojonnier, project officer for the Captain of the Port, and LT Joseph R. McFaul, project attorney, Eleventh Coast Guard District Legal Office.

### Discussion of Regulation

In September 1984, the U.S. Navy established an underwater cable array in West Cove, San Clemente Island, California. This cable array is highly susceptible to damage from vessels anchoring in the area. Since the cable array was established, the operator of the cable array has had difficulty controlling vessels anchoring in the area. The U.S. Navy has requested that the U.S. Army Corps of Engineers establish a restricted area in this location, under the authority of section 1, Title 33 United States Code (U.S.C.) to protect the cable array. This rulemaking was originally expected to take at least 4 months to accomplish, and a temporary safety zone to protect the array was established at that time (33 CFR 165.T1181, 25 February 1985, 50 FR 7587). It is now expected that a permanent restricted area will be established in this location within the next 4 months. The U.S. Navy requested on 15 August 1985 that the Captain of the Port of San Diego reestablish the safety zone in this location, under the authority of Title 33, Code of Federal Regulations, Part 165, to protect the cable array until the restricted area can be established. Vessels may transit this area without restriction, but are prohibited from anchoring in the zone unless authorized by the Captain of the Port or the operator of the cable array, Commander, Anti-Submarine Warfare Wing, U.S. Pacific Fleet, San Diego, California. The Commander, Anti-Submarine Warfare Wing can be reached at: Commander, Anti-Submarine Warfare Wing, U.S. Pacific Fleet, Naval Air Station, North Island, San Diego, CA 92135, (619) 437-6814 or 437-6828.

It is anticipated that this regulation will have no significant impact on vessel operators in the vicinity of San Clemente Island. Sufficient alternate anchorage areas are available to accommodate the vessels using this area. These alternate areas are to close to shore and as convenient to use as the area of this zone.

### List of Subjects in 33 CFR Part 165

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

### Regulation

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

## PART 165—[AMENDED]

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

**Authority:** Subparts A and F issued under sec. 2, Pub. L. 95-474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); C. 30, sec. 1, 40 Stat. 220, as amended, (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949-1953 Comp. 356; E.O. 11249, 3 CFR 1964-1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46(b) and (n)(4).

Subparts B and C issued under sec. 2, Pub. L. 95-474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46(n)(4).

(The other authority citations in Part 165 do not apply to this rule.)

2. In Part 165, a new § 165.T1188 is added to read as follows:

**§ 165.T1188 San Clemente Island, California—Safety Zone.**

(a) *Location:* The waters within the following boundaries are a safety zone:

Starting at a point on the shore of San Clemente Island at West Cove in position 33°00'52" N. 118°36'18" W. for a point of beginning, thence southwesterly to latitude 32°59'30" N. longitude 118°37'30" W., thence southerly to latitude 32°58'30" N., longitude 118°36'40" W.; thence northeasterly to latitude 32°00'40" N., longitude 118°35'27" W.; thence generally westerly along the shore of San Clemente Island to the point of beginning.

(b) *Regulations:*

(1) All vessels may transit or navigate within the safety zone.

(2) No vessel may anchor within the safety zone without the permission of the Captain of the Port or the Commander, Anti-Submarine Warfare Wing, U.S. Pacific Fleet, San Diego, California.

Dated: September 16, 1985.

**E.A Harmes,**

*Commander, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 85-22469 Filed 9-18-85; 8:45 am]

BILLING CODE 4910-14-M

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**33 CFR Part 165**

**[COTP San Diego Reg. 85-06]**

## Safety Zone Regulations; San Diego Bay, CA, Pacific Ocean

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending 33 CFR 165.1107 to expand a previously existing safety zone in the vicinity of Coast Guard Air Station San Diego. This safety zone is needed to protect vessels anchored in the area of Air Station San Diego, and Coast Guard vessels and aircraft operating out of Air Station San Diego. Vessels may transit this zone without restriction, but are prohibited from remaining or anchoring in this zone, or approaching within 100 yards (92 meters) of the Air Station unless authorized by the Captain of the Port. An interim final rule expanding this safety zone was published on April 15, 1985.

**EFFECTIVE DATES:** This regulation became effective on April 5, 1985. A ninety (90) day comment period was provided in the interim rule. This comment period expired on July 5, 1985. This final rule affirms the effective date of this regulation.

**FOR FURTHER INFORMATION CONTACT:** LCDR Steven P. Mojonnier, USCG, c/o U.S. Coast Guard Captain of the Port, 2710 N. Harbor Drive, San Diego, CA 92101, telephone (619) 293-5860.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking (NPRM) was not published for this regulation and it was made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would have been contrary to the public interest since immediate action was needed to respond to potential hazards to aircraft, vessels and persons in the area. A ninety (90) day comment period was provided, which expired on July 5, 1985.

### Drafting Information

The drafters of this regulation are LCDR Steven P. Mojonnier, project officer for the Captain of the Port, and LT Joseph R. McFaul, project attorney, Eleventh Coast Guard District Legal Office.

**Discussion of Regulation**

The circumstances requiring this regulation were described in the interim final rule, published April 15, 1985. These conditions remain the same, and the rule remains necessary. Enforcement action, consisting of a warning, was taken against a total of eight (8) vessels, none of which resulted in penalty action.

The ninety (90) day comment period provided for in the interim final rule expired on July 5, 1985. No comments were received on the interim rule, and no public hearing was requested. Although no comments were received, it is apparent that the public has accepted this safety zone extension without disagreement, and that it has caused no significant impact.

**List of Subjects in 33 CFR Part 165**

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

**Regulation**

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

## PART 165—[AMENDED]

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

Authority: Subparts A and F issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); C. 30, sec. 1, 40 Stat. 220, as amended, (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949–1953 Comp. 356; E.O. 11249, 3 CFR 1964–1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46(b) and (n)(4).

Subparts B and C issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46(n)(4).

(The other authority citations in Part 165 do not apply to this rule.)

2. In Part 165, § 165.1107 as published on Monday, 15 April 1985 at 50 FR 14703 is affirmed as a final rule effective on 5 April 1985.

Dated: September 4, 1985.

**E. A. Harmes,**

*Commander, U.S. Coost Guard, Captain of the Port.*

[FR Doc. 85–22468 Filed 9–18–85; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-5-FRL-2900-4]

### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Clarification and Correction.

By notice dated February 5, 1985, EPA rescinded its interim enforcement policy for sulfur dioxide ($SO_2$) emission limitations in Indiana (50 FR 4975). The Indiana interim limitations in Indiana (50 FR 4975). The Indiana interim enforcement policy was issued on December 31, 1981 (46 FR 63270). The February 5 notice included statements that the Agency has proposed to retain short-term national ambient air quality standards (NAAQS) for $SO_2$, that the Agency is no longer considering measures to address sulfur variability, and that $SO_2$ compliance determination on a short-term average basis is necessary to assure protection of the short-term NAAQS.

Today's notice corrects two statements and clarifies a third statement in the February 5, 1985 notice. First, the Agency has not yet proposed rulemaking regarding the review of the $SO_2$ NAAQS. Second, the subject of sulfur variability is being addressed in several regulatory contexts. Finally, with regard to the relationship between compliance determinations and the NAAQS, the Agency has made no generic determination that long term compliance averaging can or cannot assure protection of the short term NAAQS.

EPA has determined, however, that continuation of the interim enforcement policy is no longer appropriate in Indiana. This notice does not affect the previous rescission of the interim enforcement policy, but merely clarifies that notice. Today's notice also corrects an error in the February 5, 1985 notice which should have been published under 40 CFR Part 52, not Part 60.

**DATE:** Today's notice is merely a clarification of USEPA's February 5, 1985, notice. USEPA's rescission of its interim enforcement policy remains effective as of January 9, 1985.

**ADDRESSES:** Materials relating to this decision are available for inspection at the following addresses: (It is recommended that you telephone David A. Schulz, at (312) 353–2088, before visiting the Region V Office.) U.S. Environmental Protection Agency, Region V, Air Compliance Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** David A. Schulz, Air Compliance Branch (5AC–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 353–2088.

(42 U.S.C. 7410, 7502, and 7601)

Dated: April 12, 1985.

**Valdas V. Adamkus,**

*Regional Administrator.*

[FR Doc. 85–22418 Filed 9–18–85; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 180

[PP 4E3123/R788; PH–FRL 2895–2]

### Pesticide Tolerance for Carbofuran

*Correction*

In FR Doc. 85–21571 appearing on page 36579 in the issue of Monday, September 9, 1985, make the following corrections:

1. In the third column, in § 180.254(a), the tenth line should read, "3-oxo-7-benzofuranol, and 2,3-dihydro-".

2. Also in the third column, in § 180.254(b), in the eleventh line, "2,3-dihydro-2,3-" should read "2,3-dihydro-2,2-".

BILLING CODE 1505-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

### Cable Television Service; Suspension of Certain Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Suspended Enforcement of certain Sections of 47 CFR Part 76.

**SUMMARY:** We are hereby giving notice that because of the decision of the United States Court of Appeals, District of Columbia Circuit in *Quincy Cable TV, Inc. v. FCC*, No. 83–1283 (D.C. Cir. July 19, 1985), we are suspending enforcement of certain rules in 47 CFR Part 76 relating to this Commission's mandatory signal carriage rules. Those sections for which enforcement is suspended are as follows: §§ 76.7(g), 76.55(a)(2) and (3), (c) and (d); and 76.57–64. Petitions for special relief, show cause, or forfeiture relating to the above rules will not be accepted for filing. These rules will remain codified in 47 CFR Part 76 pending final action of the Supreme Court on the Quincy Case noted above.

**EFFECTIVE DATE:** July 19, 1985.

**ADDRESS:** Federal Communications Commission; Wahington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Stephen R. Ross, Chief, Cable Television Branch, Video Services Division, Mass Media Bureau, (202) 632–7480.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 76**

Cable Television Service.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 85-22596 Filed 9-18-85; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### 48 CFR Parts 301, 304, 305, 306, 307, 313, 314, 315, 316, 319, 323, 332, 333, 337, 342, 352 and 370

### Acquisition Regulation; Amendments

**AGENCY:** Department of Health and Human Services (HHS).

**ACTION:** Final rule; amendments.

**SUMMARY:** This rule finalizes and amends the interim rule with request for comments published in the **Federal Register** of May 31, 1985 (50 FR 23126-23136).

The interim rule amended the Department of Health and Human Services Acquisition Regulation (HHSAR), 48 CFR Chapter 3, to implement revisions to the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, resulting from the Competition in Contracting Act of 1984, Title VII of Pub. L. 98-369, and the Small Business and Federal Procurement Competition Enhancement Act of 1984, Pub. L. 98-577. The interim rule also amended the HHSAR to indicate organizational nomentclature changes, reflect the transfer of construction and architect-engineer acquisition responsibilities from the Office of the Secretary to the Public Health Service, and make other administrative corrections.

**EFFECTIVE DATE:** September 19, 1985.

**FOR FURTHER INFORMATION CONTACT:** Ed Lanham, Senior Procurement Analyst, Office of Procurement and Logistics Policy, telephone (202) 245-8901.

**SUPPLEMENTARY INFORMATION:** The interim rule published on May 31, 1985 requested comments from interested parties. No comments were received from either the public or departmental activities. As a result, the amendments in the interim rule are finalized as originally published, except as indicated herein.

Since the publication of the interim rule, Federal Acquisition Circular 84-9 was published in the **Federal Register** (June 20, 1985, 50 FR 25680-25681). Some of the amendments contained in the Circular revise portions of FAR Subpart 33.1- Protests, and necessitate revisions to the implementing HHSAR Subpart 333.1- Protests published in the interim rule. These revisions, which are internal administrative procedures, are included in this final rule.

In addition, an erroneous citation to cost principles applicable to hospitals was disclosed in three contract clauses, and this is being corrected.

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

**List of Subjects in 48 CFR Parts 301, 304, 305, 306, 307, 313, 314, 315, 316, 319, 323, 332, 333, 337, 342, 352 and 370**

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Dated: September 12, 1985.

**Henry G. Kirschenmann, Jr.,**

*Deputy Assistant Secretary for Procurement, Assistance and Logistics.*

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, the interim rule, published on May 31, 1985 (50 FR 23126-23136) is adopted as final with the following changes:

1. The authority citation for Parts 301, 304, 305, 306, 307, 313, 314, 315, 316, 319, 323, 332, 333, 337, 352, and 370 continues to read as follows:

**Authority:** 5 U.S.C. 301, 40 U.S.C. 486(c).

### PART 306—[AMENDED]

#### 306.502 [Amended]

2. Section 306.502 is amended by removing the second sentence in paragraph (b), and correcting the word "competitive" in the first sentence to read "competition."

### PART 333—[AMENDED]

#### 333.104 [Amended]

3. Section 333.104 is amended as follows:

a. In paragraph (b) *Protests before award.*, redesignate the existing paragraph (b)(2) as paragraph (b)(4), revise paragraph (b)(1), and add a new paragraph (b)(2):

(b) * * *

(1) To make an award notwithstanding a protest, the contracting officer shall prepare a finding using the criteria in FAR 33.104(b)(1), have it executed by the head of the contracting activity, and forward it, along with a written request for approval to make the award, to the Director, OPLP.

(2) If the request to make an award notwithstanding the protest is approved by the Director, OPLP, the DPCO shall notify GAO. Whether the request is approved or not, the DPCO shall telephonically notify the contracting activity's protest control officer of the decision by the Director, OPLP, and the contracting activity's protest control officer shall immediately notify the contracting officer. The DPCO shall confirm the decision by memorandum to the contracting activity's protest control officer.

b. In paragraph (c) designate the language after *Protests after awards.*, as paragraph (c)(6) and add the following as paragraph (c)(2):

(c) * * *

(2) If the contracting officer believes performance should be allowed to continue notwithstanding the protest, a finding shall be prepared by the contracting officer, executed by the head of the contracting activity, and forwarded, along with a written request for approval, to the Director, OPLP. The same procedures for notification stated in 333.104(b)(2), above shall be followed.

* * * * *

c. Redesignate paragraphs (e) and (f) as paragraphs (f) and (h) respectively. Newly redesignated paragraph (h) is further amended by revising the second sentence to read as follows:

(h) The contracting officer shall involve OGC-BAL as early as possible after receiving notification of the invocation of the express option, and obtain the concurrence of the cognizant OGC-BAL attorney prior to transmitting the protest file to the DPCO.

#### 333.105 [Amended]

4. Section 333.105 is amended as follows:

a. The parenthetical expression in the first sentence in paragraph (b) is revised to read "(See FAR 33.105(b), especially (b)(7)),".

b. Paragraph (b) is further amended by adding the following as the last sentence: "After consultation with the cognizant OGC-BAL attorney, the DPCO shall transmit the protest file to the GSBCA."

c. Paragraph (b)(7) is revised to read "The DPCO shall provide all parties with a list of documents furnished to the GSBCA for *in camera* review."

#### 333.106 [Amended]

5. Section 333.106 is amended by revising the title to read "Solicitation provision and contract clause.", and by designating the existing paragraph as "(a)".

## PART 352—[AMENDED]

**352.216-7, 352.216-71, and 352.270-4 [Amended]**

6. Sections 352.216-7, 352.216-71, and 352.270-4 are amended by correcting the reference to "45 CFR Part 78" to read "45 CFR Part 74 Appendix E" in each of the contract clause texts.

[FR Doc. 85-22411 Filed 9-18-85; 8:45 am]

BILLING CODE 4150-04-M

## GENERAL SERVICES ADMINISTRATION

**48 CFR Part 525**

**[APD 2800.12 CHGE 17]**

## General Services Administration Acquisition Regulation; Purchases Under the Trade Agreements Act of 1979

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to revise section 525.402 to provide the current dollar threshold established by the U.S. Trade Representative under Executive Order 12260 for applicability of the Trade Agreements Act of 1979. This change cancels GSAR Acquisition Circular AC-85-2. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

**EFFECTIVE DATE:** September 11, 1985.

**FOR FURTHER INFORMATION CONTACT:** Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), 18th & F Sts., NW, Washington, D.C. 20405, (202) 523-3822.

**SUPPLEMENTARY INFORMATION:**

### Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document 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.). Therefore, no regulatory flexibility analysis has been prepared. This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

### List of Subjects in 48 CFR Part 525

Government procurement.

## PART 525—[AMENDED]

1. The authority citation for 48 CFR Part 525 continues to read as follows:

**Authority:** 40 U.S.C. 486(c).

2. Section 525.402 is revised to read as follows:

**§ 525.402 Policy.**

(a) Pursuant to FAR 25.402(a), contracting officers shall evaluate offers of $156,000 or more for an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The $156,000 threshold shall be inserted in paragraph (b) of the FAR clause at 52.225-9 (see Article 30 of the GSA Form 3507, Supply Contract Clauses).

(b) Pursuant to FAR 25.402(d), acquisitions of eligible products meet the requirements for full and open competition in FAR Subpart 6.1 if all responsible prospective contractors, as defined in FAR 9.101, offering United States or designated country end products are permitted to submit offers.

(c) Acquisitions of eligible products without full and open competition (i.e., all otherwise responsible sources are not permitted to submit offers) shall be made under the authorities in FAR Subparts 6.2 or 6.3 and comply with the respective requirements of these FAR subparts for Determinations and Findings or approved justifications. When acquiring eligible products without full and open competition using the authorities in FAR 6.302-3(a)(2)(i) or 6.302-7, a copy of the approved justification shall be furnished to the Assistant Administrator for Acquisition Policy for subsequent transmittal to the U.S. Trade Representative.

Dated: September 11, 1985.

**Allan W. Beres,**

*Assistant Administrator for Acquisition Policy.*

[FR Doc. 85-22439 Filed 9-18-85; 8:45 am]

BILLING CODE 6820-61-M

# Proposed Rules

Federal Register
Vol. 50, No. 182
Thursday, September 19, 1985

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Parts 53 and 54

### Standards for Grades of Carcass Beef and Slaughter Cattle

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Withdrawal of Proposed rule.

**SUMMARY:** The U.S. Department of Agriculture (USDA) published a proposed rule to revise the official U.S. standards for grades of carcass beef and the related standards for grades of slaughter cattle in the November 8, 1984, **Federal Register** (49 FR 44724). A public hearing was held in Washington, DC on December 19, 1984. The following is the Department's decision on that proposal.

Fifty-six written comments were received. Also, a public hearing was conducted and a total of nine persons made statements at this session and a transcript of all statements was made. The transcript, as well as all submitted comments, are public information available to anyone caring to review them at the Agricultural Marketing Service (AMS), USDA.

Based upon comments received and all information available, the USDA has decided to withdraw the proposed beef yield grade changes, and to implement no changes in this voluntary, user-paid-for service at this time.

**DATE:** This withdrawal is effective September 19, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael L. May, Chief, Standardization and Review Branch, Livestock and Seed Division, AMS, USDA, Room 2649–South Building, Washington, DC 20250; (202) 447–4486.

**SUPPLEMENTARY INFORMATION:**

#### Background

A proposed rule to revise the official U.S. standards for grades of carcass beef (7 CFR Part 54) and the related standards for grades of slaughter cattle (7 CFR Part 53) was published in the November 8, 1984, **Federal Register** (49 FR 44724–44737). The closing of the comment period was extended twice (50 FR 2055 and 50 FR 10236) and closed on May 1, 1985. A public hearing was held in Washington, DC, on December 19, 1984.

The proposed changes were largely developed in response to a petition submitted by the American Meat Institute (AMI) in May 1983. To fully explore the kidney, pelvic, and heart (KPH) fat removal issue raised in the AMI petition, staff members of AMS's Livestock and Seed Division met with representatives of national organizations representing the beef production, slaughter, and processing industries and renderers, restaurateurs, retailers, and consumers. Information gained through these meetings was used in the development of the proposed changes.

The proposed changes would have revised the current yield grade standards in Part 54 to alow those portions of the industry desiring to remove KPH fat for economic or efficiency reasons an opportunity to do so, but would have required the removal of KPH fat which could adversely affect some segments of the industry. The proposed revisions would have eliminated the consideration of KPH fat in the determination of yield grade, and the method of determining yield grades would have been on a KPH fat out basis. Carcasses graded with KPH fat in would have been identified in a manner that would distinguish them from carcasses graded with KPH fat removed. Both the yield grade equation and the proposed shortcut method would have been recognized as official methods for determining yield grade. The proposed changes were intended to improve the accuracy of application of the yield grade formula and increase the uniformity of fat and muscling characteristics within each of the yield grades.

#### Comments

Comments were presented by nine persons at the public hearing and 56 official written comments were received. These comments ranged from individual views to those of national organizaitons. When the hearing and written comments presented by the same organization or individual were combined, a total of 60 comments were received.

National organizations representing livestock production; meat packing; hotel, restaurant, and institutional (HRI) suppliers; restaurateurs; and renderers filed comments. In addition, several state and regional organizations filed comments. There was agreement in many of the comments that some potential efficiencies, particularly to the meat packing sector, were possible due to the proposed changes. However, the net effect of these efficiencies was questioned by many of the comments from the other sectors of the industry, and some of the comments from the meat packers also questioned whether there would be any overall net savings to the industry.

There were several common concerns expressed by the commentors. The most common were the concern over the reverse roll identification, the shift in the consist of the yield grades, the negative impact on small packers and renderers, the potential for damage to the tenderloin, and the concern over confusion in the marketplace related to new cuts, new yields, and shifting of carcasses into new yield grades. A large majority of the organization and individual comments indicated a belief that the concerns and possible impacts associated with the proposed changes offset any potential benefits that might accrue to the industry.

Much of the information received during the comment period reflected information of which AMS was already aware. This included the concern of several industry segments over the possible quality and/or physical damage to the terderloin. The potential for increased efficiency to the slaughtering sector was also recognized.

However, in addition to this information that was anticipated, some new concerns were raised by many of the comments. Foremost was the widespread concern over the probable consist of the fed-beef supply that the proposed changes would create. Although the impact of the viable alternative equations on the consist had been presented to the industry representatives during the meetings, the potential shift of approximately 20 percent of the fed-beef supply has become a major concern of not only cattlemen and buyers of beef, but also some packers. Generally, they believed

that the proposed change would not only create considerable marketing problems and confusion, but it would be detrimental to the industry's goal of producing leaner beef. The increased percentage of Yield Grade 3's was seen as making the grade ineffective as a marketing tool by most of the industry segments due to too large of a percentage of the fed-beef supply being included in this grade. There was also concern, particularly from cattlemen and packers, over the decreased number of Yield Grade 2's. The foodservice segment of the industry was particularly concerned over the shift of current Yield Grade 4 carcasses into the Yield Grade 3.

There is no apparent alternative that can adequately address all of the major concerns expressed in the comments. Based on the comments and all other information available, it appears that the present standards and requirements are more acceptable to the industry than any of the alternatives we could adopt or propose at this time.

In consideration of the foregoing, the proposal published in the **Federal Register** (49 FR 44724–44737) on November 8, 1984, is hereby withdrawn.

**List of Subjects in 7 CFR Part 53 and Part 54**

Livestock, Cattle, Beef carcasses, Meat and meat products, Grading and certification, Standards.

Done at Washington, D.C., on: September 16, 1985.

**William T. Manley,**

*Deputy Administrator, Marketing Programs.*

[FR Doc. 85–22455 Filed 9–18–85; 8:45 am]

BILLING CODE 3410–02–M

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**7 CFR Part 1079**

## Proposed Temporary Revision of Shipping Percentage; Milk in the Iowa Marketing Area

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed temporary revision of rule.

**SUMMARY:** This notice invites written comments on a proposal to relax temporarily certain provisions of the Iowa Federal milk order. The proposed action would relax for October and November 1985 the supply plant shipping requirements. This action was requested by the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

**DATE:** Comments are due not later than September 26, 1985.

**ADDRESS:** Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

**SUPPLEMENTARY INFORMATION:** Eddie F. Kimbrell, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of October and November 1985.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include October 1985 in the temporary revision.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

**Statement of Consideration**

The provisions proposed to be revised are the supply plant shipping percentages for the months of October and November 1985. The proposed action would reduce the shipping requirement 10 percentage points from the present 35 percent to 25 percent.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Companies, Inc. (Beatrice), on behalf of Beatrice Cheese, requested this action in order to prevent uneconomic shipments of milk during October and November 1985. Beatrice said that marketwide producer receipts during the April through July 1985 period, with the exception of June 1985, showed an increase of approximately 11 percent each month over the prior month. Beatrice stated that producer receipts for June 1985 was lower than May 1985 because a pool plant normally associated with the Iowa pool became regulated under another Federal milk marketing order. Beatrice indicated that receipts at their supply plant in recent months have been approximately 16 percent higher than for the same period of 1984 and that other handlers are experiencing similar increases. Beatrice anticipates that producer receipts for October and November 1985 will be substantially higher than normal. Beatrice also indicated that without a downward revision in the supply plant shipping standards, it would have to uneconomically backhaul approximately 2.5 to 3.0 million pounds of milk per month in order to pool this milk.

The petition states that distributing plants could be adequately served if supply plant shipping requirements were lowered to 25 percent. Beatrice said that thus there will be no need for supply plants to ship as much as 35 percent of their producer receipts and that a temporary lowering of the supply plant shipping requirement to a 25 percent shipping standard, is needed to prevent uneconomic shipments of fluid milk.

Therefore, comments are sought concerning whether it may be approriate to relax the aforementioned provisions of § 1079(b) for the months of October and November 1985 to prevent uneconomic shipments of milk.

**List of Subjects in 7 CFR Part 1079**

Milk Marketing Orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1079 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: September 17, 1985.

**Edward T. Coughlin**

*Director, Dairy Division.*

[FR Doc. 85–22488 Filed 9–18–85; 8:45 am]

BILLING CODE 3410–02–M

**Commodity Credit Corporation**

**7 CFR Part 1427**

**CCC Cotton Loan Program Regulations (Amendment 6)**

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) is proposing to amend the regulations governing the 1980 and subsequent crops cotton loan programs to provide another option for making price support available to producers of upland and extra long staple (ELS) cotton. Under the provisions of this proposed rule, CCC may authorize a person or firm to act as an authorized loan servicing agent ("authorized LSA") for CCC for the purpose of making and servicing Form A cotton loans that are presently handled by a county Agriculture Stabilization and Conservation Service (ASCS) office. This notice invites written comments on the proposed changes.

**DATE:** Comments must be received on or before October 21, 1985, in order to be assured of consideration.

**ADDRESS:** Director, Cotton, Grain and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Grady Bilberry, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7987.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs of prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this rule applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An environmental evaluation has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The purpose of this proposed rule is to provide another mechanism through which producers may obtain price support loans for upland and ELS cotton. Presently, CCC makes price support loans available to eligible cotton produces on eligible upland and extra long staple cotton. A producer may obtain loans from CCC through the following four mechanisms:

(1) Individual Form CCC Cotton A loans prepared and disbursed through the producer's local county ASCS office.

(2) Approved loan clerks who assist produces in preparing the loan documents and who advance loan proceeds to producers. The loan clerk transmits the loan documents through a financial institution for disbursement of the loan through the producer's local county ASCS office.

(3) Approved authorized agents who prepare loan documents on behalf of producers, advance loan proceeds and transmit the loan documents through a financial institution to a central county ASCS office designated by CCC for disbursement of the loan.

(4) Approved cotton cooperative associations who obtain loans for their eligible producer-members through a servicing agent bank who is an approved agent for CCC.

This proposed rule will permit producers to obtain loans through a private entity which may be more accessible to the producer. The private entity may be able to provide faster and more convenient service to producers in obtaining and repaying loans. It is not anticipated that there will be any increased administrative costs incurred by CCC with respect to the cotton loan program as a result of the changes made by this proposed rule.

Under the proposed rule, CCC may enter into a written agreement with a person or firm which meets the terms and conditions prescribed by CCC to be an authorized loan servicing agent ("authorized LSA") for CCC. The authorized LSA would act as the agent of CCC in performing most Form A loanmaking and loan servicing functions for producers which are now performed by a county ASCS office, except that the authorized LSA must contact the producer's local county ASCS office to determine: (1) Whether the producer is an eligible producer and otherwise meets the requirements of the applicable commodity regulations, and (2) whether the producer's loan proceeds are subject to setoff and withholding under applicable CCC setoff and withholding regulations.

The authorized LSA, upon presentation of eligible warehouse receipts and class cards by eligible producers, would be able to perform the loanmaking and loan servicing functions prescribed in the written agreement with CCC. These loan servicing functions will include: (1) The preparation and execution of loan documents for individual producer loans; (2) the disbursement of loans; (3) the collection of loan repayments from producers; (4) the transmittal of funds of CCC; (5) the extension of loans when such extensions are authorized by CCC; (6) the payment of applicable warehouse charges to warehouseman storing the cotton pledged as collateral; (7) the handling of documents involved in the reconcentration of cotton pledged as loan collateral from one warehouse location to another; (8) the handling of documents involving the forfeiture of collateral to CCC; and (9) the collection of loan data for reporting to CCC as may be prescribed by CCC.

Under the proposed rule, the authorized LSA would be permitted to charge producers a loan service fee. However, the fee could not exceed $1.50 per loan plus 25 cents for each bale of cotton pledged as loan collateral.

CCC, under the terms and conditions which will govern the scope of authority of an authorized LSA and which will govern the eligibility of a person to be an authorized LSA, is considering: (1) Allowing an authorized LSA to act as the agent for producers for the propose of securing a CCC cotton loan and redeeming the cotton pledged as security for such loan; (2) allowing the authorized LSA to act as the marketing agent of the producer; (3) requiring the authorized LSA to make and service CCC cotton loans for all eligible producers who request its services; and (4) requiring an authorized LSA to furnish security to CCC to guarantee performance by such LSA.

The proposed rule would also add an additional requirement for eligible cotton. The proposed rule amends § 1427.5 to provide that eligible cotton must not have been sold, nor any sales option on eligible cotton granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the cotton to CCC as collateral for a price support loan. This amendment is necessary to ensure that only producers of cotton are the direct beneficiaries of a CCC cotton loan.

In addition, other minor amendments are proposed which will update the existing cotton loan program regulations including: (1) editorial changes, and (2) changing the name of the Management Field Office to the Kansas City Management Office.

**List of Subjects in 7 CFR Part 1427**

Cotton, Loan programs—agriculture, Packaging and containers, Price support programs, Surety bonds, Warehouse.

**Proposed Rule**

Accordingly, it is proposed to amend 7 CFR Part 1427, Subpart—Cotton Loan Program Regulations, as follows:

## PART 1427—[AMENDED]

1. The authority citation for 7 CFR Part 1427 Subpart—Cotton Loan Program Regulations is revised to read as follows:

**Authority:** Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); sec. 602, 91 Stat 934, as amended (7 U.S.C. 1444).

2. Section 1427.2 is amended by revising paragraphs (b) and (c) and by adding new paragraphs (k) and (l) to read as follows:

**§ 1427.2 Definitions.**

* * * * *

(b) "Kansas City Management Office" shall mean the Kansas City Management Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(c) "Kansas City Commodity Office" shall mean the Kansas City Commodity Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(k) "Authorized LSA" shall mean a person or firm that enters into a written agreement with CCC to act as a loan servicing agent for CCC in making and servicing individual Form A cotton loans. The authorized LSA may perform, on behalf of CCC, certain CCC cotton loanmaking services specifically prescribed by CCC including: (1) Preparing and executing loan documents, (2) disbursing loan proceeds, (3) handling the extension of loans as authorized by CCC, (4) accepting cotton loan repayments, (5) handling documents involved with forfeiture of cotton loan collateral to CCC, and (6) providing loan data to CCC for statistical purposes.

(l) "Cotton" shall mean upland cotton and extra long staple cotton.

3. Section 1427.3 is amended by revising paragraphs (a), (b), and (c) to read as follows:

**§ 1427.3 Administration.**

(a) *Responsibility.* The Cotton, Grain, and Rice Price Suport Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter called State and county committees) the Kansas City Commodity Office, and the Kansas City Management Office.

(b) *Documents.* (1) Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in the county executive director's behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. County committees or county executive directors also may approve loan clerks at convenient locations to assist producers in preparing loan documents.

(2) Authorized LSA's may execute and approve documents under this program as specifically authorized by CCC.

(c) *Limitation of authority.* County executive directors, State and county committees, the Kansas City Commodity Office, Kansas City Management Office and authorized LSA's do not have authority to modify or waive any of the provisions of the regulations in this subpart.

* * * * *

4. Section 1427.5 is amended by revising paragraphs (a) and (b), by redesignating paragraphs (n), (o), and (p) as (o), (p), and (q), respectively, and by adding a new paragraph (n) to read as follows:

**§ 1427.5 Eligible Cotton.**

Cotton produced by eligible producers is eligible cotton if it meets the following requirements:

(a) Such cotton must have been produced on a farm by a producer who has complied with the price support eligibility requirements, if any, specified in Parts 713, 718, 791, and 792 of this title. The cotton in any bale may have been produced by two or more producers on one or more farms if the bale is not a repacked bale.

(b) Such cotton must be tendered for a loan within the availability period provided for in § 1427.6(d).

* * * * *

(n) Such cotton must not have been sold, nor any sales option on such cotton granted, to a buyer under a contract which provide that the buyer may direct the producer to pledge the cotton to CCC as collateral for a price support loan.

5. Section 1427.6 is revised to read as follows:

**§ 1427.6 Program Availability and Disbursement of Price Support Loans.**

(a) Where to request a loan. (1) A producer may request price support: (i) at the local country ASCS office, or (ii) from an authorized LSA.

(2) An authorized agent which has an agreement with CCC and which is designated by producers to obtain loans on their behalf may obtain such loans through a central county ASCS office designated by CCC.

(3) An approved cooperative marketing association must request loans: (i) At a servicing bank approved by CCC, or (ii) at the county ASCS office for the county in which the principal office of the coopertive is located unless the State ASC committee designates some other county ASCS office as the office where such association must request price support.

(b) *Disbursement of loans.* Disbursement of loans to individual producers may be made by: (1) local county ASCS offices, (2) authorized LSA's or by (3) central county ASCS offices (when designated by CCC to provide centralized service to a person or firm which has been designated as a producer's agent and which has entered into a written agreement with CCC). Loans may by disbursed be approved servicing banks to approved cooperative marketing associations. Service charges and cotton research and promotion fees, when required by the provisions of 7 CFR 1205.500 *et seq.* will be deducted from the loan proceeds. If the producer so elects, loan clerk fees may be deducted from the loan proceeds instead of the loan clerk being paid in cash. The

loan documents shall not be presented for disbursement unless the commodity covered by the mortgage or pledge is in existence and in good condition. If the commodity was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly.

(c) *Program availability.* Loans will be available to eligible producers on cotton represented by warehouse receipts which is stored at CCC approved warehouses.

(d) *Period of availability of loans.* Producers may request loans on a crop of cotton from the beginning of harvest of the crop through May 31 following the calendar year in which such crop is grown. Form CCC Cotton A must be signed by the producer or the producer's agent and mailed or delivered to the county office or an authorized LSA within 15 days after the producer signs the Form CCC Cottom A and within the period of loan availability.Whenever the final date of availability falls on a nonworkday for county ASCS office, the applicable final availability date shall be extended to include the next workday.

6. Section 1427.14 is revised to read as follows:

**§ 1427.14 Service Charges.**

(a) A producer shall pay a non-refundable service charge to CCC for such loan disbursed at the rate of $1.50 per loan plus 25 cents for each bale of cotton pledged as loan collateral. The service charge to be paid to CCC by the producer shall be in addition to any clerk fee paid to a loan clerk as authorized in § 1427.15.

(b) An authorized LSA may charge producers a service charge for each loan disbursed at a rate not ro exceed $1.50 per loan plus 25 cents for each bale of cotton pledged as loan collateral.

**§ 1427.19 [Amended]**

7. Section 1427.19 is amended by adding in the third, fourth, and fifth sentences in § 1427.19(a) and in the fourth sentence of § 1427.19(b) the words "or authorized LSA" immediately following the words "county office".

8. Section 1427.20 is revised to read as follows:

**§ 1427.20 Custodial Offices.**

Forms A and A–1, collateral warehouse receipts, cotton classification memoranda, and related documents will be maintained in custody of the local county ASCS office, authorized LSA, central county ASCS office, or any financial institution (defined in § 1427.2 and approved by CCC), whichever disbursed the loan evidenced by such documents.

9. Section 1427.22 is revised to read as follows:

**§ 1427.22 Repayment of Loans.**

(a)(1) In order to redeem one or more bales of cotton pledged to CCC as collateral for a loan, the producer must pay to the local county ASCS office or an authorized LSA, whichever disbursed the loan, or to the bank as provided in paragraph (a)(3) of this section, the loan principal, together with any interest and other charges which may be applicable to the bale of cotton being redeemed. An authorized agent which has an agreement with CCC and which is designated by producers to repay such loans on their behalf may repay such loans through a central county ASCS office designated by CCC.

(2) Upon payment of the amounts specified in paragraph (a)(1) of this section, the local county ASCS office or the authorized LSA (whichever disbursed the loan) shall transmit the warehouse receipts applicable to the cotton pledged as loan collateral which has been redeemed (and, if requested, the classification memoranda applicable to such cotton) to the producer or authorized agent.

(3) The producer may request that the warehouse receipts (and classification memoranda) be forwarded to a bank for payment, in which case the principal amount of the loan, together with any applicable interest and other charges, must be paid after the documents are received by the bank. All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(4) Repayment of loans will not be accepted after CCC acquires title to the cotton.

(b)(1) A producer who desires to appoint an attorney-in-fact to act for the producer for the purpose of: (i) Redeeming the producer's cotton which is pledged as collateral, (ii) selling the producer's equities in the cotton pledged as loan collateral, or (iii) executing Forms CCC–813, release of Warehouse Receipts (referred to in this subpart as "Form 813"), shall use Form 211, except that power of attorney on another form will be accepted if it is determined by CCC to be sufficient.

(2) In order to redeem cotton or to execute Form 813, the attorney-in-fact must: (i) File with the local county ASCS office, authorized LSA, or central county ASCS office designated by CCC, whichever disbursed the loan, the original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy; and (ii) execute and file with the local county ASCS office, authorized LSA or central county ASCS office designated by CCC, whichever disbursed the loan, an agreement of attorney-in fact, Form CCC–815 (referred to in this subpart as "Form 815"): *Provided*, That if the attorney-in-fact is an authorized LSA, such authorized LSA must file the original or facsimile of the power of attorney, or a certified copy of the power of attorney, with the local county ASCS office and must execute and file the Form 815 with the local county ASCS office.

(3) The attorney-in-fact redeeming a producer's cotton under authority of power of attorney or signing the Form 813 under authority of a power of attorney shall not: (i) Purchase any such cotton redeemed from a CCC cotton loan or purchase the producer's equity in such cotton for the attorney-in-fact's own account or as agent for others; or (ii) sell any such cotton or equities in such cotton to any person by whom the attorney-in-fact is employed or who has the right to control or direct the attorney-in-fact's sale of such redeemed cotton or the equities in such cotton.

(4) The attorney-in-fact shall not adopt any scheme or device which tends to defeat the purpose of these regulations or the cotton program.

(5) If the attorney-in-fact holds power of attorney from more than one producer, the attorney-in-fact may not: (i) Pool the producer's cotton or the proceeds therefrom or (ii) make settlement with such producers on a pool basis upon sale of the cotton or the equities therein. The attorney-in-fact will, however, make an accounting to each producer for the proceeds of each bale of the producer's cotton which the attorney-in-fact redeems and sells and each equity which the attorney-in-fact transfers, unless the attorney-in-fact has a valid annual marketing agreement with such producers authorizing the attorney-in-fact to pool the cotton or the proceeds therefrom.

(c)(1) A producer or the producer's authorized agent may enter into an agreement with a person or persons to redeem the producer's cotton and may authorize the release of the applicable warehouse receipts to such person(s) or transferee (hereinafter called the "buyer") on Form 813. If the buyer executes and files the Form 813 with the loan originating office the buyer shall be obligated to redeem the cotton specified on such form on or before the maturity date of the loan which is applicable to such cotton. CCC will use its best efforts to make certain that the cotton is not redeemed by anyone other than the

buyer and to provide for the delivery to the buyer of the warehouse receipts (and, if requested, the classification memoranda,) covering the cotton upon the repayment of the loan principal together with any applicable interest and other charges, to the loan originating office.

(2) If the loan documents are sent to a bank for collection, repayment of the loan, together with any applicable interest and other charges, must be made within 5 business days after the documents are received by the bank. All charges assessed by the bank to which the documents are sent must be paid by the buyer. Redemptions will not be permitted after the maturity date of the loan. Upon the failure of the buyer to redeem all such cotton pledged as loan collateral:

(i) Title to the cotton shall, at CCC's election and without a sale thereof, immediately vest in CCC, and there shall be no obligation on the part of CCC to pay for any market value which such cotton may have in excess of the principal amount of the loan thereon, together with any applicable interest and other charges. The buyer shall be personnally liable for any amount by which the amount due on the loan on such cotton exceeds the market value of the cotton as of the date title to the cotton vests in CCC, as determined by CCC.

(ii) CCC may, at CCC's election and without notice to the buyer, sell, transfer and deliver the cotton or documents evidencing title thereto, at such time, and in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand advertisement, or notice of the time and place of sale or adjournment thereof or otherwise. Upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value, as determined by CCC. Any overage remaining from the proceeds received therefrom shall, after deducting from such proceeds the principal amount of the loan on such cotton, together with any applicable interest and other charges, be paid to the buyer or the buyer's personal representative without right of assignment to, or substitution of, any other person. If the proceeds from the sale do not cover the principal amount of the loan on such cotton, together with any applicable interest and other charges, the buyer shall be liable to CCC for any difference.

(d) Warehouse receipts will not be released except as provided in paragraphs (a), (b), and (c) of this section.

9. Section 1427.25 is amended by revising paragraph (b) as follows:

**§ 1427.25 Kansas City Commodity Office and Kansas City Management Office.**

* * * * *

(b) Accounting, recording, and reporting for all States will be handled through Kansas City Management Office, P.O. Box 205, Kansas City, Missouri 64141.

Signed at Washington, D.C., on September 16, 1985.

**Everett Rank,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 85-22423 Filed 9-18-85; 8:45 am]

BILLING CODE 3410-05-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 34

### Certification of Industrial Radiographers

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance Notice of Proposed Rulemaking; Withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission is withdrawing an advance notice of proposed rulemaking that requested comments on a suggested requirement that all industrial radiographers be certified by a third party that has been approved by the NRC.

The staff received written and oral comments. Most commenters believed that a certification program would probably not result in an improvement in safety, but that it would be expensive and time-consuming.

Based upon the comments and its own analysis, the Commission has determined that it should terminate the rulemaking proceeding. This action does not affect any person because it is not an action that adds, amends, or rescinds and NRC regulation.

**EFFECTIVE DATE:** The advance notice of proposed rulemaking is withdrawn as of September 19, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nathan Bassin, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 427-9027.

**SUPPLEMENTARY INFORMATION:** The NRC licenses persons to use multicurie gammaemitting sealed sources in industrial radiography for nondestructive examination of materials for defects. Licensees must train radiographers in radiation safety measures before allowing them to use the sources. Despite this training and other safety requirements, overexposure incidents are occasionally reported.

Investigations of these incidents by inspectors appear to indicate that some exposure incidents may have been caused in part by inadequate training. Under current regulations, the NRC reviews the radiographer training program that the licensee proposes to use. However, NRC does not have an effective means of verifying the adequacy of training of each individual radiographer.

On August 4, 1978, the NRC published in the Federal Register (43 FR 54563) a notice that it had received a petition for rulemaking from the Nondestructive Testing Management Association (NDTMA); public comment was requested. The Petitioner requested that the NRC amend its regulations to provide for registration, licensing, and control of individual radiographers. Most of the individuals who commented on the NDTMA proposal felt that the suggested licensing program would be costly and would not reduce the number of overexposures in industrial radiography.

On May 4, 1982, the NRC published in the Federal Register (47 FR 19152) an advance notice of proposed rulemaking. The NRC noted that the present system would be improved if the final determination of radiographer safety competence were made by an independent body. It was felt that, given limited NRC staff resources, and third-party certification requirement for individual radiographers would be the most feasible means of assuring radiographer safety competence. The NRC invited written comments on the proposal and also received oral comments at five public meetings held in strategic locations throughout the United States. On May 10, 1982, NDTMA withdrew its petition (47 FR 31887; July 23, 1982).

The NRC received 89 written comments and 42 oral comments. Of the written comments received, 76 opposed certification and 13 favored the concept. In the public meetings, 23 commenters opposed certification, 8 favored the concept, and 11 offered comments but did not make a recommendation.

Most commenters believed that the present training system is adequate and that overexposures are not caused by poor training but rather by failure to follow well-established procedures.

Commenters were divided on whether a certification program would motivate radiographers to work more safely. Most commenters felt that the cost of a certification program would be unwarranted. Five commenters said they would be interested in serving as third-party certifiers. (The written comments, transcripts of the public meetings, and the analysis of comments are available for the public inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.)

As a result of further consideration and the analysis of the public comments, the Commission has concluded that there is no consensus that a certification program for radiographers would reduce the number of overexposures, but that the implementation of a program would be expensive and time-consuming. Therefore, the advance notice of proposed rulemaking is withdrawn. The Commission will reconsider the need for rulemaking in the future if improvements are not forthcoming.

Dated at Washington, D.C., the 16th day of September, 1985.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 85-22454 Filed 9-18-85; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 84-AEA-11]**

### Proposed Designation of Transition Area, College, Park, MD

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to designate a transition area at College Park, MD. A new RNAV instrument approach procedure has been developed to the College Park, MD, Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

**DATE:** Comments must be received on or before October 28, 1985.

**ADDRESSES:** Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Docket 84-AEA-11, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

**FOR FURTHER INFORMATION CONTACT:** Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AEA-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at College Park, MD, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at College Park, MD, Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

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

#### List of Subjects in 14 CFR Part 71

Transition areas.

#### The Proposed Amendment

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

### PART 71—[AMENDED]

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

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

2. Section 71.181 is amended as follows:

College Park, MD [New]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the College Park Airport (lat. 38°58'50" N., long 76°55'50" W.); and within two miles each side of a 330° bearing from the airport extending from the five mile radius to seven miles northwest of the airport, excluding that portion which overlaps the Washington, DC, and Baltimore, MD, transition area.

Issued in Jamaica, New York, on September 5, 1985.

Edmund Spring,

*Acting Director, Eastern Region.*

[FR Doc. 85-22367 Filed 9-18-85; 8:45 am]

BILLING CODE 4910-13-M

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## Coast Guard

## 33 CFR Part 80

[CGD 84-091]

## International Regulations for Preventing Collisions at Sea, 1972 Colregs Demarcation Lines

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Under 33 U.S.C. 151 (a), the Coast Guard is authorized to establish identifiable lines to delineate waters upon which International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) apply and waters upon which Inland Navigation Rules apply. Regulations establishing these lines were promulgated July 11, 1977. Since the establishment of these lines, geographic and marking changes have outdated descriptions contained in the regulations. The Coast Guard is proposing to update these regulations to provide accurate and current location descriptions and identification of these lines as shown on nautical charts.

**DATE:** Comments must be received on or before November 4, 1985.

**FOR FURTHER INFORMATION CONTACT:** LCDR Charles K. Bell, Marine Information and Rules Branch, Office of Navigation, (202) 245-0108.

**ADDRESSES:** Comments should be submitted to Commandant (G-CMC/21), (CGD 84-091), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council, room 2110, between the hours of 8 a.m. and 4 p.m., Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The regulations establishing Demarcation Lines are found under Part 80 of Title 33 Code of Federal Regulations. The U.S. Coast Guard has become aware of Demarcation Line reference locations which have been destroyed, names or numbers changed, aids repositioned, and positions redefined or corrected on charts. It is therefore necessary for the Coast Guard to update the description of the COLREGS Demarcation Lines to reflect these changes. Most of the changes are insignificant; however, any changes which would extend the demarcation lines further offshore may require further Coast Guard evaluation. Interested persons are invited to participate in this proposed rulemaking by submitting written data or comments regarding this rulemaking. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

**Regulatory Evaluation:**

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034): February 26, 1979). The economic impact of this proposal has been found to be so minimal, that further evaluation is unnecessary. This proposal is updating the COLREG Demarcation Lines to account for alteration and destruction of the existing reference points. This proposal does not impose any new economic burdens upon the public. This proposed rulemaking contains no information collection or recordkeeping requirements. This agency certifies that this proposal will not have a significant economic impact on a substantial number of small entities because there are no new costs associatied with this proposal.

**List of Subjects in 33 CFR Part 80**

Navigation, Navigable waters.

For the reasons stated above, the Coast Guard proposes to amend Title 33 CFR Part 80 to read as set forth below.

## PART 80—COLREGS DEMARCATION LINES

### General

1. The authority citation for Part l:80 is revised to read as follows:

**Authority:** 14 U.S.C. 2; 33 U.S.C. 151(a); 49 CFR 1.46(b).

2. In § 80.115, paragraph (b) is revised to read as folows:

**§ 80.115**

Portland Head, ME to Cape Ann, MA.

* * * * *

(b) A line drawn form the southernmost tower on Gerrish Island charted in approximate position latitude 43°04.0' N. longitude 70°41.2' W. to Whaleback Light; thence to Jaffrey Point Light 2A; thence to the northeasternmost extremity of Frost Point.

* * * * *

3. In§ 80.145, paragraph (c) is revised to read as folows:

**§ 80.145 Race Point, MA to Watch Hill, RI.**

* * * * *

(c) A line drawn from Sakonnet Breakwater Light 2 tangent to the southernmost part of Sachuest Point charted in approximate position latitude 41°28.5' N. longitude 71°14.8' W.

* * * * *

4. In§ 80.305, paragraph (h) is revised to read as follows:

**§ 80.305 Watch Hill, RI to Montauk Point, NY.**

* * * * *

(h) A line drawn from Threemile Harbor West Breakwater Light to Threemile Harbor East Breakwater Light.

* * * * *

5. In § 80.310, paragraph (a) is revised to read as follows:

**§ 80.310 Montauk Point, NY to Atlantic Beach, NY.**

(a) A line drawn from the Skinnecock Inlet East Breakwater Light to Shinnecock Inlet West Breakwater Light 1.

* * * * *

6. In § 80.320, paragraphs (b) and (c) are revised to read as follows:

**§ 80.320 Sandy Hook, NJ to Cape May, NY.**

* * * * *

(b) A line drawn from Manasquan Inlet North Breakwater Light 4 to Manasquan Inlet South Breakwater Light 3.

(c) A line drawn from Barnegat Inlet North Breakwater Light 4A to the seaward extremity of the submerged Barnegat Inlet South Breakwater; thence along the submerged breakwater to the shoreline.

* * * * *

7. In § 80.505, paragraphs (a) and (b) are revised to read as follows:

**§ 80.505 Cape Henlopen, DE to Cape Charles, VA.**

(a) A line drawn from the seaward extremity of Indian River Inlet North Jetty to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light 6, 225° true across Ocean City Inlet to the submerged south breakwater.

* * * * *

8. In § 80.520, paragraph (a) is revised to read as follows:

**§ 80.520 Cape Hatteras, NC to Cape Lookout, NC.**

(a) A line drawn from Hatteras Inlet Lookout Tower 255° true to the eastern end of Ocracoke Island.

* * * * *

9. In § 80.525, paragraphs (d) and (f) are revised to read as follows:

**§ 80.525 Cape Lookout, NC to Cape Fear, NC.**

* * * * *

(d) A line drawn from the southeasternmost extremity on the southwest side of New River Inlet at latitude 34°31.5' N. longitude 77°20.6' W. to the seaward tangent of the shoreline on the northeast side on New River Inlet.

* * * * *

(f) A line drawn from the seaward extremity of the jetty on the northeast side of Masonboro Inlet to the seaward extremity of the jetty on the southeast side of the Inlet.

* * * * *

10. In § 80.712, paragraphs (a) and (f) are revised to read as follows:

**§ 80.712 Morris Island, SC to Hilton Head Island, SC.**

(a) A line drawn from the easternmost tip of Folley Island to the abandoned lighthouse tower on the northside of Lighthouse Inlet; thence west to the shoreline of Morris Island.

* * * * *

(f) A line drawn from the westernmost extremity of Bull Point on Capers Island to Port Royal Sound Channel Range Rear Light, latitude 32°13.7' N. longitude 80°36.0' W.; thence 259° true to the easternmost extremity of Hilton Head at latitude 32°13.0' N. longitude 80°40.1' W.

11. In § 80.727, paragraphs (d) and (g) are revised to read as follows:

**§ 80.727 Cape Canaveral, FL to Miami Beach, FL.**

* * * * *

(d) A north-south line (longitude 80°09.7' W.) drawn across St. Lucie Inlet.

* * * * *

(g) A line drawn across the seaward extremity of the Boynton Inlet Jetties.

* * * * *

12. In § 80.735, paragraph (a) is revised to read as follows:

**§ 80.735 Miami, FL to Long Key, FL.**

(a) A line drawn from the southernmost extremity of Fisher Island 212° true to the point latitude 25°45.2' N. longitude 80°08.6' W. on Virginia key.

* * * * *

13. Section 80.740 is revised to read as follows:

**§ 80.740 Long Key, FL to Cape Sable, FL.**

A line drawn from radar dome charted on Long Key at approximate position latitude 24°48.8' N. longitude 80°49.6' W. to Long Key Light 1; thence to Arsenic Bank Light 1; thence to Arsenic Bank Light 2; thence to Sprigger Bank Light 5; thence to Schooner Bank Light 6; thence to Oxfoot Bank Light 10; thence to East Cape Light 2; thence through East Cape Daybeacon 1A to the shoreline at East Cape.

14. In § 80.745, paragraph (a) is revised to read as follows:

**§ 80.745 Cape Sable, FL to Cape Romano, FL.**

(a) A line drawn following the general trend of the mainland, highwater shoreline from Cape Sable at East Cape to Little Shark River Light 1; thence to westernmost extremity of Shark Point; thence following the general trend of the Mainland, highwater shoreline crossing the entrances of Harney River, Broad Creek, Broad River, Rodgers River, First Bay, Chatham River, Houston River, to the shoreline at coordinate latitude 25°41.8' N. longitude 81°17.9' W.

* * * * *

15. In § 80.748, paragraph (d) is revised to read as follows:

**§ 80.748 Cape Romano, FL to Sanibel Island, FL.**

* * * * *

(d) A line from the seaward extremity of Gordon Pass South Jetty 014° true to the shoreline at approximate coordinate latitude 26°05.7' N. longitude 81°48.1' W.

* * * * *

16. In § 80.750, paragraph (k) is revised to read as follows:

**§ 80.750 Sanibel Island, FL to St. Petersburg, FL.**

* * * * *

(k) A line drawn from the northernmost extremity of Mullet Key across Bunces Pass and South Channel to Pass-a-Grille Channel Light 8; thence to Pass-a-Grille Channel Daybeacon 9; thence to the southwesternmost extremity of Long Key.

17. In § 80.753, paragraph (d) is revised to read as follows:

**§80.753 St. Petersburg, FL to the Anclote, FL.**

* * * * *

(d) A line drawn from the northernmost extremity of Honeymoon Island to Anclote Anchorage South Entrance Light 7; thence a straight line through Anclote River Cut B Range Rear Light to the shoreline.

18. In § 80.757, paragraphs (d) and (h) are revised to read as follows:

**§ 80.757 Suncoast Keys, FL to Horseshoe Point, FL.**

* * * * *

(d) A north-south line drawn through the Cross Florida Barge Canal Daybeacon 48 across the canal.

* * * * *

(h) A north-south line drawn through Suwannee River Wadley Pass Channel Daybeacons 30 and 31 across the Suwannee River.

19. In § 80.805, paragraph (c) is revised to read as follows:

**§ 80.805 Rock Island, FL to Cape San Blas, FL.**

* * * * *

(c) A line drawn from St. Mark's (Range Rear) Light to St. Mark's Channel Light 11; thence to the southernmost extremity of Live Oak Point; thence in a straight line through Shell Point Light to the southernmost extremity of Ochlockonee Point; thence to Bald Point along longitude 84°20.5' W.

* * * * *

20. In § 80.810, paragraphs (a), (b) and (g) are revised to read as follows:

**§ 80.810 Cape San Blas, FL to Perdido Bay, FL.**

(a) A line drawn from St. Joseph Bay Entrance Range A Rear Light through St. Joseph Bay Entrance Ranger B Front Light to St. Joseph Point.

(b) A line drawn across the mouth of Salt Creek as an extension of the general trend of the shoreline to continue across the inlet to St. Andrews Sound in the middle of Crooked Island.

* * * * *

(g) An east-west line drawn from Fort McRee Leading Light across the Pensacola Bay Entrance along latitude 30°19.5' N.

* * * * *

21. In § 80.815, paragraph (b) is revised to read as follows:

**§ 80.815 Mobile Bay, AL to the Chandeleur Island, LA.**

* * * * *

(b) A line drawn from Mobile Point Light to Dauphin Island Channel Light No. 1 to the eastern corner of Fort Gaines at Pelican Point.

* * * * *

22. In § 80.825, paragraphs (b) and (c) are revised to read as follows:

**§ 80.825 Mississippi Passes, LA.**

* * * * *

(b) A line drawn from coordinate latitude 29°21.5' N. longitude 89°11.7' W. following the general trend of the

seaward, highwater shoreline in a southeasterly direction to coordinate latitude 29°15.3' N. longitude 89°06.5' W.; thence to coordinate latitude 29°13.3' N. longitude 89°01.7' W. located on the northwest bank of North Pass.

(c) A line drawn from coordinate latitude 29°13.0' N. longitude 89°01.3' W., to coordinate latitude 29°12.7' N. longitude 89°00.9' W.; thence to coordinate latitude 29°10.6' N. longitude 88°59.8' W.; thence to coordinate latitude 29°03.5' N. longitude 89°03.7' W.; thence to Mississippi River South Pass East Jetty Light 4.

* * * * *

23. In § 80.830, paragraphs (c) and (e) are revised to read as follows:

**§ 80.830 Mississippi Passes, LA to Point Au Fer, LA.**

* * * * *

(c) An east-west line drawn from the westernmost extremity of Grand Terre Islands in the direction of 194° true to the Grand Isle Fishing Jetty Light.

* * * * *

(e) A liner drawn from the westernmost extremity of the Timbalier Island to the easternmost extremity of Isles Dernieres.

* * * * *

24. In § 80.835, paragraph (a), (b), (c), (d), (e), and (f) are revised to read as follows:

**§ 80.835 Point Au Fer, LA to Calcasieu Pass, LA.**

(a) A line drawn from Point Au Fer to Atchafalaya Channel Light 34, to Point Au Fer Reef Light 33; thence to Atchafalaya Bay Pipeline Light D latitude 29°25.0' N. longitude 91°31.7' W.; thence to Atchafalaya Bay Light 1 latitude 29°25.3' N. longitude 91°35.8' W.; thence to South Point.

(b) Lines following the general trend of the highwater shoreline drawn across the bayou and canal inlets from the Gulf of Mexico between South Point and Calcasieu Pass except as otherwise described in this section.

(c) A line drawn on an axis of 140° true through Southwest Pass Vermillion Bay Light 4 across Southwest Pass.

(d) A line drawn across the seaward extremity of the Freshwater Bayou Canal Entrance Jetties.

(e) A line drawn from Mermentau Channel Light 6 to Mermentau River Channel Light 7.

(f) A line drawn from the radio tower charted in approximate position latitude 29°45.7' N. longitude 93°06.3' W. 115° true across Mermentau Pass.

* * * * *

25. In § 80.850, paragraph (c) is revised to read as follows:

**§ 80.850 Brazos River,TX to the Rio Grande, TX.**

* * * * *

(c) A line drawn from the seaward tangent of Matagorda Peninsula at Decros Point to Matagorda Light.

* * * * *

26. Section § 80.1110 is revised to read as follows:

**§ 80.1110 San Diego Harbor, CA.**

A line drawn from Zuniga Jetty Light "V" to Zuniga Jetty Light "Z"; thence to Point Loma Light.

27. In § 80.1135, paragraph (a) is revised to read as follows:

**§ 80.1135 San Pedro Bay—Anaheim Bay, CA.**

(a) A line drawn across the seaward extremities of the Anaheim Bay Entrance Jetties; thence to Longbeach Breakwater East End Light 1.

* * * * *

28. Section 80.1225 is revised to read as follows:

**§80.1225 Santa Cruz Harbor, CA.**

A line drawn from the seaward extremity of the Santa Cruz Harbor East Breakwater to Santa Cruz Harbor West Breakwater Light.

29. Section 80.1230 is revised to read as follows:

**§80.1230 Pillar Point Harbor, CA.**

A line drawn from Pillar Point Harbor Light 6 to Pillar Point Harbor Entrance Light.

30. Section 80.1275 is revised to read as follows:

**§ 80.1275 Crescent City Harbor, CA.**

A line drawn from Crescent City Entrance Light to the southeasternmost extremity of Whaler Island.

31. Section 80.1305 is revised to read as follows:

**§ 80.1305 Chetco River, OR.**

A line drawn across the seaward extremities of the Chetco River Entrance Jetties.

32. Section 80.1310 is revised to read as follows:

**§ 80.1310 Rogue River, OR.**

A line drawn across the seaward extremities of the Rogue River Entrance Jetties.

33. Section 80.1315 is revised to read as follows:

**§ 80.1315 Coquille River, OR.**

A line drawn across the seaward extremities of the Coquille River Entrance Jetties.

34. Section 80.1320 is revised to read as follows:

**§ 80.1320 Coos Bay, OR.**

A line drawn across the seaward extremities of the Coos Bay Entrance Jetties.

35. Section 80.1325 is revised to read as follows:

**§ 80.1325 Umpqua River, OR.**

A line drawn across the seaward extremities of the Umpqua River Entrance Jetties.

36. Section 80.1330 is revised to read as follows:

**§ 80.1330 Siuslaw River, OR.**

A line drawn across the seaward extremities of the Siuslaw River Entrance Jetties.

37. Section 80.1340 is revised to read as follows:

**§ 80.1340 Yaquina Bay, OR.**

A line drawn across the seaward extremities of the Yaquina Bay Entrance Jetties.

38. Section 80.1355 is revised to read as follows:

**§ 80.1355 Tillamook Bay, OR.**

A line drawn across the seaward extremities of the Tillamook Bay Entrance Jetties.

39. Section 80.1375 is revised to read as follows:

**§80.1375 Grays Harbor, WA.**

A line drawn across the seaward extremities (above water) of the Grays Harbor Entrance Jetties.

40. Section 80.1460 is revised to read as follows:

**§ 80.1460 Kahului Harbor, Maui, HI.**

A line drawn from Kahului Harbor Entrance Breakwater Light 1 to Kahului Harbor Entrance Breakwater Light 2.

Dated: September 16, 1985.

**T.J. Wojnar,**

*Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.*

[FR Doc. 22466 Filed 9-18-85; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[PP 4E3125/P374; FRL-2890-6]**

### Pesticide Tolerance of N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

*Correction*

In FR Doc. 85-20923 beginning on page 35844 in the issue of Wednesday, September 4, 1985, on page 35845, in the third column, in §180.328 the fourth line

of paragraph (b) is corrected to read "napthalenyloxy) propionamide in or on".

BILLING CODE 1505-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 63, 76 and 78

[MM Docket No. 84-1296]

### Television Broadcasting; Implementing the Provisions of the Cable Communications Policy Act of 1984

**AGENCY:** Federal Communications Commission.

**ACTION:** Order requesting Comments.

**SUMMARY:** In its decision in *Quincy Cable TV, Inc. v. FCC*, No. 83-1283 (DC Cir. July 19, 1985), the United States Court of Appeals held that the Commission's mandatory signal carriage rules violated cable operator's rights, under the First Amendment to the Constitution of the United States.

The Commission is, therefore, reopening the period for filing comments in MM Docket No. 84-1296 (May 2, 1985, 50 FR 18637) to enable parties to consider and to comment upon any potential impact that the Court's decision has on the issues discussed in the *Report and Order*. Comments are limited to how the decision affects the definition of basic cable service in § 76.5(pp) of the Commission's Rules.

**DATE:** The period for filing comments is reopened to and including October 17, 1985.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Bruce Franca, Policy Analysis Branch, Mass Media Bureau, (202) 632-6302.

### Order Reopening the Period for Filing Comments

In the matter of amendments of Parts 1, 63, and 76 of the Commission's rules to implement the provisions of the Cable Communications Policy Act of 1984; MM Docket No. 84-1296

Adopted: September 10, 1985.
Released: September 10, 1985.

By the Chief, Mass Media Bureau.

1. On April 11, 1985, the Commission adopted a *Report and Order* in MM Docket No. 84-1296, 58 RR 2d 1 (1985), amending its rules in order to implement certain provisions of the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, section 1 *et seq.*, 98 Stat. 2779 (1984). Various parties have filed petitions for reconsideration of the *Report and Order*, and responsive pleadings.

2. In its decision in *Quincy Cable TV, Inc. v. FCC*, No. 83-1283 (DC Cir. July 19, 1985), the United States Court of Appeals held that the Commission's regulations requiring that cable television systems carry certain local television broadcast stations violate cable operators' rights under the First Amendment to the Constitution of the United States.

3. In view of this decision, the record in MM Docket No. 84-1296 will be reopened to enable parties to comment upon the impact that the Court's decision has on the issues discussed in that *Report and Order*. Comments should be limited to how the decision affects the definition of basic cable service in § 76.5(pp) of the Commission's Rules.

4. Accordingly, it is ordered, pursuant to § 1.415(d) of the Commission's Rules, that the period for filing comments in the above captioned proceeding is reopened to and including October 17, 1985.

5. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

6. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and 5 copies of all comments filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, DC (1919 M Street, Northwest).

7. This action is taken pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.283 of the Commission's Rules.

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the time a public notice is issued stating that substantial disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communications (other than formal written comments, pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission's official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by Docket Number the proceeding to which its relates. See generally, § 1.201 of the Commission's Rules.

9. For further information concerning this proceeding, contact Bruce A. Franca, Policy Analysis Branch, Mass Media Bureau, (202) 632-6302.

Federal Communications Commission.

James C. McKinney,
*Chief, Mass Media Bureau.*

[FR Doc. 85-22186 Filed 9-18-85; 8:45 am]

BILLING CODE 6712-01-M

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Part 514

[GSAR Notice No. 5-119]

### Prompt Payment Discounts and Payment Terms

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice invites written comments on a proposed change to § 514.201-2 of the General Services Administration Acquisition Regulation (GSAR), which would prescribe a

cautionary notice to be included in sealed bid solicitations that contain the Standard Form 33, Solicitation, Offer and Award. The proposed notice cautions offerors against inserting any statement in block 13 of the SF-33 which would indicate that payment is required within a shorter period of time than that stipulated in the Payment Due Date clause of the solicitation. Some offerors are inadvertently rendering their offers nonresponsive by inserting NET terms for a lesser period than that provided for in the Payment Due Date clause of the solicitation. The intended effect is to improve the regulatory coverage.

**DATE:** Comments are due in writing not later than October 21, 1985.

**ADDRESS:** Requests for a copy of the proposal and comments should be addressed to Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW, Room 4026, Washington, D.C. 20405, (202) 523-4754.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Loeb, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW, Washington, D.C. 20405, (202) 535-7791.

**SUPPLEMENTARY INFORMATION:** The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA certifies that this document 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.). The proposed regulation will benefit prospective contractors by cautioning them against preparing their offer in a fashion that would cause the offer to be rejected as nonresponsive. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

**List of Subjects in 48 CFR Part 514**

Government procurement.

Dated: September 6, 1985.

**Richard H. Hopf III,**

*Director, Office of GSA Acquisition, Policy and Regulations.*

[FR Doc. 85-22440 Filed 9-18-85; 8:45 am]

BILLING CODE 6820-61-M

# Notices

Federal Register
Vol. 50, No. 182
Thursday, September 19, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Draft Illinois Wild and Scenic River Management Plan; Siskiyou and Curry Counties, OR; Notice of Availability

The Department of Agriculture, Forest Service, has prepared a draft Illinois Wild and Scenic River Management Plan. As a result of comments received, some modifications were made in a preliminary draft. A new draft Plan is available for public review and comment. Copies are available at the: Forest Supervisors Office, 200 NE Greenfield Road (P.O. Box 440), Grants Pass, Oregon 97526; Gold Beach Ranger Station, 1225 So. Ellensburg—Box 7, Gold Beach, Oregon 97444; and the Illinois Valley Ranger Station, 26568 Redwood Highway, Cave Junction, Oregon 97523. Written comments and suggestions concerning the Plan will be received during the next 30 days by Siskiyou National Forest Supervisor Ronald J. McCormick, 200 NE Greenfield Road (P.O. Box 440), Grants Pass, Oregon 97526. A final management plan will then be prepared and made available to the public.

Dated: September 13, 1985.

**James C. Space,**

*Acting Regional Forester.*

[FR Doc. 85-22449 Filed 9-18-85; 8:45 am]

BILLING CODE 3410-11-M

### Okanogan National Forest Grazing Advisory Board; Meeting

The Okanogan National Forest Grazing Advisory Board will meet at 7:00 p.m., October 15, 1985 at the Supervisor's offices, 1240 South Second Avenue, Okanogan, WA 98840. The agenda for the meeting is to hear and discuss reports from the Ranger Districts about plans for range improvement expenditure in Fiscal Year 1986.

The meeting will be open to the public. Persons who wish to attend should notify Don Pridmore at the above address or call 509-422-2704. Issues to present to the Board must be in writing and may be filed with the board before or after the meeting.

The committee has established the following rules for public participation: Public comments will be heard during the first 30 minutes of the meeting.

September 13, 1985.

**John R. Hook,**

*Acting Forest Supervisor.*

[FR Doc. 85-22448 Filed 9-18-85; 8:45 am]

BILLING CODE 3410-11-M

## COMMISSION ON CIVIL RIGHTS

### Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 3:00 p.m. on October 4, 1985, at the U.S. Commission on Civil Rights, Midwestern Regional Office, 230 South Dearborn Street, Room 3280, Chicago, Illinois. The purpose of the meeting will be to discuss the status of minorities in Illinois as well as the advisory committee's work on the topic of Industrial Revenue Bonds.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh Schwartzburg, or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188).

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. September 16, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-22452 Filed 9-18-85; 8:45 am]

BILLING CODE 6335-01-M

### New Jersey Advisory Committee; Rescheduled Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Advisory Committee to the Commission originally scheduled for October 15, 1985, at the Nassau Inn, Palmer Square in Princeston, New Jersey at 7:00 p.m. to 11:00 p.m., has a new convening time.

The meeting place, date and adjouring time will remain the same. The convening time will change to 5:00 p.m.

Dated at Washington, D.C. May 24, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-22453 Filed 9-18-85; 8:45 am]

BILLING CODE 6335-01-M

### North Carolina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 12:00 noon and adjourn at 4:30 p.m. on October 11, 1985, at the Greensboro-High Point Marriott, 350 Regional Road North, Salon F, Greensboro, North Carolina. The purpose of the meeting is to plan programs for fiscal year 1986.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Donald Horowitz, or Bobby Doctor, Director of the Southern Regional Office, at (404) 221-4391, (TDD 404/221-4391).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 16, 1985

**Bert Silver,**

*Assistant Staff Director for Regional Program.*

[FR Doc. 85-22450 Filed 9-18-85; 8:45 am]

BILLLING CODE 6335-01-M

### Wisconsin Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on October 2, 1985, at the Pfister Hotel, 424 East Wisconsin.

Executive Room, Milwaukee, Wisconsin. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Kwame Salter, or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 16, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-2245, Filed 9-18-85; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collections of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Ocean Flight Revenues and Expenses of U.S. Carriers; and U.S. Airline Operators' Foreign Revenues and Expenses
Form No.: Agency—BE-30 and BE-37; OMB—0608-0011 and 0608-0014
Type of request: Revision of a currently approved collection
Burden: 54 respondents; 912 reporting hours
Needs and uses: These collections are used to obtain data required for preparing the international transportation accounts of the U.S. balance of payments
Affected public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Bureau of Economic Analysis
Title: Foreign Ocean Carriers' Expenses in the United States; and Foreign Airline Operator's Revenues and Expenses in the United States
Form No.: Agency—BE-29 and BE-30; OMB—0608-0012 and 0608-0013
Type of Request: Revision of a currently approved collection
Burden: 190 respondents; 380 reporting hours
Needs and uses: These collections are used to obtain data required for preparing the international transportation accounts of the U.S. balance of payments
Affected public: Businesses or other for-profit institutions
Frequency: Annually
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Bureau of Economic Analysis
Title: Survey of U.S. Travelers Visiting Canada; Expenditures of U.S. Travelers in Mexico
Form No.: Agency—BE-536, BE-575; OMB—0608-0001
Type of request: Extension of a currently approved collection
Burden: 35,000 respondents; 2,500 reporting hours
Needs and uses: Data collected are used to estimate international travel transactions for inclusion in U.S. international accounts
Affected public: Individuals or households
Frequency: Daily
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Bureau of Economic Analysis
Title: Survey of Visitor's Travel Expenses in the United States; Travel Questionnaires for U.S. Residents Returned from Trips Abroad
Form No.: Agency—BE-572, BE-574; OMB—0608-0001
Type of request: Extension of a currently approved collection
Burden: 25,000 respondents; 2,083 reporting hours
Needs and uses: Data collected are used to estimate international travel transactions for inclusion in the U.S. international accounts.
Affected public: Individuals or households
Frequency: One week each quarter
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Economic Development Administration
Title: Outlay Report for Reimbursement for Construction Programs
Form No.: Agency—ED-113; OMB—0610-0076
Type of Request: Extension of a currently approved collection
Burden: 200 respondents; 1,600 reporting hours
Needs and uses: Grantees will use this report to summarize expenditures made and Federal funds unexpended for each award, report of status of Federal cash advanced, and to request advances and reimbursement.
Affected public: State and local governments and non-profit institutions
Frequency: Other
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: September 16, 1985.

**Edward Michals,**

*Departmental Clearance Officer.*

[FR Doc. 85-22457 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-CW-M

### Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collections of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Special Survey—1982 Census of Construction Industries
Form No.: Agency—CC-1985 OMB—N/A
Type of request: New Collection
Burden: 50 respondents; 50 reporting hours
Needs and uses: This survey will be used to examine the content of specific items collected in the 1982 Census of Construction Industries and to evaluate the feasibility of requesting certain information for the 1987 census.
Affected public: Business or other for-profit institutions and small businesses or organizations
Frequency: One time
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Bureau of the Census
Title: 1987 Census of Agriculture Content Test
Form No.: Agency—85A1, 85A2; OMB—N/A
Type of request: New collection
Burden: 42,500 respondents; 26,351 reporting hours
Needs and uses: This survey will provide a means of measuring response burden and the acceptability

of the booklet form versus the 1982 sample form. It will also provide a means of testing and refining data collection methods and proposed procedures for processing data for the 1987 Census of Agriculture.
Affected public: Farms
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: Survey of Building and Zoning Permit Systems
Form No.: Agency—C411; OMB—0607–0350
Type of request: Revision of a currently approved collection
Burden: 400 respondents; 1,100 reporting hours
Needs and uses: This survey is needed to update the universe of permit-issuing jurisdictions, to determine their geographical coverage, and to obtain their annual data on construction authorized by building permits for the most recent year. The collection effort will provide a more comprehensive list of jurisdictions that will be used to select reliable samples for estimating monthly building permit authorizations.
Affected public: State and local governments
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: 1986 Test Census-Precensus Local Review; Postcensus Local Review
Form No.: Agency—DC–104A–U, DC–104A–R; OMB—N/A
Type of request: New collection
Burden: 3,200 respondents; 107 reporting hours
Needs and uses: As a means to improve coverage, the Census Bureau will present lists of housing units counts to local government officials in both test sites to obtain feedback. Census will then act to resolve differences during separate operations conducted prior to and after the actual enumeration.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: Survey of Housing Starts, Sales, and Completions
Form No.: Agency—SOC–900/900.1/900A/900A.1; OMB—0607–0110
Type of request: Revision of a currently approved collection
Burden: 8,925 respondents; 4,650 reporting hours
Needs and uses: The collected information is needed to determine the number and type of new residential buildings being built and/or sold. Housing starts and sales data, in particular, are important economic indicators used by businesses and government agencies.
Affected public: Individuals or households, businesses or other for-profit institutions
Frequency: Monthly
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: September 16, 1985.

**Edward Michals,**

*Departmental Clearance Officer.*

[FR Doc. 85–22456 Filed 9–18–85; 8:45 am]

BILLING CODE 3510–07–M

## Foreign-Trade Zones Board

**[Order No. 310]**

### Resolution and Order Approving the Application of the Port of Corpus Christi Authority for a General-Purpose Foreign-Trade Zone and Subzones in the Corpus Christi Customs Port of Entry Area

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

**Resolution and Order**

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 applications of the Port of Corpus Christi Authority, a Texas public corporation, filed with the Foreign-Trade Zones Board (the Board) on May 7, 1984 (49 FR 20748, 5/16/84), requesting a grant of authority for a general-purpose foreign-trade zone and subzones within the Corpus Christi Customs port of entry area, the Board adopts the recommendations of the examiners committee report of June 12, 1985, including Table I, and finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied with regard to the sites listed in Table I if subject to certain special conditions, approves the sites listed in Table I subject to the following conditions:

1. The FTZ Board's Executive Secretary shall be notified for approval prior to the commencement of any manufacturing operations not approved as part of the application, including blending, and when activity is changed to include foreign items subject to inverted tariffs.

2. Manufacturing operations at the non-oil refinery subzone sites are restricted to articles produced for export.

3. The non-oil refinery subzones sites (C–1, C–3, C–4, D–1, and D–2) are approved for a five-year period, subject to Board renewal after a review by Customs and the Board.

4. The non-oil refinery sites shall be operated under a central control system approved by the District Director of Customs, whose approval is required prior to the activation of all sites.

5. The approval given by the Board does not include any non-export blending activity involving ethanol or which is not inherently part of an on-site crude oil refining operation.

6. The area of approval for Site C–3 is limited to that presently operated by Baker Marine Corporation.

7. Offshore drilling rigs produced at Site C–3 which are classified as vessels by Customs shall be subject to the special conditions enumerated in board Order 297 (50 FR 13263, 4/3/85) concerning steel mill products for shipbuilding.

*Grant To Establish, Operate, and Maintain a Foreign-Trade Zone and Subzones in the Corpus Christi Port of Entry Area*

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 Port of Corpus Christi Authority (the Grantee) has made applications (filed May 7, 1984, Docket Nos. 22, 23, and 24–84, 49 FR 20748) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone and subzones at sites in Nueces County, Texas, within the Corpus Christi Customs port of entry;

Whereas, notice of said applications 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) would be satisfied if approval is given subject to the conditions stated in the resolution accompanying this action;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and subzones, designated on the records of the Board as Zone No. 122 and Subzone Nos. 122A through 122H at the locations referred to in Exhibits IX and X of the applications and as described in Table I of the examiners' report dated June 12, 1985, subject to the provisions, conditions, and restrictions of the Act and the regulations, and those stated in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the foreign-trade zone and subzones 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 and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any new 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, D.C. this 5th day of September 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.

**Malcolm Baldrige,**

*Chairman and Executive Officer.*

Attest: John J. Da Ponte, Jr., *Executive Secretary.*

[FR Doc. 85-22433 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-DS-M

## International Trade Administration

## Export Trade Certificate of Review; Wrangell Forest Products Ltd.

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Issuance of an Export Trade Certificate of Review.

**SUMMARY:** The Department of Commerce has issued an export trade certificate of review to Wrangell Forest Products Ltd. This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** James V. Lacy, 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 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trade Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

### Description of Certified Conduct

*Export Trade*

(a) Alaskan timber products (round logs, lumber, wood chips, sawdust, shavings, cants, flitches, milled timber, pulp, pulpwood, and sawlogs, in all grades and all sizes) (the "Products").

(b) Services (consulting; international market research; advertising; marketing; product research and design for export markets; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods) in connection with the export of the Products (the "Export 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, Wrangell Forest Products may:

(1) Enter into agreements with an individual or multiple Supplier(s) (except any Supplier that owns or operates, or is under common control with a person that owns or operates a sawmill or sawmills in Southeastern Alaska having a capacity in excess of 50,000 board feet per eight-hour shift) to provide Export Services as an Export Intermediary wherein:

(a) Wrangell Forest Products may agree not to represent any competitor of the Supplier(s) in the Export Markets; and

(b) The Supplier(s) remains free to sell the Products, directly or through other channels, in the Export Markets.

These agreements may also give Wrangell Forest Products the exclusive right to choose, on behalf of the Supplier(s), whether to respond to bids, invitations or requests for bids, or other sales opportunities in the Export Markets.

In the performance of these agreements, Wrangell Forest Products may discuss with the Supplier(s) its activities in the Export Markets on behalf of the Supplier(s), including customer complaints and quality problems, visits by customers from the Export Markets, reports by and the selection of Export Intermediaries, and matters concerning the agreement between Wrangell Forest Products and the Supplier(s).

(2) Enter into exclusive agreements with other Export Intermediaries whereby each Export Intermediary agrees (a) not to represent Wrangell Forest Products' competitors in the sale

of Products in any Export Market and (b) not to buy Products from Wrangell Forest Products' competitors for resale in any Export Market.

(3) Enter into agreements with customers in the Export Markets whereby each customer agrees not to purchase Products from Wrangell Forest Products' competitors.

(4) Purchase sawlogs on a spot sale basis from other Suppliers.

(5) For each bid, invitation or request for bids, or other sales opportunity in any Export Market, negotiate and agree with one or more Suppliers individually on the terms of the respective Supplier's participation in the bid or sale, including the amount of Products such Supplier will commit to the sale and the price to be bid, and in order to negotiate those terms, exchange with such Suppliers individually:

(a) Information (other than information about each other's costs, production, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies or methods) that is already generally available to the trade or public;

(b) Information (such as selling strategies, prices, projected demand, and customary terms of sale) solely about the Export Markets, including reports and forecasts of sales, prices, terms, needs and product specifications by customer or geographic area in the Export Markets;

(c) Information on expenses specific to exporting to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export sales documentation and service, and export sales financing); and

(d) Information on U.S. and foreign legislation and regulations affecting sales to the Export Markets.

(6) Enter into agreements with Alaska Pulp Corporation to harvest, purchase and process sawlogs for export and to provide Export Services as an exclusive Export Intermediary wherein:

(a) Wrangell Forest Products may agree not to represent any competitor of Alaska Pulp Corporation in Export Market; and

(b) Alaska Pulp Corporation may agree not to sell, directly or through any other Export Intermediary, into any Export Market in which Wrangell Forest Products represents Alaska Pulp Corporation.

*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 responding to bids, invitations or requests for bids, or other sales opportunities in the Export Markets and/or providing or arranging for the provision of Export Services.

(2) "Supplier" means a person who produces, provides or sells a Product.

(3) "Spot sale" means a sale of a specified amount of sawlogs that have already been cut or will be cut within six months of the sale, and does not include any sale made pursuant to a long-term contract, agreement, or understanding to make such spot sales.

*Terms and Conditions of Certificate*

Wrangell Forest Products shall not purchase sawlogs from Ketchikan Pulp Company (or any other firm that acquires or controls its rights to Forest Service timber) except on a spot sale basis and shall not enter into timber harvesting or processing agreements with Ketchikan Pulp Company having a duration in excess of six months.

Wrangell Forest Products shall notify the Department of Commerce within 30 days each time it enters into an agreement to provide Export Services as an Export Intermediary with any Supplier that owns or operates, or is under common control with a person that owns or operates a sawmill or sawmills in operation in Southeastern Alaska having a capacity of 50,000 board feet per eight-hour shift or less.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 16, 1985.

**James V. Lacy,**

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 85-22438 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-DR-M

## National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Instrument

*Correction*

In FR Doc. 85-21855 appearing on page 37261, in the issue of Thursday, September 12, 1985, in the second paragraph, first line, the Docket No. should be corrected to read, "Docket No. 83-270R".

BILLING CODE 1505-01-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Import Controls on Certain Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

September 16, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 20, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

**Background**

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, the Governments of the United States and the Republic of the Philippines have agreed to increase the consultation level for other man-made fiber manufactures in Category 669 from 117,138 pounds to 197,838 pounds for goods produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. In the letter which follows this notice the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to control imports of man-made fibler textile products in Category 669 for the first time in 1985 at the adjusted level. The level has not been adjusted to reflect any imports exported during the twelve-month period which began on January 1, 1985. As the data become available these charges will be made.

A description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44762), and in Statistical Headnote 5, Schedule 3 of the Tariff

Schedules of the United States Annotated (1985).

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

September 16, 1985.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs
*Department of the Treasury*
*Washington, D.C. 20229*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.

Effective on September 20, 1985, paragraph 1 of the directive of December 21, 1984 is hereby amended to include a level of 197,838 pounds [1] for man-made fiber textile products in Category 669.

Textile products in Category 669 which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Textile products in Category 669 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-22429 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-DC-M

## Request for Public Comment on Bilateral Textile Consultations on Certain Cotton Textile Products in Category 614pt. Produced or Manufactured in Taiwan

September 16, 1985.

On August 21, 1985, the American Institute in Taiwan (AIT), under the agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan requested the Coordination Council for North American Affairs (CCNAA) to enter into consultations concerning exports to the United States of spun filament combination fabrics in Category 614pt. (only T.S.U.S.A. numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5069, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5095, and 338.5098), produced or manufactured in Taiwan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 614pt., produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Anyone wishing to comment or provide data or information regarding the treatment of this category is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-22430 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-DR-M

## Announcing Import Restraint Limit for Certain Cotton and Wool Textile Products Exported from Yugoslavia

September 13, 1985.

On July 19, 1985, a notice was published in the **Federal Register** (50 FR 29467) announcing that, on June 28, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of the Socialist Republic of Yugoslavia to enter into consultations concerning exports to the United States of men's and boys' woven cotton shirts in Category 340 and women's, girls' and infants' wool trousers in Category 448, produced or manufactured in Yugoslavia.

The United States Government had decided, inasmuch as consultations have not been held with the Government of the Socialist Republic of Yugoslavia, to control imports of textile products in Categories 340 and 448, produced or manufactured in Yugoslavia and exported during the twelve-month period which began on June 28, 1985 and extends through June 27, 1986 at levels of 147,576 dozen and 22,933 dozen, respectively. If a different level is agreed in consultations scheduled September 23–25, 1985, further notice will be published in the **Federal Register.**

For further information contact: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC (202/377–4212).

**Walter C. Lenahan,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

September 13, 1985.

Commissioner of Customs,
*Department of the Treasury,*
*Washington, D.C. 20229*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 20, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 340 and 448 produced or manufactured in Yugoslavia and exported during the twelve-month period which began on June 28, 1985 and extends through June 26, 1986, in excess of the following levels of restraint:

| Category | 12-month restraint level [1] (dozen) |
|---|---|
| 340 | 147,576 |
| 448 | 22,933 |

[1] The levels have not been adjusted to reflect any imports exported after June 27, 1985.

[1] The level has not been adjusted to account for any imports exported after December 31, 1984. Charges during the January–June 1985 period have mounted to 104,862 pounds.

Textile products in Categories 340 and 448 which have been exported to the United States prior to June 28, 1985 shall not be subject to this directive.

Textile products in Categories 340 and 448 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-22431 Filed 9-18-85; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF Scientific Advisory Board; Meeting

September 10, 1985.

The USAF Scientific Advisory Board Aeronautical Systems Division (ASD) Advisory Group will hold meetings on October 17, 1985, from 8:00 a.m. to 4:30 p.m. and on October 18 from 8:00 a.m. to 3:00 p.m., at Wright-Patterson Air Force Base, Ohio.

The purpose of this meeting is to review the Avionics Intergrity Program (AVIP).

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 85-22390 Filed 9-18-85; 8:45 am]

BILLING CODE 3910-01-M

## DELAWARE RIVER BASIN COMMISSION

### Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, September 24, 1985 beginning at 9:30 a.m. in the Banquet Room of The Harmony Manor, Route 519, Phillipsburg, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

*Applications for Approval of the Following Projects Under Article 10.3, Article 11 and/or Section 3.8 of the Compact:*

1. *Pennsylvania Department of Environmental Resources (PADER) (formerly Department of Forests and Waters) D-64-15 CP.* PADER has requested approval by the Delaware River Basin Commission to temporarily suspend the operation of Paragraph 1.b of DRBC Docket No. D-64-15 CP (January 26, 1966), relating to flow augmentation releases from the Marsh Creek Dam and Reservoir, Chester County, Pennsylvania and in place thereof, proposes that the conservation release schedule contained in Condition 1.a of the Docket be followed whenever flow in the Brandywine at the Chadds Ford stream gage is less than 140 cfs.

2. *Schuylkill County Commissioners D-82-42 CP.* A project to construct an earthen dike and drainage structures to protect property along the East Branch Little Schuylkill River in West Penn Township, Schuylkill County, Pennsylvania, from flood damage. The project dam is identified as PA 426 and is part of the Little Schuylkill River Watershed Project in the DRBC's Comprehensive Plan.

3. *Board of Water and Light Commissioners, New Castle, Delaware D-84-25 CP.* An interconnection between the applicant's water supply system and the Artesian Water Company system for transfer of finished water to either party as needed. Transfers from the applicant's water system to Artesian's system will be limited to 1.0 million gallons (mg) during any 24-hour period. Transfers from Artesian's to the applicant's system will be limited by the hydraulic capacity of the interconnection, but may not result in violation of existing water supply source allocation limits established by the Department of Natural Resources and Environmental Control or the Delaware River Basin Commission. The interconnection will be located on School Lane between U.S. Route 13 and Delaware State Route 273 in New Castle County, Delaware.

4. *Crompton and Knowles Corporation D-85-42.* An industrial waste treatment plant modification at the applicant's dye manufacturing facility in Robeson Township, Berks County, Pennsylvania. The treatment plant will be modified for improved color removal. Additionally, approximately 3,500 gallons per day (gpd) of high salinity wastes will be rerouted from an evaporator, where the majority of brines will continue to be treated, to the treatment plant, increasing the total dissolved solids (TDS) concentration in the effluent. An average waste flow of 180,000 gpd is presently discharged to an unnamed tributary of the Sckuylkill River in Robeson Township. The applicant has requested relief from the Commission's normal limits for color and TDS. A color limit of 875 units and seasonal TDS limits of 5,000 milligrams (mg)/1 average monthly and 10,000 mg/1 daily maximum from July 1 through September 30; and 9,000 mg/1 average monthly and 10,000 mg/1 daily maximum from October 1 through June 30 have been requested.

5. *Borough of Norristown D-85-48 CP.* Modification of the applicant's sewage treatment plant serving the Borough of Norristown and West Norriton Township in Montgomery County, Pennsylvania. Construction of new screening facilities and a new primary clarifier, for relief of overloading at the existing clarifiers, is proposed. This is Phase I of a three-phase plant rehabilitation program to continue through 1987. The design capacity of the plant will remain at the PADER-approved rate of 9.75 million gallons per day (mgd). Treated effluent from the secondary, activated sludge plant will continue to discharge to the Schuylkill River in the Borough of Norristown.

6. *Joseph Wick Nurseries, Ltd., D-85-49.* A ground water withdrawal project to supply approximately 46.1 mg/30 days of irrigation water to the applicant's nursery operations from three wells. The project is located in Kent County, Delaware.

7. *Ashland Chemical Company D-85-50.* A ground water withdrawal project to supply approximately 0.14 mgd of water to the applicant's manufacturing plant from new Well No. 3. Existing Well Nos. 1 and 2 will be used for standby purposes and the total withdrawal from all wells will be 0.14 mgd. The project is located in the Borough of Glendon, Northampton County, Pennsylvania.

8. *Lehigh County Authority D-85-51 CP.* A ground water withdrawal project

to supply approximately 0.87 mgd of water to the applicant's Central Division distribution system from Well Nos. 8 and 16. The total withdrawal from all wells in the Central Division will be 5.13 mgd. The project is located in Lower Macungie Township, Lehigh County, Pennsylvania.

9. *Hamilton Water Company D–85–55 CP.* A ground water withdrawal project to replace water from Well No. 2, and from surface water sources which have become unreliable sources of supply. The proposed withdrawal from existing Well No. 1 and new Well No. 4 will be limited to 3.75 mg/30 days. The project is located in Ross Township, Monroe County, Pennsylvania.

10. *Pre Finished Metals, Inc. D–85–59.* Facilities previously owned and operated by Prior Coated Metals Company have been acquired by Pre Finish Metals, Inc. The new owner has proposed modifications to the process and treatment system and requests approval to eliminate the batch processing and operate on a continuous basis. The modified system is designed to treat up to 0.216 mgd and meet the current NPDES limitations. Discharge will continue to Biles Creek in Falls Township, Bucks County, Pennsylvania.

Documents relating to these applications may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at these hearings are requested to register with the Secretary prior to the hearing.

**Susan M. Weisman,**

*Secretary.*

September 10, 1985.

[FR Doc. 85–22392 Filed 9–18–85; 8:45 am]

BILLING CODE 6360–01–M

## DEPARTMENT OF ENERGY

### National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council.

Date: October 15, 1985—2:30 p.m.

Place: Madison Hotel, Dolley Madison Ballroom, Fifteenth and M Streets, NW, Washington, DC

Contact: Carolyn B. Klym, U.S. Department of Energy, Office of Oil, Gas, Shale and Coal Liquids, Mail Stop—FE–30, GTN, Washington, D.C. 20545, Telephone: 301–353–2709.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

**Tentative Agenda**

—Call to Order by Ralph E. Bailey, Chairman, National Petroleum Council.
—Remarks by the Honorable John S. Herrington, Secretary of Energy.
—Progress Report of the Committee on U.S. Petroleum Refining. John K. McKinley, Chairman.
—Consideration of Administrative Matters.
—Discussion of Any Other Business Properly Brought Before the National Petroleum Council.
—Public Comment—10 minute rule
—Adjournment.

**Public Participation**

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Carolyn B. Klym at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

**Transcripts**

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

Issued at Washington, DC, on September 12, 1985.

**J. Robert Franklin,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 85–22459 Filed 9–18–85; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket Nos. ER85–735–000, et al.]**

### Electric Rate and Corporate Regulation Filings; Montaup Electric Co., et al.

Take notice that the following filings have been made with the Commission:

**1. Montaup Electric Company**

[Docket No. ER85–735–000]

September 10, 1985.

Please take notice that on August 30, 1985 Montaup Electric Company filed an amendment of a contract between Montaup and Pascoag Fire District ("Pascoag") (FERC Rate Schedule No. 64). The amendment relates to the sale of capacity and energy from Canal Unit No. 2 and Somerset No. J1.

As to Canal No. 2, amendment was negotiated in two stages. In February 1983 Montaup agreed to extend the contract from October 31, 1985 through October 31, 1986 at a charge of $4.267 per kw month, the current cost at the time of Montaup's commitment. In August 1983 Montaup agreed to extend the contract for another two years from October 31, 1986 through October 31, 1988 at the then current cost of $4.57 per kw/month. Montaup's commitments in February and August of 1983 were then incorporated into the enclosed amendment. Both the $4.267 and $4.57 figures are below the current cost of $4.78 per kw/month supported in Appendix A.

With regard to Somerset No. J1, the contract is extended for three years through October 31, 1988. Pascoag will purchase 1,650 KW (7.021%). The capacity charge is $1.83 per kw/month, below the current cost of $139 per kw/month supported in Appendix B.

The filing was served on the affected customer and the Rhode Island Public Utilities Commission.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**2. Pacific Gas and Electric Company**

[Docket No. ER85–738–000]

September 10, 1985.

Take notice that on September 3, 1985, Pacific Gas and Electric Company (PGandE), tendered for filing, as an initial rate schedule, tariff provisions and charges which are applicable to the City of Oakland, California, acting by and through its Board of Port Commissioners (the "Port") for resale service at the Metropolitan Oakland International Airport (the "Airport").

This filing is made in compliance with a FERC order issued on June 18, 1985 in Docket No. EL82–3–002. The FERC order is predicated on the March 5, 1985 decision of the United States Court of Appeals for the Ninth Circuit, which held that the City of Oakland, acting through its Board of Port Commissioners, is entitled to purchase electricity from PGandE at a wholesale rate for resale to the Ports's tenants at the Airport.

This proposed effective date for the rate schedule in question is October 1, 1985. PGandE has requested a Waiver of the 60 day notice requirement as set forth in Section 35.3 of the Commission's regulations so as to permit the proposed effective date.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**3. Northern States Power Company**

[Docket No. ER85-725-000]

September 10, 1985.

Take notice that on August 30, 1985, Northern States Power Company, Eau Claire, Wisconsin (NSPW) tendered for filing a proposed change in its currently effective Firm Power Sale For Resale Service (W-1) Rate Schedule for full requirements service. NSPW states that the proposed change is intended to increase rates for W-1 service to its existing thirteen wholesale customers and to two new wholesale customers, the City of Medford (Medford), Wisconsin and the City of Wakefield (Wakefield,) Michigan. Take further notice that NSPW filed, on the same date:

(1) A new Firm Power Sale for Resale Service-north Central Power (NCP-1) Rate schedule providing for a change in rates for service to North Central Power Company, Inc. (North Central) another new NSPW wholesale customer; and

(2) Copies of assignments executed by Lake Superior District Power Company (LSDP) which assign LSDP's wholesale service agreements with North Central, Medford and Wakefield to NSPW, effective as of the first meter reading date after September 1, 1985; and

(3) Copies of amendments to the North Central, Wakefield and Medford wholesale service agreements providing for the rate increases proposed by NSPW.

NSPW states that the proposed rate schedule changes will increase revenues from sales to these customers by $587,681 based on sales for the January 1, 1986 to December 31, 1986 test year.

NSPW requests an effective date of October 30, 1985 in order to start the running of the maximum five-month suspension period. NSPW states that if the Commission determines that the maximum suspension is not required it requests an effective date of January 1, 1986 in accordance with the settlement agreement filed with the Commission on July 26, 1985 in Docket No. ER85-398-000.

Copies of the filing were served upon each affected customer, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**4. Idaho Power Company**

[Docket No. ER85-687-000]

September 11, 1985.

Take notice that on August 15, 1985, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes original Volume No. 1) during July 1985, along with cost justification for the rate charged. The filing includes the following supplements:

Utah Power & Light Company—Supplement 44
Sierra Pacific Power Company—Supplement 40
Portland General Electric Company—Supplement 38
Southern California Edison Company—Supplement 30
San Diego Gas & Electric Company—Supplement 25
Washington Water Power Company—Supplement 30
Pacific Gas & Electric Company—Supplement 11
Western Area Power Administration—Supplement 5
Montana Power Company—Supplement B6
Los Angeles Water & Power—Supplement 27
Puget Sound Power & Light Company—Supplement 17
City of Glendale—Supplement 25
City of Pasadena—Supplement 23
California Department of Water Resources—Supplement 1

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**5. Central Vermont Public Service**

[Docket No. ER85-732-000]

September 12, 1985.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 30, 1985 tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 96. The proposed changes would increase revenues from jurisdictional sales and service by $39,744 for the twelve month period ending October 31, 1985.

Central Vermont states that the change is proposed in accordance with Aritcle V of Central Vermont's Power purchase Contract with Village of Ludlow Electric Light Department which provides that charges will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with Company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1985.

Copies of this filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**6. Central Vermont Public Service Corporation**

[Docket No. ER85-733-000]

September 12, 1985.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 30, 1985 tendered for filing proposed changes in its Electric Service Rate Schedule FERC N. 92. The proposed changes would increase revenues from jurisdictional sales and service by $14,904 for the twelve month period ending October 31, 1985.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Power Purchase Contract with Lyndonville Electric Department which provides that charges will be updated annually to incorporate Central Vermont's purchase power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1985.

Copies of this filing were served upon the Lyndonville Electric Departments and the Vermont Public Service Board.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**7. Missouri Public Service Company**

[Docket No. ER85-746-000]

September 12, 1985.

Take notice that on September 5, 1985, Missouri Public Service Company tendered for filing a request for waiver of the provision in section 35.16 of Commission's regulations to file a notice of succession within 30 days and request that five contracts be approved for name change.

Enclosed are separate filings listing the schedules and supplements of Missouri Public Service Company to be adopted by UtiliCorp United Inc. these additional rate schedules adopted are FERC rate schedules numbered: 8, 20, 33, 43 and 44.

*Comment date:* September 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

**8. NYPP–PJM Interconnection Agreement**

[Docket No. ER85–747–000]

September 12, 1985.

Central Hudson Gas & Electric Corporation
Consolidated Edison Company of New York, Incorporated
Long Island Lighting Company
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities, Incorporated
Rochester Gas and Electric Corporation
(Above referred to collectively as the NYPP Group)
Public Service Electric and Gas Company
Philadelphia Electric Company
Pennsylvania Power & Light Company
Baltimore Gas and Electric Company
Jersey Central Power & Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Potomac Electric Power Company
Atlantic City Electric Company
Delmarva Power & Light Company
(Above referred to collectively as the PJM Group)

Take notice that on September 5, 1985 the Office of the Pennsylvania-New Jersey-Maryland Interconnection tendered for filing on behalf of the above listed utilities a proposed Schedule 6.02 to the Interconnection Agreement between the NYPP Group and the PJM Group dated April 9, 1974. The new Scheduled 6.02 sets forth a procedure for determining when unscheduled use of a transmission system occurs and a procedure to provide appropriate compensation.

The filing party has requested a waiver of any otherwise applicable Rules and Regulations not already complied with and has requested an effective date of May 1, 1984.

*Comment date:* September 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

**9. Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement**

[Docket No. ER85–784–000]

September 12, 1985.

Take notice that on September 5, 1985, the Office of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection filed on behalf of the above listed parties to the PJM Agreement proposed Schedule 5.06 to that Agreement dated September 26, 1950, as heretofore supplemented.

Proposed Schedule 5.06 sets forth the allocation among the PJM parties of compensation paid of received for Unscheduled Transmission Service, as defined in a supplement to the agreement between the PJM parties and the members of the New York Power Pool, such allocation being in proportion to each party's share of the PJM capability to import from west of PJM, as filed under Docket No. ER83–736–000.

No new facilities will be installed nor will existing facilities be modified in connection with the proposed schedule. In view of the fact that dollar compensation for Unscheduled Transmission Service provided by PJM to the New York Power Pool will commence on July 1, 1985 under the said supplement to the NYPP-PJM Agreement, The PJM parties have requested that proposed Schedule 5.06 become effective on that date.

*Comment date:* September 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

**10. Portland General Electric Company**

[Docket No. ER85–739–000]

September 12, 1985.

Take notice that on September 3, 1985, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during July of 1985, along with a cost justification for the rates charged.

Portland General Electric Company requests an effective date of August 31, 1985 and therefore requests a waiver of the Commission's notice requirements.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77–131 and the Oregon Public Utility Commissioner.

*Comment date:* September 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85–21542 Filed 9–18–85; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. QF85–670–000, et al.]**

## Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.; Quality Dinette, Inc., et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

**1. Quality Dinette, Inc.**

[Docket No. QF85–670–000]

September 11, 1985.

On August 29, 1985, Quality Dinette, Inc. (Applicant), P.O. Box 197, Arley, Alabama 35541 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Arley, Alabama. The primary energy source will be woodwaste. The electric power production capacity will be 275 kilowatts. The facility will consist of one steam boiler, one steam turbine, an electrical induction generator and appurtenances. The system is a condensing cycle in which electrical energy is used in the manufacture of furniture. Date of installation will be November 15, 1985.

**2. Howden Wind Park I, Inc.**

[Docket No. QF85–668–000]

September 11, 1985.

On August 28, 1985, Howden Wind Park I, Inc. (Applicant), of 1330 Lincoln Avenue, San Rafael, California 94901 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located on the Souza-Vaquero Ranch, in the Altamont Pass, approximately 50 miles east of San Francisco, California. The primary energy source will be wind. The electric power production capacity will be 29.47

megawatts consisting of up to 84 HWP-330/31 wind turbine generators and one HWP-750/45 wind turbine generator.

**3. Delaware County Memorial Hospital**

[Docket No. QF85-677-000]

September 13, 1985.

On August 29, 1985, Delaware County Memorial Hospital (Applicant), of West Main Street, Manchester, Iowa 52057, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Delaware County Memorial Hospital at Manchester, Iowa. It will consist of two TECOGEN cogeneration modules. The facility will produce and supply hot water to the hospital for domestic uses, laundry, food service, and space heating. The electric power production capacity of the facility will be 120 kW. The primary energy source will be natural gas. The installation of the facility began on June 10, 1985.

**4. Energy Partners**

[Docket No. QF85-679-000]

September 13, 1985.

On September 4, 1985, Energy Partners (Applicant), of 1247 Seventh Street, Suite 201, Santa Monica, California 90401 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 130 kilowatt hydroelectric facility (P. 9261-000) will be located in San Luis Obispo, California.

A separate application is required for hydroelectric project license, preliminary permit or exemption for licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

**5. Genstar Gas Recovery Systems**

[Docket No. QF85-675-000]

September 13, 1985

On September 3, 1985, Genstar Recovery Systems (Applicant), of 177 Bovet Road, Suite 550, San Mateo, California 94402 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at the American Canyon Sanitary Landfill, in Napa County, California. The primary energy source will be biomass in the form of landfill gas from the adjacent sanitary landfill. The electric power production capacity will be 1,421 kilowatts. There are no plans or provisions for usage of natural gas, oil or coal.

**6. Santa Barbara Cottage Hospital**

[Docket No. QF85-671-000]

September 13, 1985.

On August 29, 1985, Santa Barbara Cottage Hospital (Applicant), of Pueblo at Bath Street, Santa Barbara, California 93105, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Santa Barbara Cottage Hospital at Santa Barbara, California. It will consist of a combustion turbine/generator set with a waste heat recovery boiler, and a back pressure steam turbine generating unit. Steam produced by the facility will be used to supply the plant process steam loads. The electric power production capacity of the facility will be 6.4 MW. The primary energy source will be natural gas. The installation of the facility will begin in December 1985.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 85-22426 Filed 9-18-85; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPTS-140068; FRL 2900-7]**

### Access to Confidential Business Information by Molecular Design, Ltd.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA will authorize its contractor, Molecular Design, Ltd. (MDL), for access to information which has been submitted to the Agency under the reporting provisions of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

**DATE:** Access to CBI under this contract will take place no sooner than September 30, 1985.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or mixtures may present an unreasonable risk of injury to human health or to the environment. The Agency uses several automated information systems to aid in that determination process. Two of those systems, the Molecular Access System (MACCS) and the Data Access System (DATACCS) were developed to support the existing chemical review program and the Premanufacture Notice review program by providing the capacity to retrieve information about chemical substructures similar to those under review.

Under contract number 68-01-6973, MDL, of 1122 B Street, Hayward, CA, will perform needed modifications and improvements to the MACCS and DATACCS software programs. MDL will also train Office of Toxic Substances employees in the proper use of the software for the two systems.

MDL personnel will not conduct substantive review of any TSCA CBI under this contract; however, execution of its provisions will require that these personnel be given access to TSCA CBI contained on MACCS and DATACCS in order to evaluate their technical aspects and to effect the needed modifications and improvements. Therefore, in accordance with 40 CFR 2.306(j), EPA has determined that access to information submitted to the Agency under TSCA that may be claimed or determined to be confidential is necessary for the satisfactory performance by the contractor of the contract noted above. EPA is issuing this notice to inform submitters of information under TSCA that MDL has been authorized for access to CBI submitted under all reporting provisions of TSCA pursuant to the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" manual. CBI access will be permitted only on EPA premises and will expire on September 5, 1986.

MDL personnel will be briefed on TSCA CBI security procedures and will be required to sign non-disclosure agreements before being permitted access to confidential information, in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements Manual.

Dated: September 12, 1985.

Don R. Clay,

*Director, Office of Toxic Substances.*

[FR Doc. 85-22419 Filed 9-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-9-FRL-2900-6]

## Draft General NPDES Permits for Offshore Oil and Gas Operations Off Southern California; Rescheduling of Public Hearing and Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice of rescheduling of public hearing and extension of comment period.

**SUMMARY:** The Regional Administrator of Region 9 is today giving notice that the public hearing previously scheduled for September 26, 1985 (50 FR 34036, August 22, 1985) for the draft general National Pollutant Discharge Elimination System (NPDES) permits for offshore oil and gas exploration, development and production operations off Southern California has been rescheduled for October 22, 1985. The public comment period has been extended until November 15, 1985.

**DATES:** Interested persons may submit comments on the draft general permits to EPA, Region 9, at the address below no later than November 15, 1985. The public hearing will be held as follows:

*Date:* October 22, 1985

*Time:* 10:00 A.M. Session, 2:00 P.M. Session, 7:30 P.M. Session

*Place* Sheraton Santa Barbara Hotel, El Cabrillo Room (2nd Floor), 1111 E. Cabrillo Boulevard, Santa Barbara, CA 93103.

**FOR FURTHER INFORMATION CONTACT:** Eugene Bromley, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (Telephone Number (415) 974-8330).

Judith E. Ayres,

*Regional Administrator.*

[FR Doc. 85-22416 Filed 9-18-85; 8:45 am]

BILLING CODE 6560-50-M

[A-5-FRL-2900-5]

## Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

**AGENCY:** United States Environmental Protection Agency.

**ACTION:** Notice of final action.

**SUMMARY:** The purpose of this notice is to announce that between May 1, 1985, and August 2, 1985, the United States Environmental Protection Agency (EPA), Region II Office, issued two final determinations, the New York State Department of Environmental Conservation (NYSDEC) issued two final determinations, and New Jersey Department of Environmental Protection (NJDEP) issued one final determination pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

**DATES:** The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

**SUPPLEMENTARY INFORMATION:** Pursuant to the PSD regulations, the EPA Region II Office, the NYSDEC, and the NJDEP have made final determinations relative to the sources listed below:

This notice lists only the sources that have received final PSD determinations. Copies of these determinations and related materials may be available for public inspection at the following offices:

### EPA Actions

U.S. Environmental Protection Agency, Permits Administration Branch, 26 Federal Plaza, Room 432, New York, New York 10278

### NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233-0001

### NJDEP Actions

New Jersey Department of Environmental Protection, Division of Environmental Quality, Bureau of Engineering and Technology, John Fitch Plaza, CN 027, Trenton, New Jersey 08625

If available pursuant to the Consolidated Permit Regulations (40 CFR 124), judicial review of these determinations under Section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: September 6, 1985.

**Christopher J. Daggett,**

*Regional Administrator.*

| Name of applicant | Location | Project proposal | Receiving agency | Final action | Date of final action |
|---|---|---|---|---|---|
| Virgin Islands Water and Power Authority | St. John, U.S. Virgin Islands | Replacement of an existing 1.75 MW diesel generator (Green Hornet) with a new 2.5 MW diesel generator. | EPA Region II | PSD Non-applicability Determination. | 6/14/85 |
| Newton Falls Paper Mill, Inc. | Newton Falls, New York | Replacement of existing oil fired boilers (#1, #2, and, #3) with a new wood/coal/oil fired boiler. | NYSDEC | PSD Non-applicability Determination. | 6/19/85 |

| Name of applicant | Location | Project proposal | Receiving agency | Final action | Date of final action |
|---|---|---|---|---|---|
| Texas Eastern Gas Pipeline Company. | Mt. Airy, New Jersey | Installation of 2 natural gas fired turbines and a natural gas compressor station. | NJDEP | PSD Permit Approval | 7/1/85 |
| The New York City Department of Corrections. | Rikers Island New York, New York. | Replacement of existing boilers with a diesel engine cogeneration facility. | NYSDEC | PSD Non-applicability Determination. | 7/17/85 |
| Tishman Speyer Crown Equities (375 Hudson Street Cogeneration Project). | New York, New York | Modification of PSD permit to increase the permitted stack height (by an additional 5 meters) to 275 feet above ground-level. | EPA Region II | PSD Permit Modification Approval | 8/2/85 |

[FR Doc. 85-22417 Filed 9-18-85; 8:45 am]
BILLING CODE 6560-50-M

[OPPE-FRL 2896-6]

## Intent To Form an Advisory Committee To Negotiate Proposed Farmworker Protection Standards for Agricultural Pesticides

**SUMMARY:** EPA announces its intent to establish an Advisory Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose will be to negotiate issues leading to a Notice of Proposed Rulemaking on Farmworker Protection Standards for Agricultural Pesticides, 40 CFR Part 170, under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA).

The Committee will consist of representatives of the parties interested in or affected by the outcome of the proposed rule.

**DATE:** EPA must receive comments and suggestions by October 9, 1985.

**ADDRESS:** The public may inspect comments in Room 415 West Tower, EPA Headquarters Building, 401 "M" Street, SW., Washington, D.C., from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. Mail two copies of comments or suggestions clearly marked "Farmworker Protection Standards Regulatory Negotiation" to:

Chris Kirtz, Director, Regulatory Negotiation Project, U.S. Environmental Protection Agency (PM-223), 401 "M" Street, SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Chris Kirtz, Director, Regulatory Negotiation Project, U.S. E.P.A. (PM-223), 401 "M" Street, SW., Washington, D.C. 20460, (202) 382-7565.

**SUPPLEMENTARY INFORMATION:** Outline of Notice:



### I. Project Background

#### *A. The Concept of Regulatory Negotiation*

The increasing complexity of government regulations, compounded by what some see as an increased formalization of the rulemaking process, can make it difficult for an agency to develop sound regulatory solutions to the problems that it is mandated to address. The traditional rulemaking process can often lead to adversarial relationships among participants. They may take extreme positions, withhold information, or attack the legitimacy of opposing positions. In addition, the traditional rulemaking process of comment and reply may fail to foster the exchange of information and ideas conducive to developing workable solutions. Public comments often focus on finding fault with the proposals of others rather than on helping to develop creative solutions. Further, the views or comments of one party are not subject to open discussion with other parties, where each has an opportunity to probe and understand the other.

On February 22, 1983, EPA announced in the **Federal Register** that it was beginning a "Negotiated Rulemaking" project to explore the extent to which negotiations among interested parties could serve as a useful supplement to its current rulemaking process.

The project's stated purposes are to test:

- The value of developing regulations by negotiation;
- The types of regulations which are most appropriate for negotiated rulemakings; and
- The procedures and circumstances which best foster negotiations.

The project involves bringing a balanced mix of parties and interests together face-to-face to negotiate at the preproposal stage. The goal of each negotiation is to reach a consensus on which to base a Notice of Proposed Rulemaking (NPRM). EPA intends to use any consensus that is justified and within its statutory authority as the basis of the proposal. Negotiations are conducted through Advisory Committees chartered under FACA. All relevant Administrative Procedure Act and other applicable statutory procedural requirements continue to apply.

A senior official selected by the EPA office responsible for developing the rule acts as chief negotiator and party-at-interest for EPA. Individuals representing definable interests in the regulated community, enforcement officials, and the affected stakeholders negotiate on behalf of their constituencies. A neutral third-party facilitator chairs the negotiations, keeps the process moving smoothly, and assists in resolving disputes.

EPA is optimistic that this process can produce better regulations, use all parties' time and resources more wisely, and reduce litigation and uncertainty.

#### *B. Negotiations to Date*

EPA has already successfully conducted two such regulatory negotiations. The first involved Nonconformance Penalties under 206(g) of the Clean Air Act, as amended. In the time allowed, the group achieved consensus on the core conceptual issues. This consensus was used as the basis of the proposed rulemaking. The proposal drew only thirteen comments, all from participants supporting the consensus. Six specifically requested that EPA conduct additional negotiations on other proposed regulations.

The second involved Emergency Pesticide Exemptions under section 18 of FIFRA. Again within the time allowed, the group reached full consensus on the exact wording for the proposal and preamble. EPA received nineteen comments on the proposal. Three were from participants supporting the proposal; the others raised relatively narrow points of interpretation or concern.

*C. Farmworker Protection Standards as a Negotiations Item*

EPA's Office of Pesticide Programs determined that regulatory negotiation might be a desirable way to develop a proposed revision of its Farmworkers Protection Standards for Agricultural Pesticides. The Office based that determination both on the success of EPA's prior negotiations and on the need for first-hand information from those with real-world experience.

EPA, aided by its outside expert, made a preliminary inquiry among potential parties and representatives of identified interests to determine if there is:

- A proper balance and mix of individuals to represent affected interests with a good faith interest in achieving consensus, and
- Alignment on key issues to address, a negotiation schedule, and operational groundrules.

On the basis of this preliminary inquiry, and after careful deliberation, EPA believes that negotiation on this rule can be successful and that its selection criteria have been met.

To qualify under EPA's selection criteria, an item must:

- Be at the pre-proposal stage of development;
- Have a relatively small number of identifiable parties who will negotiate in good faith;
- Present a limited number of specific issues for which sufficient information is at hand for resolution; and
- Have a time factor which lends some urgency to issuing the regulation.

This item is at the pre-proposal phase of development; affected interests are limited in number, and groups representing these interests identifiable; EPA has contacted them and believes they are interested in negotiating this item in good faith; EPA's lead program office has identified a number of basic issues for which sufficient information is in hand for resolution; and EPA is publicly committed to revising the existing 1974 regualtions (40 CFR Part 170) expeditiously.

We have therefore tentatively decided to use regulatory negotiation to develop a proposed revision of the Farmworker Protection Standards for Agricultrual Pesticides. We explicitly request comments on our tentative decision to use regulatory negotiation for this purpose.

*D. Utility of Revising Existing Farmworker Protection Standards*

EPA originally promulgated standards to protect Farmworkers from Agricultrual Pesticides in 1974 (40 CFR Part 170). They dealt with the occupational health and safety of farmworkers performing hand labor operations in field during and after the application of pesticides. The current regulations: (1) Prohibit spraying workers in fields, (2) specify how long after spraying workers may reenter the fields, (3) describe required protective clothing for early reentry workers, (4) set warning requirements, and (5) exclude certain activities.

Notwithstanding a variety of past and current actions to improve worker safety with regard to individual pesticides, EPA feels that revisions may be useful to:

- Provide consistent and complete coverage for worker protection by including measures such as protective clothing and reentry levels;
- Reflect the latest assessment of worker hazards; and
- Improve compliance and enforcement.

*E. Key Issues for Negotiation*

We anticipate the key issues to be addressed will include the following:

- What standards are necessary for agricultural pesticide handlers (*e.g.*, mixers, loaders, and applicators), and field workers (e.g. harvesters, and weeders)?
- Which toxicity category agricultural pesticides need protective clothing standards for pesticide handlers and early reentry workers—only toxicity Category I, or others? How should EPA specify and define these protective clothing requirements?
- Should EPA require decontamination and change facilities for workers who use protective clothing and equipment?
- Should EPA training in pesticide safety be required for agricultural pesticide handlers? Who else should be trained, who should do the training, and what instructions should be provided?
- Should the general reentry interval for Toxicity I agricultural pesticides be 24 hours or longer? Should other agricultural pesticide levels have "general" reentry intervals?
- Should EPA require mandatory oral reentry warnings?
- Should sites sprayed with pesticides be posted, which pesticides uses require posting, what posting should EPA require, in which locations, and for how long?
- Should the standards cover greenhouse and nursery operations, and if so, how should they deal with the different problems these uses pose?
- Should EPA require emergency medical response information or transportation?
- How should the standards provide for enforcement via Federal labeling and State programs?

**II. Negotiation Procedures**

This Notice announces EPA's intent to:

- Establish a Federal advisory Committee;
- Identify interests it believes are affected by the key issues listed above;
- Identify participants who will adequately represent the interests affected by the negotiations;
- Ask for public comment on the use of regulatory negotiation for this rulemaking, and the extent to which the issues, parties, and procedures are adequate and appropriate;
- Announce the time, location, and purpose of the informal organizational meeting; and
- Announce the date, time, location, and what will be covered at the first negotiation meeting.

The following procedures and guidelines will apply unless they are modified as a result of comments received on this Notice or during the negotiating process.

*A. Formal Negotiation Procedures*

1. *Notice of Intent To Establish Advisory Committee and Request for Comment.* As a general rule, an agency of the federal government is required to comply with the requirements of FACA when it establishes or uses a group which includes non-federal members as a source of advice. This document indicates EPA's intent to establish an advisory Committee. When EPA establishes the Committee, it will publish a separate notice announcing that fact.

2. *Participants.* The negotiating group should not exceed 25 participants. A number larger than this could make it difficult to conduct effective negotiations. One purpose of this notice is to help determine whether the revision that EPA is developing would substantially affect interests not adequately represented by the proposed participants (listed later in this Notice). We do not believe that each potentially affected organization or individual must necessarily have its own representative.

However, we firmly believe that each interest must be adequately represented. Moreover, we must be satisfied that the group as a whole reflects a proper overall balance and mix of affected interests.

3. *Requests for Representation.* If, in response to this Notice, an additional person or interest requests membership or representation on the negotiating group, the Agency, in consultation with the facilitator, will determine whether that person or interest:

- Would be substantially affected by the rule;
- Is already adequately represented in the negotiating group; or
- Should be added to the group.

4. *Final Notice.* After evaluating the comments on this announcement and requests for representation, EPA will issue a final notice. That notice will announce the establishment of a Federal Advisory Committee unless, after reviewing the comments, and weighing any other relevant considerations, EPA determines that such action is inappropriate. The negotiation process will begin once the Committee is appropriately chartered and notice is published in the **Federal Register.**

5. *Agency Action.* As noted earlier, EPA intends to use the Committee's consensus as the basis of the NPRM unless that consensus is unjustified or outside its statutory authority. In that event, the Agency will explain the reasons for its decision.

6. *Tentative schedule.* EPA will hold an organizational meeting on October 9, 1985 from 9:00 a.m. until completion, at The National Institute for Dispute Resolution, 1901 L St. NW., Suite 600, Washington, D.C. This meeting is open, and potential parties and affected interest sectors are especially encouraged to attend. (Anyone interested in attending this or other meetings, please contact Chris Kirtz at (202) 382–7565.)

The purpose of this meeting is to discuss informally with potential participants how the negotiations and Committee should function, what should and should not be covered, to answer questions, and to address any other procedural issues which may arise.

EPA intends to have the first meeting of the Advisory Committee, if established, on November 6, 1985 at the National Institute for Dispute Resolution. At this first negotiation meeting, participants will complete procedural matters which might be outstanding from the organizational meeting, determine how best to address the principal issues, and begin to address them.

To ensure timely issuance of the proposal, we intend to terminate the Committee's activities if it does not reach consensus within four months of the first meeting. The process may end earlier if the facilitator so recommends.

7. *Failure of Advisory Committee to Reach Consensus.* In the event the committee is unable to reach consensus, EPA will proceed to develop its own proposal.

*B. Internal Negotiation Procedures*

1. *Facilitator.* EPA will use a facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions,
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

2. *Good Faith Negotiation.* Since participants must be willing to negotiate in good faith and have authority to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well, and the Agency has designated the Director of the Office of Pesticide Programs, or his alternate, as its representative.

3. *Administrative Support and Meetings.* EPA's Regulation Management Branch will supply logistical, administrative and management support. Meetings, at least initially, will be held in the Washington area. To support the negotiations, EPA has pledged funds to a resource pool which the National Institute for Dispute Resolution would administer. EPA expects that funds from private foundations would also be available. These funds may be used by the parties for such activities as training, technical support, computer simulations, and other assistance which the parties deem useful. To give committee members maximum freedom, subject to any applicable legal constraints, they will determine the procedures under which requests for funds will be made and approved.

4. *Defining Consensus.* The goal of the negotiating process is consensus. Traditionally, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

5. *Record of Meetings.* In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking. EPA will announce Committee meetings in the **Federal Register** that will be open to the public, unless closed under FACA.

6. *Committee Procedures.* Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meetings which they consider most appropriate.

7. *Interests Involved.* EPA has tentatively determined that the following interests should be represented in these negotiations:

- Farmworkers,
- Growers and related Pesticide Users/Producers,
- Public Interest Groups,
- State and Federal Agencies.

EPA invites comments and suggestions on this list of interests.

8. *Potential Participants.* The following is a list of the possible interests and parties which we have tentatively identified:

*Farmworkers and Public Interest Groups:*
Farmworkers will be represented from seven diverse farmworker groups, including health, legal, union, and other related groups.

*Growers and Related Pesticide Users/Producers:*
American Farm Bureau,
National Council of Agricultural Employers,
United Fruit and Vegetable Association,
National Cotton Council/National Association of Wheat Growers,
Representative of Greenhouse and Nursery Interests,
National Agricultural Chemicals Association,
National Agricultural Aviation Association,
Application Representative.

*State Officials:*
Association of Pesticide Control Officials,
States FIFRA Issues Research Evaluation Group,
Texas Department of Agriculture,
National Association of State Departments of Agriculture,
Extension, Certification and Training Representative,
Association of State and Territorial Health Officials.

*Federal Government:*
Environmental Protection Agency,
Department of Agriculture.

Comments and suggestions on this tentative list of representatives are invited. Anyone wishing to be included should explain the interest they represent and why that interest is not already represented. The listing of a potential group does not necessarily

mean that the group has agreed to participate.

Dated: September 17, 1985.

**A. James Barnes,**

*Deputy Administrator.*

[FR Doc. 85-22545 Filed 9-18-85; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL RESERVE SYSTEM

### Applications To Engage de Novo in Permissible Nonbanking Activities; Allied Bancshares, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons for a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1985.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, Allied Brokerage Services, Inc., Houston, Texas, in permissible nonbanking activities such as would be performed by securities brokerage companies, pursuant to section 225.25(b)(15) of Regulation Y.

2. *T N Bancshares, Inc.*, El Paso, Texas; to engage *de novo* through its subsidiary, T N Services, Inc., El Paso, Texas, in providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases or access to such services, facilities, or data bases by technological means.

Board of Governors of the Federal Reserve System, September 13, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-22398 Filed 9-18-85; 8:45 am]

BILLING CODE 6210-01-M

### Applications To Engage de Novo in Permissible Nonbanking Activities; American Bankshares, Inc. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 7, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *American Bankshares, Inc.*, War, West Virginia; to engage *de novo* directly in making mortgage loans, consumer loans, and commercial loans, for the company's account or for the account of others. These activities would be conducted in the State of West Virginia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Indiana National Corporation*, Indianapolis, Indiana; to engage *de novo* through its subsidiary, Indiana National Brokerage Services, Inc., Indianapolis, Indiana, in securities brokerage services including purchase and sale of securities for the account of a customer; related securities credit activities pursuant to Regulation T; custodial services; IRA's; Keogh accounts; cash management accounts; and other activities incidental to general securities brokerage, but not including securities underwriting, investment advice or research activities.

Board of Governors of the Federal Reserve System, September 13, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-22399 Filed 9-18-85; 8:45 am]

BILLING CODE 6210-01-M

### Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First Virginia Banks, Inc., et al.

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 October 11, 1985.

**A. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares of First Virginia Bank-Southside, Farmville, Virginia, the successor by merger to The First National Bank of Farmville, Farmville, Virginia.

**B. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bank Corporation*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of the successor by merger to Alpena Savings Bank, Alpena, Michigan.

2. *Lincoln Financial Corporation*, Fort Wayne, Indiana; to merge with CB Bancorp, Huntington, Indiana, thereby indirectly acquiring Community State Bank in Huntington, Huntington, Indiana.

**C. Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Lynxx Banking Corporation*, Little Rock, Arkansas; to become a bank holding company by acquiring 99.4 percent of the voting shares of Farmers and Merchants Bank, Rogers, Arkansas and 88.3 percent of the voting shares of First National Bank, Bentonville, Arkansas.

**D. Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *JDOB, Inc.*, Naples, Florida; to acquire 88 percent of the voting shares of Sandstone State Bank, Sandstone, Minnesota.

**E. Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Harrisburg Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Harrisburg Bank, Houston, Texas.

Board of Governors of the Fedeal Reserve System, September 13, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-22400 Filed 9-18-85; 8:45 am]

BILLING CODE 6210-01-M

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## Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Fourth Financial Corp., et al.

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 October 9, 1985.

**A. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourht Financial Corporation*, Wichita, Kansas; to acquire the successor by merger of IV Topeka Acquisition, Inc., Wichita, Kansas and First Topeka Bankshares, Inc., Topeka, Kansas, and thereby acquire The First National Bank of Topeka, Topeka, Kansas.

In connection with this application, IV Topeka Acquisition, Inc., Wichita, Kansas, has applied to become a bank holding company by merging with First Topeka Bankshares, Inc., Topeka, Kansas.

Board of Governors of the Federal Reserve System, September 13, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-22401 Filed 9-18-85; 8:45 am]

BILLING CODE 6210-01-M

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## FEDERAL TRADE COMMISSION

### Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

| Transaction | Waiting Period Terminated Effective |
|---|---|
| (1) 85-0973—First Southern Federal Savings and Loan Association's proposed acquisition of voting securities of Equity Investors, Inc., (Douglas Kruppe, UPE). | Aug. 28, 1985. |
| (2) 85-0974—First Southern Federal Savings and Loan Association's proposed acquisition of voting securities of Equity Investors, Inc., (George Kruppe, UPE). | Aug. 28, 1985. |
| (3) 85-0988—South Jersey Industries, Inc.'s proposed acquisition of voting securities of Ottawa Silica Company. | Aug. 28, 1985. |
| (4) 85-0862—Proposed Consolidation of The Toledo Edison Company and the Cleveland Electric Illumination Company into North Holding Company. | Aug. 29, 1985. |
| (5) 85-0883—Proposed Consolidation of The Toledo Edison Company and the Cleveland Electric Illumination Company into North Holding Company. | Aug. 29, 1985. |
| (6) 85-1000—J.P. Industries, Inc.'s proposed acquisition of voting securities of D.A.B. Industries, Inc. | Aug. 29, 1985. |
| (7) 85-1019—Dunlop Olympic Limited's proposed acquisition of voting securities of Chloride Incorporated, (Chloride Incorporated, (Chloride Group, plc, UPE). | Aug. 28, 1985. |
| (8) 85-1026—Quaker State Oil Refining Corporation's proposed acquisition of voting securities of Arctic Circle, Inc. | Aug. 28, 1985. |
| (9) 85-1064—Burling Northern Inc.'s proposed acquisition of assets of Vulcan Power Company, (Magma Power Company, UPE). | Aug. 29, 1985. |
| (10) 85-1071—Georgetown Industries, Inc.'s proposed acquisition of voting securities of AGI Industries, Inc. | Aug. 29, 1985. |
| (11) 85-0977—Royal Dutch Petroleum Company's proposed acquisition of assets of Atlantic Richfield Company. | Aug. 30, 1985. |
| (12) 85-0997—American General Corporation's proposed acquisition of assets and voting securities of Commercial Credit Company, (Control Data Corporation, UPE). | Aug. 30, 1985. |

| Transaction | Waiting Period Terminated Effective |
|---|---|
| (13) 85-1048—L.E.M. Associates, Inc.'s proposed acquisition of voting securities of the L.E. Meyers Co. Group. | Aug. 30, 1985. |
| (14) 85-1063—Hanson Trust PLC's proposed acquisition of voting securities of SCM Corporation. | Sept. 3, 1985. |
| (15) 85-0963—Orbanco Financial Services Corporation's proposed acquisition of assets of Northwest Acceptance Corporation, (PacifiCorp, UPE). | Sept. 4, 1985. |
| (16) 85-0984—Turner Broadcasting System, Inc.'s (R.E. Turner, UPE) proposed acquisition of voting securities of MGM/UA Entertainment Co., (Kirk Kerkorian, UPE). | Sept. 4, 1985. |
| (17) 85-1027—Schlumberger Limited's proposed acquisition of assets of Measurement Systems Division of Gould, (Gould, Inc., UPE). | Sept. 4, 1985. |
| (18) 85-1010—DEI Diversified Energies, Inc.'s proposed acquisition of voting securities of Dyco Petroleum Corporation. | Sept. 5, 1985. |
| (19) 85-1014—DEI Diversified Energies, Inc.'s proposed acquisition of voting securities of Dyco Petroleum Corporation. | Sept. 5, 1985. |
| (20) 85-1035—Alfred Hoffman, Jr.'s proposed acquisition of voting securities of BEK V Inc., (Beatrice Companies, Inc., UPE). | Sept. 5, 1985. |
| (21) 85-1037—Nortek, Inc.'s proposed acquisition of voting securities of Transway International Corporation. | Sept. 5, 1985. |
| (22) 85-1046—Pantry Pride, Inc.'s proposed acquisition of voting securities of Revlon, Inc. | Sept. 5, 1985. |
| (23) 85-1053—The Northwestern Memorial Group's proposed acquisition of assets of Henrotin Health Systems Corporation. | Sept. 5, 1985. |
| (24) 85-1059—Welsh, Carson, Anderson & Stowe, III's proposed acquisition of voting securities of First Trust Corp. and First Retirement Marketing, Inc., (Gorso Corporation, UPE). | Sept. 5, 1985. |
| (25) 85-1079—Unity Mutual Life Insurance Company's proposed acquisition of assets of Empire State Mutual Life Insurance Company. | Sept. 5, 1985. |
| (26) 85-1039—W.H. Smith & Son (Holdings) PLC proposed acquisition of assets of Edward E. Elson and voting securities of 18 companies, (Edward E. Elson, UPE). | Sept. 6, 1985. |
| (27) 85-1040—International Business Machines Corporation's proposed acquisition of voting securities of Aetna Diversified Technologies, Inc., (Aetna Life & Casualty Company, UPE). | Sept. 6, 1985. |
| (28) 85-1072—Tri Valley Growers' proposed acquisition of assets of California Canners and Growers. | Sept. 9, 1985. |
| (29) 85-1089—ITM International S.A.'s proposed acquisition of assets of Repcorparts USA Inc., (Repco Corporation Limited, UPE). | Sept. 9, 1985. |
| (30) 85-1091—Amoco Corporation's proposed acquisition of assets of Phillips Petroleum Company. | Sept. 9, 1985. |

**FOR FURTHER INFORMATION CONTACT:** Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580 (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

*Secretary.*

[FR Doc. 85-22393 Filed 9-18-85; 8:45 am]

BILLING CODE 6750-01-M

## COMMISSION OF FINE ARTS

### The Commission of Fine Arts; Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, October 9, 1985 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006, (202) 566-1066 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, D.C. September 13, 1985.

Charles H. Atherton,

*Secretary.*

[FR Doc. 85-22447 Filed 9-18-85; 8:45 am]

BILLING CODE 6330-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

### Rape Prevention and Control Advisory Committee, NiMH, Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services, with the concurrence of the General Service Administration Committee Management Secretariat, of the following advisory committee:

Designation: Rape Prevention and Control Advisory Committee.

Purpose: The Committee shall advise and make recommendations to the Secretary, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, on implementing the functions of the National Center for the Prevention and Control of Rape. The Center supports research studies into the causes of rape, laws dealing with rape, the treatment of victims, and the effectiveness of existing programs to prevent and control rape. The Center also supports research projects to plan, develop, implement, and evaluate models of prevention and treatment programs for victims of rape and their families, and efforts to rehabilitate offenders. An information clearinghouse provides information and education materials with regard to prevention, treatment, and rehabilitation efforts.

Expiration Date: Authority for the Rape Prevention and Control Advisory Committee will expire May 7, 1988, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 13, 1985.

Donald Ian Macdonald,

*Administrator, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 85-22391 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-20-M

### Food and Drug Administration

[Docket No. 85F-0400]

### Chevron Chemical Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Chevron Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a mixture of substituted polyethylene glycol succinates in the manufacture of paper and paperboard used in contact with dry food.

**FOR FURTHER INFORMATION CONTACT:** Leonard C. Gosule, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3878) has been filed by Chevron Chemical Co., 575 Market St., P.O. Box 3744, San Francisco, CA 94119, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of a mixture of substituted polyethylene glycol succinates in the manufacture of paper and paperboard used in contact with dry 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), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: September 6, 1985.

**Richard J. Ronk,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 85-22380 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-01-M

## Consumer Participation; Notice of Open Meetings

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Orlando District Office, chaired by Carl C. Reynolds, Director, Investigations Branch. The topic to be discussed is Health Fraud.

Date: Monday, September 30, 1985, 1:30 p.m. to 3:30 p.m

Address: Food and Drug Administration, Orlando District Office, Conference Room, Orlando Central Park, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809.

For further information contact: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 305-855-0900.

Seattle District Office, chaired by Kenneth A. Hansen, District Director. The topic to be discussed is Health Claims on Food Labels.

Date: Thursday, October 24, 1985, 1:30 p.m. to 3:30 p.m.

Address: Federal Bldg./U.S. Courthouse, Rm. 589, 550 West Fort St., Bosie, ID.

For further information contact: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Bldg., Seattle, WA 98174, 206-442-1311.

Seattle District Office, chaired by Kenneth A. Hansen, District Director. The topic to be discussed is Health Claims on Food Labels.

Date: Thursday, November 14, 1985, 1:30 p.m. to 3:30 p.m.

Address: Old Church, 1422 11th Ave. SW., Portland, OR 97205.

For further information contact: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Bldg., Seattle, WA 98174, 206-442-1311.

**SUPPLEMENTARY INFORMATION:** The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 13, 1985.

**Mervin H. Shumate,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 85-22374 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85C-0377]

## Wesley-Jessen Division of Schering Corp; Filing of Color Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Wesley-Jessen Division of Schering Corp. has filed a petition proposing that the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)] copper as a color additive in coloring contact lenses.

**FOR FURTHER INFORMATION CONTACT:** Mary J. Stephens, 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:** Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402-403 (21 U.S.C. 376(d)(1)), notice is given that a petition (CAP 5C0196) has been filed by Wesley-Jessen Division of Schering Corp., 37 South Wabash Ave., Chicago, IL 60603, proposing that Part 74 (21 CFR Part 74) of the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)] copper as a color additive in coloring contact lenses.

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), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: September 6, 1985.

**Richard J. Ronk,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 85-22379 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0245]

## Morton Thiokol, Inc.; Withdrawal of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Adiministration (FDA) is announcing the withdrawal without prejudice of a petition (FAP 4B3795) proposing that the food additive regulations be amendd to provide for the safe use of hydrogen peroxide as a sterilizing agent for an adhesive used on a heat-sealable container lid.

**FOR FURTHER INFORMATION CONTACT:** Andrew D. Laumbach, Center for food Safety and Applied Nutrition (HFF-355), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 9, 1984 (49 FR 31952), FDA published a notice that it had filed a petition (FAP 4B3795) from Morton Thiokol, Inc., Two North Riverside Plaza, Chicago, IL 60606, that proposed to amend the food additive regulations for the safe use of hydrogen peroxide as a sterilizing agent for an adhesive used on a heat-sealable container lid. Morton Thiohol, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: September 6, 1985.

**Richard J. Ronk,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 85-22376 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F-0374]

## Polaroid Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Polaroid Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of trimethyleneglycol di(*p*-aminobenzoate) in articles intended to contact dry food.

**FOR FURTHER INFORMATION CONTACT:** Julus Smith, 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:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3765) has been filed by Polaroid Corp., 238 South Main St., Assonet, MA 02702, proposing that § 177.1680 *Polyurethane resins* (21 CFR 177.1680) be amended to provide for the

safe use of trimethyleneglycol di(*p*-aminobenzoate) in the manufacture of polyurethane resines intended to contact dry food.

The agency has carefully considered the potential environmental effects of this action and 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 evironmental 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. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25) that was published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(2).

Dated: September 6, 1985.

Richard J. Ronk,

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 85-22375 Filed 9-18-85; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Alaska; Areas of Critical Environmental Concern (ACECs) for the Central Yukon Planning Area

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Proposal to Designate Areas of Critical Environmental Concern within the Central Yukon Planning Area.

**SUMMARY:** The Draft Resource Management Plan for the Central Yukon Area, prepared by the BLM Fairbanks District Office, proposed a number of areas to be designated as Areas of Critical Environmental Concern. This draft document divides the 9.5 million-acre planning area into five subunits. The proposed ACECs for the Central Yukon Draft plan area are grouped by the following subunits:

*Subunit 1: Nulato Hills*

In order to maintain high quality anadromous fish-spawning habitat, the preferred alternative in this plan would close crucial spawning beds of streams in this subunit to mineral entry and location. All tributaries of these rivers or streams which lie upstream from these spawning areas would be placed under ACEC designation. The river or stream ACEC designation would consist of a narrow corridor of 300 feet each side of the high-water mark of each tributary. These ACECs would be open to mineral leasing and mineral entry and location. The primary focus of these ACECs would be the protection of crucial fisheries habitat. All surface disturbing uses within these areas will be limited so as to protect this crucial habitat from siltation, or other forms of physical or chemical pollution.

The following are propsed for ACEC designation within this subunit:

1. Shaktoolik River tributaries,
2. Gisasa River tributaries,
3. Ungalik River tributaries,
4. Kateel River tributaries.

In addition, the entire upper watershed of the Unalakleet River, contained within the planning area, is proposed as an ACEC with the same limitations on surface disturbing uses mentioned above.

*Subunit 2: Dulbi-Kaiyuh Mountains*

Approximately 17,000 acres of crucial caribou habitat within this subunit is proposed as an ACEC due to its importance as a caribou calving area. The primary reason for the ACEC is the protection of this wildlife resource. Potentially damaging resource uses will be limited to protect the areas value for caribou calving. The specific location of this area can be found on the maps obtainable from the Fairbanks District Office.

*Subunit 4: Tozitna*

All tributaries of the Tozitna River, upstream of anadromous fish spawning areas, are proposed as ACECs (300 ft. from mean high-water mark on each side of the stream) to protect downstream habitat. The same limitations will be placed on uses within these ACECs as described for those in the Nulato Hills subunit.

The Ray Mountain and Tanana Ridge ACECs in this subunit are proposed to protect crucial caribou calving areas. Damaging uses will be limited within these areas to protect the habitat for its caribou calving values.

*Subunit 6: Hughes*

The tributaries upstream of the Indian and Little Indian Rivers spawning areas are also proposed as ACECs to protect crucial fisheries habitat. These ACECs would follow the 300-feet rule for other streams mentioned above.

In addition, an ACEC surrounding Caribou and Clear Creeks (tributaries of the Hogatza River) would be designated. This ACEC would extend one mile on each side of these creeks.

**DATE:** Comments on these proposed ACECs will be accepted at the following address for 60 days following the publication of this notice. Maps indicating the location of these proposed ACECs are available in the Draft RMP/EIS for the Central Yukon; also available at the following address.

**ADDRESS:** Fairbanks District Office, Bureau of Land Management, 1541 Gaffney Road, Fairbanks, AK 99703. Telephone: (907) 356-5381.

**FOR FURTHER INFORMATION CONTACT:** Roger Bolstad, Northwest Resource Area Manager, address listed above. Telephone: (907) 356-5384.

**Mike Penfold,**

*State Director.*

[FR Doc. 85-22405 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-JA-M

[W-82736]

### Coal Lease Offering by Sealed Bid; Wyoming

Department of the Interior, Bureau of Land Management, Wyoming State Office, 2513 Warren Avenue, Cheyenne, Wyoming 82001. Notice is hereby given that certain coal resources in the lands hereinafter described, located in Carbon County, Wyoming will be offered for competitive lease by sealed bid. This offering is being made as a result of an emergency by-pass coal lease application and a reoffering request filed by Medicine Bow Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). The sale will be held at 2:00 p.m. October 16, 1985, in the third floor conference from at the above address.

Processing of the Medicine Bow Emergency lease application and the related amendment to the Hanna Basin Management Framework Plan have been completed. This included an environmental assessment (EA) of the proposed coal development and plan amendment. The results of these activities were a finding of no significant environmental impacts from the proposed coal development, the amended planning decision that the Federal coal lands involved are acceptable for further leasing consideration and the decision to offer the Federal coal resources for lease. The emergency lease/plan amendment EA and Record of Decision, including mitigation requirements, are on file in the Wyoming State Office.

This tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value determination of the tract. The minimum bid is $100 per acre. No bid less than $100 per acre will be considered. The minimum bid is not intented to represent fair market value. The fair market value will be determined by the Authorized Officer after the sale. Sealed bids must be submitted on or before 1:00 p.m., October 16, 1985, to the Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001. Bids received after that time will not be considered.

### Coal Offered

The coal resource to be offered consists of all the recoverable coal in the following described lands located in Carbon County, Wyoming:

T. 23 N., R. 83 W., 6th P. M., Wyoming.
Sec. 30: Lots 1, 2, E½NW¼.
T. 24 N., R. 83 W., 6th P. M.,
Sec 28: W½NW¼, S½;
Sec. 29: N½NE¼, NE¼NW¼, NE¼SE¼.
T. 23 N., R. 84 W., 6th P. M.,
Sec. 1: Lot 2, SW¼NE¼, SW¼NW¼, SW¼;
Sec. 2: SE¼SE¼;
Sec. 11: NW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼;
Sec. 13: SW¼SW¼;
Sec. 14: E½, N½NW¼, SE¼NW¼;
Sec. 24: W½NE¼NE¼, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 25: E½NE¼, N½NW¼;
Sec. 26: E½, E½SW¼;
Sec. 35: E½NW¼.
T. 24 N., R. 84 W., 6th P. M.,
Sec. 36: E½SW¼, W½SE¼.

The 2,973.86-acre tract contains an estimated 12.78 million tons of recoverable coal with the following estimated coal quality: BTU—10,468/lb; Sulfur—.479 percent; Ash—8.10 percent; Moisture—12.19 percent. The coal classifies as subbituminous.

### Rental And Royalty

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal producted by strips of auger mining methods and 8.0 percent of the value of coal produced by underground methods.

### Deferred bonus

Payment of the bonus bid for this lease shall be on a deferred basis. One-fifth of the bonus will be payable on the day of the sale. The balance shall be paid in equal annual installments due and payable on the first four anniversary dates of the lease.

### Notice of Availability

Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the statement and of the proposed coal lease are available at the Wyoming State Office. Case file documents are also available at that office for public inspection. Coal resource information pertaining to this tract is also available for public inspection in the Rawlins District Office, 1300 Third Street, P.O. Box. 670, Rawlins, Wyoming 82301.

**Hillary A. Oden,**

*State Director.*

[FR Doc. 85-22432 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-22-M

## Management Framework Plan, Bakersfield District, CA.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of the Availability of Planning Criteria for the Amendment of the Sierra Management Framework Plan, Bakersfield District, California.

**SUMMARY:** In accordance with 43 CFR 1610.2 notice is hereby given of the availability of the Planning Criteria to direct the Amendment of the Sierra Management Framework Plan in the Folsom Resource Area.

**FOR FURTHER INFORMATION CONTACT:** The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct the planning effort in the Folsom Resource Area. The Plan will involve the public lands located in Yuba, Nevada, Placer, El Dorado, Amador, Calaveras, Tuolumne and Mariposa Counties and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria may be developed.

This initial planning criteria is available for review at the following locations: Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861-4191; and Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630, (916) 985-4474.

For further information contact Deane Swickard, Folsom Resource Area Manager, at the Folsom address listed above.

**Robert D. Rheiner, Jr.,**

*District Manager.*

[FR Doc. 85-22445 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-40-M

[N-42415]

## Proposed Withdrawal and Opportunity for Public Meeting; Nevada

September 11, 1985.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration proposes to withdraw 80 acres of public land for the installation and operation of a VHS direction finder in support of air traffic operations for the McCarran International Airport in Las Vegas. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

**DATE:** Comments and requests for a public meeting should be received by December 18, 1985.

**ADDRESS:** Comments and meetings requests should be sent to: State Director, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

**FOR FURTHER INFORMATION CONTACT:** Vienna Wolder, BLM, Nevada State Office, (702) 784-5703.

On July 2, 1985, the Federal Aviation Administration filed an application to withdraw the following described public land, subject to valid existing rights, from settlement, sale, location or entry under the nondiscretionary public land laws, including the mining laws:

**Mount Diablo Meridian**

T. 13 S., R. 69 E.,
Sec. 27, NW¼SW¼;
Sec. 28, NE¼SE¼.

The area described contains 80 acres in Clark County, Nevada.

The purpose of the withdrawal is for the use of the land by the Federal Aviation Administration for a VHS direction finder in support of air traffic operations for the McCarran International Airport in Las Vegas. The withdrawal is necessary to provide and secure a clear zone with a 1000 foot radius extending from the direction finder.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the

proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Re;gister,** the lands will be segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are recreational and visitor use activities, wildlife habitat management, and development of oil and gas reserves without surface occupancy. No licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature will be allowed on the lands without the approval of an authorized officer of the Bureau of Land Management.

**Robert G. Steele,**

*Deputy State Director, Operations.*

[FR Doc. 85-22446 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-HC-M

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[CA-17302]

## Sale of Public Land; San Diego County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action, Direct Sale of Public Land in San Diego County, California—Change of Sale Date.

**SUMMARY:** This notice changes the sale date specified in Bureau's Notice of Realty Action published in the **Federal Register** on August 1, 1985, in Vol. 50, No 148, Page 31254. The aforementioned publication gave a sale date of September 24, 1985, for direct sales identified under Serial Numbers CA-17297 through CA-17303. This notice changes the sale date for the public land described under Serial Number CA-17302 to October 30, 1985. The land description for the subject direct sale can be found in the July 2, 1985 **Federal Register** in Vol. 50, No. 127, Page 27366.

### Background Information

The action was deemed necessary to ensure adequate public notice in the general vicinity of the direct sale parcel. The purchaser, The Nature Conservancy, was late in publishing word of the direct sale in the local newspaper. The sale date was changed to allow at least 60 days of public notice prior to the sale.

Dated: September 13, 1985.

**Gerald E. Hillier,**

*District Manager.*

[FR Doc. 85-22444 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-40-M

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## Idaho; Filing of Plat of Survey

September 10, 1985.

The plat of survey of the following land was officially filed in the Idaho State Office, Bureau of Land Management, Boise Idaho, on the date hereinafter stated:

**Boise Meridian, Idaho**

T. 7 N., R. 27 E., Section 16, Accepted February 4, 1985, Officially filed February 27, 1985

Title to section 16 vested in the State of Idaho upon acceptance of the survey.

Inquiries regarding this survey should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, 83706.

**Sharron Deroin,**

*Chief, Land Services Section.*

[FR Doc. 85-22395 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-GG-M

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[NM-52385]

## New Mexico; Proposed Continuation of Withdrawal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of the Interior proposes that a 720.00-acre withdrawal for the Bureau of Reclamation continue for an additional 50 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

**DATE:** Comments should be received by December 18, 1985.

**FOR FURTHER INFORMATION CONTACT:** Pauline T. Brown, BLM, New Mexico, State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of October 19, 1912, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

*New Mexico Principal Meridian*

T. 18 S., R. 26 E.,
Sec. 36, All.
T. 19 S., R. 26 E.,
Sec. 12, E½NW¼.

The area described aggregate 720.00 acres in Eddy County, New Mexico.

The purpose of the withdrawal is for use in connection with the Brantley and Carlsbad Projects.

The withdrawal segeregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: September 9, 1985.

**Monte G. Jordan,**

*State Director.*

[FR Doc. 85-22396 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-FB-M

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## Land Resource Management

**AGENCY:** Bureau of Land Management, Montana State Office, Interior.

**ACTION:** Notice of filing of plat of survey.

**SUMMARY:** Plat of survey of the lands described below accepted August 19, 1985, was officially filed in the Montana State Office effective 10 a.m. on September 4, 1985.

**Principal Meridian, Montana**

*T. 13 S., R. 5 E.*

The supplemental plat showing Tract 38, Township 13 South, Range 5 East, is based upon plats approved June 30, 1902; November 29, 1920; January 8, 1921; and December 20, 1966. The area described is in Gallatin County.

This plat was prepared to accommodate a patent application request by the City of West Yellowstone, Montana.

**EFFECTIVE DATE:** September 4, 1985.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: September 5, 1985.

**Peggy J. Davidson,**

*Chief, Branch of Records.*

[FR Doc. 85-22373 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-DN-M

## Realty Action; Public Land Sale; Wisconsin and Minnesota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Competitive Sale of Federal Lands.

**SUMMARY:** The previous **Federal Register** Notice announcing the availability for sale of Federal land in Minnesota and Wisconsin published in Vol. 49, No. 150 on Thursday, August 2, 1984, is amended to extend the deadline for acceptance of sealed bids from September 25, 1985, to September 25, 1986.

The following parcel numbers have been sold and are deleted from the original notice: ES-33030, ES-33032, and ES-33193.

The notice is also amended as follows: The successful high bidder will be required to submit full payment for the balance of the bid within 180 days from the date of the decision to accept the bid.

**FOR FURTHER INFORMATION CONTACT:** General inquiries or additional information requests concerning the sales may be directed to Larry Johnson at the Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201-0631 or by calling (414) 291-4400.

**Bert Rodgers,**

*Acting District Manager.*

[FR Doc. 85-22443 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-DN-M

## Minerals Management Service

### Development Operations Coordination Document; Exon Co.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is here by given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 3091 and 4139, Blocks 632 and 657, respectively, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore based located at Flour Bluff, Texas.

**DATE:** The subject DOCD was deemed submitted on September 9, 1985.

**ADDRESS:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd. Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Developement Plans Unit; Phone (504) 838-0876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 10, 1985.

**John L. Rankin,**

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 85-22394 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-MR-M

### Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document.

**SUMMARY:** This Notice announces that Conoco Inc., Unit Operator of the Grand Isle-CATCO Federal Unit Agreement No. 14-08-001-2021, submitted on August 30, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle-CATCO Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 12, 1985.

**John L. Rankin,**

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 85-22441 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-MR-M

## Bureau of Reclamation

**[INT-DES 85-40]**

### Green Mountain Reservoir Water Marketing Program, Colorado-Big Thompson, Windy Gap Projects, CO; Public Hearings on Draft Supplement to the Final Environmental Statement

Public hearings will be held by the Bureau of Reclamation to receive comments on the draft supplement (INT-DES 85-40), to the final environmental statement for the Colorado-Big Thompson, Windy Gap Projects, Colorado. The draft supplement was filed with the Environmental Protection Agency on September 6, 1985.

The final environmental statement (INT-FES 81-20) was filed in April 1981, in compliance with the National Environmental Policy Act of 1969, as amended. The draft supplement displays the environmental consequences of proposed water sales that would

provide for future water demands that include industrial use (oil shale and snowmaking), municipal use, recreation, fish and wildlife, and power generation.

Two public hearings will be held. The first hearing will be at the Inn at Glenwood in Glenwood Springs, Colorado, on October 9, 1985, beginning at 10 a.m. The second hearing will be at the Best Western Lake Dillon Lodge in Frisco, Colorado, on October 10, 1985, beginning at 10 a.m. Both hearings will continue until all oral comments are heard. Hearing witnesses will be allowed 10 minutes to present their oral comments.

Speakers will not be allowed to trade or consolidate the time in order to obtain a longer oral presentation; however, the Hearing Officer may allow a speaker to provide additional oral comments after scheduled witnesses have been heard. Additional comments will be limited to 10 minutes.

Persons wishing to make oral statements will be scheduled in the order that written or telephone requests are received unless a specific time period is requested. If a speaker requests a specific time period, the speaker will be scheduled to speak as close to the requested time as possible. Scheduled speakers not present when called will lose their privilege in the scheduled order, and their names will be recalled after all other scheduled speakers have been heard.

Individuals and organizations wishing to make oral statements should contact the Lower Missouri Regional Office, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colorado 80225, telephone (303) 236–0684, by letter or telephone. Requests for scheduled presentations will be accepted until 4 p.m. on October 8, 1985. Speaking requests received subsequent to that time will be handled on a first-come, first-serve basis following the scheduled presentations. Written comments from those unable to attend and those wishing to supplement their oral presentations will be accepted for the record until 4 p.m., November 15, 1985. Written comments should be addressed to the Regional Director at the address listed above and should specify that they are to be included in the hearing record.

Dated: September 13, 1985.

**William C. Klostermeyer,**

*Acting Commissioner.*

[FR Doc. 85–22424 Filed 9–18–85; 8:45 am]

BILLING CODE 4310-09-M

## Upper Gila Water Supply Study, Central Arizona Project, Arizona/New Mexico; Intent To Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental impact statement (EIS) on the construction and operation of the Upper Gila Water Supply Project. This feature of the Central Arizona Project (CAP) was authorized for construction in 1968 as part of the Colorado River Basin Project Act, Pub. L. 90–537.

The primary purpose of the Upper Gila Water Supply Project is to provide New Mexico water users with an average annual consumptive use, including evaporation, of up to 18,000 acre-feet of CAP water. In addition, the project could include flood control on the Gila River, and provide additional recreation opportunities. To provide for those purposes, a number of alternative actions have been evaluated through the planning process in order to determine those reasonable alternatives to be studied in detail.

Based on the development and ranking of preliminary plans, five candidate plans have been identified, including a "No Federal Action" alternative, which will be carried forward for more detailed analysis and evaluation in the EIS. The viable alternatives are as follows:

### Plan 1: Large Conner Dam and Reservoir

Under the plan, Conner Dam would be located on the Gila River about 7 miles upstream of Redrock, New Mexico. At normal water surface elevation the reservoir pool would provide about 110,000 acre-feet of storage. Conner Dam would be constructed to provide the authorized depletion of 18,000 acre-feet (12,000 acre-feet after evaporation) of water annually through the life of the project to meet CAP-New Mexico water supply objectives. Incidental flood control and recreation benefits of the Gila River and additional recreational opportunities also would be available.

### Plan 2: Small Conner Dam

This alternative involves storng water in a smaller Conner Dam and Reservoir with construction delayed approximately 10 years to coincide with development of local needs. The structure would provide about 100,000 acre-feet of storage. Rather than developing the authorized depletion and consequent 12,000 acre-feet annually (after evaporation), the structure would supply 10,000 acre-feet annually, thereby meeting central Grant County's current projection of water needs over the life of the project. As in Plan 1, the smaller Conner Dam would be constructed to provide a water supply for New Mexico with incidental flood control and recreation generated as a consequence.

### Plan 3: Direct Pumping and Offstream Storage

Under this plan, water would be diverted from the Gila River via a pumping plant and pipeland and stored in an 85,000 acre-foot offstream storage site presently envisioned to be Mangas Creek Dam and Reservoir. The pumping plan would be located along the Gila River stream channel just upstream of the confluence of the Gila River and Mangas Creek. A small diverison dam would be required to provide a forebay for the pumping plant. This alternative would provide adequage water supplies to meet the authorized CAP-New Mexico water supply objectives of 18,000 acre-feet annually.

### Plan 4: Hooker Dam and Offstream Storage

Under this plan, a small dam and reservior (32,000 acre-feet of storage) would be constructed on the Gila River about 7 miles northeast of Cliff and Gila, New Mexico. This small dam would provide temporary storage until the water could be pumped into an offstream storage site, tentatively identified as Mangas Creek Dam. The offstream storage site would have a storage capacity of about 85,000 acre-feet, and would allow the authorized CAP-New Mexico water supply of 18,000 acre-feet annually to be developed.

### Plan 5: No Federal Action

With this option, the Upper Gila Water Supply Project would not be constructed.

The agency proposed action is not identified at this time, because planning studies and public invovlement activities are still ongoing. The proposed action, however, is scheduled to be publicly announced by June 1986.

Public meetings on the Upper Gila Water Supply Project will be scheduled in the near future. These meetings will serve primarily as scoping sessions to identify significant environmental impacts and issues that should be studied and addressed in the environmental impact statement. The times and locations of those public meetings will be announced later in the **Federal Register** and local newspapers, as well as in mailed notices to those individuals, groups, and agencies that have expressed an interest in the project.

To insure that the full range of alternatives and issues related to the project are identified and addressed, comments and suggestions are invited from all interested parties. For further information of the Environmental Impact Statement contact Mr. Bruce Ellis, Chief, Environmental Division, Arizona Projects Office, Bureau of Reclamation, P.O. Box 9980, Phoenix, Arizona 85024, telephone (602) 870-6767.

Dated: September 13, 1985.

William C. Kostermeyer,

*Acting Commissioner.*

FR Doc. 85-22425 Filed 9-18-85; 8:45 am]

BILLING CODE 4310-09-M

## INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19 (Sub-No. 103)]

### Rail Carriers; The Baltimore and Ohio Railroad Company—Abandonment—in Baltimore, MD; Notice of Findings

The Commission has found that the public convenience and necessity permit the Baltimore and Ohio Railroad Company to abandon a 0.39 mile portion of its rail line between Valuation Station 0+00 and Valuation Station 9+53 located in the bed of Fell Street and between Valuation Station 0+00 and Valuation Station 11+05 located in the bed of Wolfe Street, in Baltimore, MD.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Kathleen M. King,

*Acting Secretary*

[FR Doc. 85-22497 Filed 9-18-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30707]

### C&J Railroad Investment Co., Inc.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts the C&J Railroad Investment Company, Inc., from the requirements of 49 U.S.C. 10901 with respect to (1) the operation of a previously abandoned 8.48-mile line of railroad in Christian County, KY, (2) the operation of a previously abandoned 1.98-mile line segment in Christian County, KY, and (3) the acquisition of trackage rights from the Cadiz Railorad over 21.5 miles of line in Caldwell, Trigg, and Christian Counties, KY.

**DATES:** This exemption is effective on the date of service, September 18, 1985. Petitions to reopen must be filed by October 9, 1985.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 30707 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's Representative: Patti S. Howell, 1814 Hopper Court, Hopkinsville, KY 42240.

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: September 11, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Sterenio. Commissioner Sterrett did not participate in the disposition of this proceeding.

Kathleen M. King,

*Acting Secretary.*

[FR Doc. 85-22409 Filed 9-18-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub-No. 32)]

### Norfolk and Western Railway Co.; Abandonment in Pulaski, Wythe, Carroll, and Grayson Counties, VA; Findings

The Commission has issued a certificate authorizing Norfolk and Western Railway Company to abandon its 56.80-mile rail line (a) between Dora Junction (milepost P 1.72) and Galax, VA (milepost 53.25), and (b) between Fries Junction (milepost P 39.8) and Fries, VA (milepost P 45.36), in Pulaski, Wythe, Carroll, and Grayson Counties, VA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially respoinsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Kathleen M. King,

*Acting Secretary.*

[FR Doc. 85-22407 Filed 9-18-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 141)]

### Seaboard System Railroad, Inc.; Abandonment in Lake County, FL; Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 14.54 mile rail line between Leesburg and Howey, in Lake County, FL, from milepost AS 802.16 to AS 808.60 and from milepost ASF-803.3 to milepost ASF-816.4.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail

service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Kathleen M. King,

*Acting Secretary.*

[FR Doc. 85-22408 Filed 9-18-85; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Information Collection(s) Under Review

September 16, 1985.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available;

(2) The office of the Agency issuing the form;

(3) The title of the form;

(4) The agency form number, if applicable;

(5) How often the form must be filled out;

(6) Who will be required or asked to report;

(7) An estimate of the number of responses;

(8) An estimate of the total number of hours needed to fill out the form;

(9) An indication of whether section 3504(h) of Pub. L. 96-511 applies; and,

(10) The name and telephone number of the person or office responsible for the OMB review.

Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice Agency Clearance Officer: Larry E. Miesse, 202-633-4312.

.Δ *Revision of a Currently Approved Collection*

(1) Larry E. Miesse, 202-633-4312;

(2) Office of Justice Programs, Department of Justice;

(3) Crime Victim Assistance Grant Guidelines;

(4) None;

(5) Semi-annually;

(6) State and local governments. Information requested is necessary to submit a statutorily required report to the Congress;

(7) 112 respondents;

(8) 11,200 burden hours;

(9) Not applicable under 3504(h);

(10) Robert Veeder—395-4814.

.Δ *Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection*

(1) Larry E. Miesse, 202-633-4312;

(2) Federal Bureau of Investigation, Department of Justice

(3) Nationwide Law Enforcement Training Needs Assessment;

(4) None;

(5) Annually;

(6) State and local governments. Survey approximately 5,000 state and local law enforcement agencies to determine specific areas where Federal training assistance is most needed;

(7) 5,000 respondents;

(8) 5,050 burden hours;

(9) Not applicable under 3504(h);

(10) Robert Veeder—395-4814.

Larry E. Miesse,

*Departmental Clearance Officer, Department of Justice.*

[FR Doc. 85-22412 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

### Lodging of Consent Decree Pursuant to Clean Air Act; Hilmar Schmidt

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 26, 1985 a proposed consent decree in *United States* v. *Hilmar Schmidt*, Civil Action No. N-84-135, was lodged with the United States District Court for the District of Connecticut. The proposed consent decree concerns use of an unleaded gasoline tank nozzle on a leaded gasoline pump. The proposed consent decree requires the defendant to pay a penalty of $500.00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hilmar Schmidt*, Civil Action No. N-84-1135, DJ Ref. 90-5-2-1-661.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Connecticut, 139 Orange Street, New Haven, Connecticut 06508, and at the United States Environmental Protection Agency, Region I, John F. Kennedy Federal Building, 22nd Floor, Boston, Massachusetts 02203. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 85-22414 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

### Lodging of Consent Decree Pursuant to the Clean Water Act; American Recovery Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 3, 1985, a proposed consent decree in *United States* v. *American Recovery Co.*, Civil Action No. HAR 84-225, was lodged with the United States District Court for the District of Maryland. The proposed decree imposes a civil penalty of fifty thousand ($50,000) dollars and requires American Recovery Company to certify to the date that it has ceased all operations and discharges at its Curtis Bay facility and to certify that there will be no future discharges.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *American Recovery Co.*, D.J. Ref. 90-5-2-1-659.

The proposed consent decree may be examined at the Office of the United States Attorney, 8th Floor, U.S. Courthouse, 101 W. Lombard Street, Baltimore, MD. 21201, and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA. 19107, and at the Environmental Enforcement Section,

Land and Natural Resources Division, Department of Justice, Room 1515. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 85-22384 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree; ARCO Oil and Gas Co.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on August 21, 1985, 1985, a proposed consent decree in *United States* v. *ARCO Oil and Gas Company*, Civil Action No. 3-85-1621 H, was lodged with the United States District Court for the Northern District of Texas, Dallas Division. This consent decree settles a lawsuit filed August 21, 1985, pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, for injunctive relief and for assessment of a civil penalty against ARCO Oil and Gas Company ("ARCO"), a division of Atlantic Richfield Company. The complaint alleged discharges of pollutants from certain of ARCO's offshore platforms, which are located in the Gulf of Mexico, in violation of section 301 of the Act, 33 U.S.C. 1311, and the National Pollutant Discharge Elimination System ("NPDES") permits governing ARCO that were issued pursuant to section 402 of the Act, 33 U.S.C. 1342.

Under the terms of the proposed consent decree, ARCO is to construct facilities and adopt operations, maintenance, and monitoring procedures at its offshore platforms located in the Gulf of Mexico to attain and maintain compliance with the Act and the NPDES permits. The proposed consent decree also calls for stipulated penalties against ARCO for failure to meet any of the deadlines set by the Decree. Also, the proposed consent decree calls for ARCO to pay a civil penalty of $340,000 with respect to the violations of the Clean Water Act alleged in the Complaint.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *United States* v. *ARCO Oil and Gas Company*, D.J. Ref. 90-5-1-1-2370.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

*EPA Region VI*, Contact: B. Ralph Corley, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270 (214) 767-9971;

*United States Attorney's Office*, Contact: Mary Ann Moore, Assistant United States Attorney, Northern District of Texas, U.S. Federal Building and Courthouse, 1100 Commerce Street, Room 16G28, Dallas, Texas 75270.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 85-22385 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28, CFR 50.7, notice is hereby given that on September 5, 1985, a proposed Consent Decree in *United States v. Continental Group, U.S.A., d/b/a/ Continental Can Company, U.S.A.*, Civil Action No. 84-C-0886 was lodged with the United States District Court for the Eastern District of Wisconsin. The proposed Consent Decree concerns the Defendant's coating operations at its can manufacturing plants in Milwaukee and Racine, Wisconsin. During the manufacturing process, volatile organic compounds (VOCs) are emitted into the atmosphere. The proposed Consent Decree required the Defendant to bring all its coating lines into compliance with the VOC emission limits of the Wisconsin State Implementation Plan by replacing all high solvent coatings with low solvent coatings by December 31, 1985. The proposed Decree also requires the Defendant to pay a civil penalty of $229,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *U.S. v. Continental Group, U.S.A. d/b/a/ Continental Can Company, U.S.A.*, D.J. Ref. No. 90-5-2-1-693.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Eastern District of Wisconsin, 330 Federal Building, 517, E. Wisconsin Ave., Milwaukee, WI, 53703, and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604. Copies of the Consent Decree may be examined in person at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Washington, D.C. 20530. In requesting a copy, please attach a check in the amount of $4.00, payable to the Treasurer of the United States.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 85-22386 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree Pursuant to the Clean Water Act; Marlette Plating Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Marlette Plating Company*, Civil Action No. CV85-1061E, has been lodged in the United States Court for the Western District of New York.

The proposed consent decree concerns discharges of effluent from the defendant's non-integrated metal plating facility in Buffalo, New York. The proposed decree requires the defendant by July 1, 1985 to comply with the Clean Water Act and controlling regulations. Marlette also is required to pay a civil penalty of $10,000. In addition, the defendant is required to pay stipulated penalties in the event that it fails to comply the terms of the proposed decree.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Marlette Plating Company*, D.J. Ref. No. 90-5-1-1-2328.

The proposed consent decree may be examined at the Office of the United States Attorney, 502 U.S. Courthouse, Court and Franklin Streets, Buffalo, New York and at the Region 2 Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.00 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resource Division, Department of Justice.*

[FR Doc. 85-22387 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree Pursuant to the Clean Water Act; National Finishing Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. National Finishing Corporation*, Civil Action No. CV85-1060E, has been lodged in the United States Court for the Western District of New York.

The proposed consent decree concerns discharges of effluent from the defendant's non-integrated metal plating facility in Buffalo, New York. The proposed decree requries the defendant by November 1, 1985 to comply with the Clean Water Act and controlling regulations. National Finishing also is required to pay a civil penalty of $64,000. In addition, the defendant is required to pay stipulated penalties in the event that it fails to comply the terms of the proposed decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *National Finishing Corporation*, D.J. Ref. No. 90-5-1-1-2321.

The proposed consent decree may be examined at the Office of the United States Attorney, 502 U.S. Courthouse, Court and Franklin Streets, Buffalo, New York and at the Region 2 Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.70 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resoruces Division, Department of Justice.*

[FR Doc. 85-22388 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Judgment Pursuant to the Clean Air Act; Triple A Muffler

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 29, 1985, a proposed Consent Judgment in *United States* v. *Robert Taylor d/b/a Triple A Muffler*, Civil Action No. 3-85 1703 F, was lodged with the United States District Court for the Northern District of Texas. The proposed Consent Judgment requires Robert Taylor d/b/a Triple A Muffler ("Triple A Muffler") to fully comply with section 203 of the Clean Air Act, 42 U.S.C. 7522. The Judgment also requires Triple A Muffler to pay civil penalties for past violations and permanently enjoins them from removing or rendering inoperative any device or element of design of any motor vehicle that is designed to control exhaust emissions from the vehicle.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Robert Taylor d/b/a Triple A Muffler*, D.J. Ref. 90-5-2-1-857.

The proposed Consent Judgment may be examined at the office of the United States Attorney, Northern District of Texas, United States Federal Building & Courthouse, Room 16G28, 1100 Commerce Street, Dallas, Texas 75242 and at the Region VI Office of the Environmental Protection Agency, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. Copies of the Consent Judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Division of Justice.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 85-22389 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-01-M

# Drug Enforcement Administration

## Manufacturer of Controlled Substances; Registration

By Notice dated May 31, 1985, and published in the **Federal Register** on June 19, 1985; (50 FR 25479), Mallinckrodt, Inc., Department C.B., Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Cocaine (9041) | II. |
| Codeine (9050) | II. |
| Diprenorphine (9058) | II. |
| Etorphine hydrochloride (9059) | II. |
| Dihydrocodeine (9120) | II. |
| Oxycodone (9143) | II. |
| Hydromorphone (9150) | II. |
| Diphenoxylate (9170) | II. |
| Hydrocodone (9193) | II. |
| Levorphanol (9220) | II. |
| Methadone (9250) | II. |
| Methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254) | II. |
| Dextropropoxyphene (9273) | II. |
| Morphine (9300) | II. |
| Thebaine (9333) | II. |
| Nalmefene (9341) | II. |
| Opium extracts (9610) | II. |
| Opium fluid extracts (9620) | II. |
| Tincture of opium (9630) | II. |
| Powdered opium (9639) | II. |
| Granulated opium (9640) | II. |
| Oxymorphone (9652) | II. |

| Drug | Schedule |
|---|---|
| Noroxymorphone (9668) | II. |
| Fentanyl (9801) | II. |

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Reglations, § 1301.54(e), the Deputy Assistant Administration hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: September 10, 1985.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 85-22434 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-09-M

## Manufacturer of Controlled Substances; Registration

By Notice dated February 11, 1985, and published in the **Federal Register** on February 19, 1985; (50 FR 7007), Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration to be registered as bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Sufentanil (9740) | II. |
| Fentanyl (9801) | II. |

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: September 10, 1985.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 85-22435 Filed 9-18-85; 8:45 am]

BILLING CODE 4410-09-M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50-289(CH); [ASLBP No. 85-514-02-OT]**

## General Public Utilities Nuclear; Three-Mile Island Nuclear Station, Unit No. 1; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding: General Public Utilities Nuclear, Three-Mile Island Nuclear Station, Unit No. 1.

The presiding officer is being designated pursuant to the provisions of a Notice of Hearing issued by the Commission on September 5, 1985 concerning Mr. Charles Husted's request for a hearing pursuant to the Commission's decision in CLI-85-2, 21 NRC 282, 317 (1985).

The presiding officer in this proceeding is The Honorable Morton B. Marqulies, Administrative Law Judge.

All correspondence, documents and other materials shall be filed with Judge Marqulies in accordance with 10 CFR 2.701. His address is: Administrative Law Judge Morton B. Margulies, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 12th day of September 1985.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 85-22458 Filed 9-18-85; 8:45 am]

BILLING CODE 7590-01-M

## PENSION BENEFIT GUARANTY CORPORATION

## Arbitration of Disputes in Multiemployer Plans; PBGC-Approved Arbitration Procedure

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of approval.

**SUMMARY:** This notice advises employers, multiemployer pension plan sponsors and other interested parties that the Pension Benefit Guaranty Corporation has approved an alternative procedure for the arbitration of withdrawal liability disputes arising between employers and multiemployer pension plan sponsors.

**EFFECTIVE DATE:** This approval is effective September 26, 1985.

**FOR FURTHER INFORMATION CONTACT:** Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, 2020 K Street, NW., Washington, DC 20006, 202-254-4856 (202-254-8010 for TTY and TDD). These are not toll free numbers.

**SUPPLEMENTARY INFORMATION:** On August 27, 1985, at 50 FR 34679, the Pension Benefit Guaranty Corporation ("PBGC") published a final rule on Arbitration of Disputes in Multiemployer Plans, 29 CFR Part 2641. This final rule, which becomes effective on September 26, 1985, sets forth procedures for the arbitration of withdrawal liability disputes between employers and the sponsors of multiemployer pension plans. Section 2641.13 of the rule provides that, in lieu of the procedures therein prescribed, an arbitration may be conducted in accordance with an alternative arbitration procedure approved by the PBGC. Paragraph (c) of § 2641.13 provides that the PBGC may approve alternative arbitration procedures on its own initiative by publishing an appropriate notice in the **Federal Register.**

This notice advises employers, plan sponsors of multiemployer pension plans and other interested parties that the PBGC has, on its own initiative, determined that the Multiemployer Pension Plan Arbitration Rules effective June 1, 1981, sponsored by the International Foundation of Employee Benefit Plans and administered by the American Arbitration Association will be substantially fair to all parties involved in the arbitration of a withdrawal liability dispute and that the American Arbitration Association is neutral and able to carry out its role under the procedures. Accordingly, the PBGC hereby approves the AAA/IFEBP Multiemployer Pension Plan Arbitration Rules. This approval is effective as of September 26, 1985, and will remain effective until revoked by the PBGC through a **Federal Register** notice.

Issued at Washington, D.C., this 13th day of September 1985.

**Kathleen P. Utgoff,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 85-22415 Filed 9-18-85; 8:45 am]

BILLING CODE 7708-01-M

## POSTAL RATE COMMISSION

[Docket No. A85-27; Order No. 633]

### Wishon, CA 93669 (Charles Bianco, Petitioner); Notice and Order Acceptance Appeal and Establishing Procedural Schedule

Issued September 12, 1985.

Before Commissioners: Janet D.Steiger, Chairman; Henry R. Folsom, Vice Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Docket No. A85-27

Name of affected post office: Wishon, California 93669

Name(s) of petitioner(s): Charles Bianco

Type of determination: Closing

Date of filing of appeal papers: August 28, 1985

Categories of issues apparently raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

*The Commission orders:*

(A) The record in this appeal shall be filed on or before September 18, 1985.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

*Secretary.*

*Wishon, California 93669*

[Docket No. A85-27]

| | |
|---|---|
| Aug. 28, 1985 | Filing of Petition. |
| Sept. 12, 1985 | Notice and Order of Filing of Appeal. |
| Sept. 30, 1985 | Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)). |
| Oct. 9, 1985 | Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b)). |
| Oct. 29, 1985 | Postal Service Answering Brief (see 39 CFR 3001.115(c)). |
| Nov. 13, 1985 | (1) Petitioner's Reply Brief should petitioner choose to file one (see 39 CFR 3001.115(d)). |
| Nov. 20, 1985 | (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument (see 39 CFR 3001.116). |
| Dec. 26, 1985 | Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)). |

[FR Doc. 22442 Filed 9-18-85; 8:45 am]

BILLING CODE 7715-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Portland International Airport Portland, OR; FAA Approval of Noise Compatibility Program

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** The Federal Aviation Administration (FAA) announced its findings on the noise compatibility program submitted by the Port of Portland under the provisions of Title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96-193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96-52 (1980). On January 18, 1985, the FAA determined that the noise exposure maps submitted by the Port of Portland under Part 150 were in compliance with applicable requirements. On July 10, 1985, the Administrator approved the Portland International Airport noise compatibility program.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the Portland International Airport noise compatibility program is July 10, 1985.

**FOR FURTHER INFORMATION CONTACT:** Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM-611; 17900 Pacific Highway South; C-68966; Seattle, Washington 98168. Documents reflecting this FAA action may be obtained from the same individual.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program for Portland International Airport, effective July 10, 1985.

Under section 104(a) of the Aviation Safety and Noise Abatement Act (ASNA) of 1979, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with FAR Part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Aviation Safety and Noise Abatement Act of 1979, and is limited to the following determinations:

The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

Program measures are reasonably consistent with achieving the goals of reducing existing noncompatiable land uses around the airport and preventing the introduction of additional noncompatible land uses;

Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government.

Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the

program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Seattle, Washington.

The Port of Portland submitted to the FAA on April 3, 1984, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from August 1982 through June 1983. The Portland International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 18, 1985. Notice of this determination was published in the Federal Register on February 8, 1985 (50 FR 5464).

The Portland International Airport noise compatibility study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on January 18, 1985, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 32 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective July 10, 1985.

Outright approval was granted for 31 of the specific program elements. Program Element A2b was not approved or disapproved at this time as it relates to the installation of microwave landing system and associated new flight procedures both of which are undefined.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on July 10, 1985. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Portland International airport.

Issued in Seattle, Washington, on August 27, 1985.

Charles R. Foster,

*Director, Northwest Mountain Region.*

[FR Doc. 85-22366 Filed 9-18-85; 8:45 am]

BILLING CODE 4910-13-M

## Federal Highway Administration

**[FHWA Docket No. 85-22]**

## Report on Bridge Formula Development for Regulating Vehicle Weight Limitations

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice announces a study approach undertaken to review the existing bridge formula for vehicle weight limitations appearing in 23 U.S.C. 127 and establishes a public docket for public comment regarding the study. The purpose of the study was to review the existing bridge formula to determine if, through modifications, we could more fully utilize the capacity of existing bridges and highways without significantly shortening their service life.

**DATE:** Comments must be received on or before November 18, 1985.

**ADDRESS:** Submit written comments, preferably in triplicate, to FHWA Docket No. 85-25, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20509. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday, through Friday, except for legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank D. Sears, Review and Analysis Branch, (202) 472-7680, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 425-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

### Background

Federal size and weight laws were enacted in 1956 when the Interstate System program was first financed at significant levels. [The Federal-Aid Highway Act of 1956, Pub. L. 84-627, 70 Stat. 374]. Prior to that time, vehicle dimensions were regulated by each State. In 1932, the American Association of State Highway Officials (AASHO, now AASHTO) attempted to coordinate State laws by recommending size and weight policies for State consideration. Revised AASHO policies were issued in 1946 and 1964,[1] revised in 1968, 1973 and 1974, and a new policy guide is currently being prepared.

The large financial interest in the Interstate System was the expressed reason for Federal involvement in vehicle size and weight regulation. In House Report No. 2022 of the 1956 Federal-Aid Highway Act, it was noted that Congress "* * * recognizes that maximum weight limitations * * * are fundamentally a problem of State regulation, but feels that if the Federal Government is to pay 90 percent of the cost of the Interstate System improvements, it is entitled to protection of the investment against damage caused by heavy loads on the highway * * *."[2]

Federal size and weight provisions in the 1956 Federal-Aid Highway Act were limited to weight and width restrictions on the Interstate System. The weight limits (18,000 pounds on a single axle, 32,000 pounds on a tandem axle, and 73,280 pounds gross vehicle weight) were those recommended in the 1946 AASHO policy. An exception to these provisions, referred to as a "grandfather clause," was included that allowed States to continue to permit vehicle weights if their laws on July 1, 1956, allowed such vehicles. The law was permissive in that States could adopt lower weight than those established by the Federal Government. The controversial issue of vehicle length was avoided by specifying a gross weight limit that was consistent with the longest vehicles permitted at the time.

In 1964, House Document No. 354,[3] *Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems*, was published. That report, which was based on studies conducted by the FHWA's predecessor, the Bureau of Public Roads in the Department of Commerce, recommended that larger vehicles be permitted on Federal-Aid highways over a period of years. Specifically, it was recommended that the vehicle width limit be increased to 102 inches and that weight limits be raised to 20,000 pounds for single axles, 34,000 pounds for

[1] AASHTO publication "Recommended Policy on Maximum Dimensions and Weights of the Vehicles to be operated over the Highways of the United States" December 7, 1964, Revised January 15, 1968, February 23, 1973, and February 18, 1974, is available for inspection in docket files.

[2] H.R Rep. No. 2022, 84th Cong., 2d Sess. 10 (1956).

[3] H.R. Doc. No. 354, 88th Cong., 2d Sess. 5, recommendation No. 5 (1964).

tandem axles, with gross vehicle weights to be determined by a formula (Bridge Formula B) that was believed to prevent bridge overstress. Relationship between vehicle dimensions and highway damage, highway improvement needs, and highway cost allocation were explicitly noted, and size and weight increases were to be predicated on States instituting adequate construction, reconstruction, and maintenance programs.

Congress did not implement any recommendations from that 1964 report until 1974 when the trucking industry was hurt by fuel shortage and programs to reduce fuel consumption, such as the 55 m.p.h. speed limit. In the Federal-Aid Highway Amendments of 1974 (section 106 of Pub. L. 93-643, 88 Stat. 2283) the maximum allowable single and tandem weights were raised to 20,000 and 34,000 pounds respectively, and gross vehicle weights were controlled by Bridge Formula B to a maximum of 80,000 pounds. A second Grandfather Clause was added to 23 U.S.C. 127 allowing States to continue to use bridge formulas different from AASHTO's Bridge Formula B for determining maximum gross vehicle weights. The Federal Highway Administration had recommended in testimony in 1974 that Bridge Formula B be adopted without a limit on gross vehicle weight, that the higher weight limits be mandatory, and that double trailers up to 70 feet in length be permitted.[4] However, these recommendations were not enacted into law.

The Surface Transportation Assistance Act of 1982[5] significantly increased the Federal role in regulating vehicle sizes and weights. First, it required the Secretary of Transportation to establish a National Network of Interstate and Designated Primary Highways on which States were required to permit certain vehicle configurations. Second, it stipulated that no State could adopt weight limits on the Interstate System that were lower, in addition to the prohibition against higher weights, than the maximum weight specified in 23 U.S.C. 127. Third, it required the Secretary of Transportation to conduct a study of the feasibility network for the operation of combination vehicles up to 110 feet in length. One of the primary goals of this legislation was to promote more efficient interstate commerce by increasing the uniformity of size and weight laws. As recommended in the 1964 report, increases in vehicle dimensions were coupled with changes in highway user charges to more closely relate fees paid by heavy vehicles to their cost responsibility. Throughout the period 1974 and 1982, the States adopted the higher weights limits and began to implement bridge Table B. Increasing emphasis on enforcement, publicized in part through the requirements of 23 U.S.C. 141, revealed a difficulty some vehicles have of complying with the bridge formula. Entire segments of certain industries, i.e., the construction industry, and other vehicles, i.e., short-wheel base tanker-trailers cannot utilize full capacity efficiency within the requirements of Table B.

Congressional and public interest stimulated a desire on the part of the FHWA to reexamine the premise of Table B.

**Note.**— Modification of Bridge Table B is dependent upon Congressional action. This Notice is intended to serve as a vehicle for dialogue in assuring study completeness only.

### Study Summary

The study has resulted in the recommendation that a new formula, independent of the number of included axles on the vehicle, replace the current formula, as follows:

$W = (34 + L)$ 1000 lb 8 ft. $< L <$ 56 ft
$W = (62 + L/2)$ 1000 lb 56 ft. $> L$

Although the new formula will satisfactorily protect the bridge structures, there is real concern as to its effect on pavements. Pavement impact is one of the factors which must be carefully evaluated prior to the finalization of any recommendations based on this study.

### The Scope of the Study

The scope of the study is covered under the Executive Summary—Bridge Formula Development which is reprinted herein in its entirety.

The Final Report is available to the public and will be in the docket files of the Division and Regional Offices of FHWA for inspection.

### Comments Requested

Comments are requested with regard to the need for, or desirability of, modification to the current formula (Table B). At the same time, FHWA will consider comments on the methodology, findings or conclusions of the study in assessing whether to pursue legislative changes.

Issued on: September 11, 1985.

**L.P. Lamm,**

*Deputy Federal Highway Administrator, Federal Highway Administration.*

### Bridge Formula Development: Executive Summary

*Introduction*

This report describes a study of the bridge formula currently prescribed in the Surface Transportation Assistance Act (STAA) of 1982 for regulating truck weights on certain federally funded roadways. This bridge formula, often referred to as Table B (or Formula B), has received criticism from both users and transportation officials as being basically unfair in terms of the stress levels generated in various bridge spans and types by different axle combinations. But the most compelling criticism concerns its applicability to very long, many axled vehicles, also being studied under the STAA of 1982, where the formula would allow unreasonably high loads should the current 80,000 lb (355.7 kN) maximum gross weight be increased.

The problem is complicated by the variability in bridge carrying capacities. This results primarily from the facts that they were originally designed to different strength levels. Two of the most common of these strength levels are termed H15 and HS20 by the AASHTO Bridge Specifications, where the HS20 where the HS20 is significantly stronger than the H15. This notation for strength levels actually refers to the hypothetical truck loading used for the bridge design. The HS20 design truck, which has a semitrailer, actually weighs more than twice the weight of the H15. About 95% of the bridges on the Interstate System are rated as HS20 or better. In general, none are classified as less than H15. The percentage of HS20 bridges on the primary and secondary highway systems, however, is significantly lower.

### Historical

The first significant federal legislation concerning truck weights was contained in the Federal Aid Highway Act of 1956 which initially provided for the planning, financing and construction of the National System of Interstate and Defense Highways. This bill provided that no funds would be used for the Interstate System in any state allowing vehicles having a single axle weighing more than 18,000 lb (80.06 kN), a tandem axle of 32,000 lb (142.3 kN) and a gross weight of 73,280 lb (325.9 kN). However, a "grandfather clause" provided that any vehicle that operated legally within

[4] Transportation and the New Energy Policies (Truck Sizes and Weights): Hearings before the Subcommittee on Transportation of the Committee on Public Works, 93d Cong., 2d Sess. 18-22 (1974) (Statement of Norbert Tiemann, Administrator, Federal Highway Administration).

[5] Pub. L. 97-327, 96 Stat. 1611.

a state before the passage of the law could continue to operate legally afterwards.

In 1964, the Highway Research Board prepared and submitted to Congress, via the Secretary of Commerce, House Document No. 354. This Document contained a detailed review of the trucking industry and of the regulations governing the operation of heavy vehicles. Further, it recognized the large capital investment the Nation has in these heavy vehicles, their importance to the Nation's commerce, and their wear and tear on the Nation's highway system. Findings of the Document were partially based on results of AASHO Road Tests performed in the late 1950's. Probably the most important recommendation made in that Document was that Table B, a tabulation of permissible weights of axle groups, depending on the number of axles and the overall length of the group, be adopted for the Interstate System. In addition, it suggested that the single axle limit be increased to 20,000 lb (88.96 kN) and the tandem axle limit to 34,000 lb (151.2 kN).

It is important to note that a footnote under Table B flatly prohibited the operation of certain short wheelbase, multiaxle trucks over H15 bridges. The point was clearly made in the Document that such vehicles would overstress the H15 bridges by more than 30%, a situation the authors of the Document clearly viewed as intolerable.

Little happended in response to these recommendations, however, until 1975, at which time the U.S. Congress enacted legislation allowing the states to increase the weight limits on the Interstate System to those of Table B. The allowable single axle weight was increased to 20,000 lb (88.96 kN) and the tandem axle weights increased as recommended in the Document. Further, the allowable gross vehicle weight was increased to a maximum not to exceed 80,000 lb (355.8 kN) from 73,280 lb (325.9 kN). It is generally believed that this legislation was passed in an attempt to restore to the industry the productivity lost due to the imposition of the 55 mph (88.50 km/hr) speed limit in December, 1973.

The most recent legislation is referred to as the Surface Transportation Assistance Act of 1982. The Vehicle Weight Limitations section of the Act is reproduced verbatim below.

*Vehicle Weight, Length, and Width Limitations*

Sec. 133. (a) Section 127 of title 23 of the United States Code is amended to read:

**127. Vehicle weight limitations-Interstate System**

(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles and a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

Where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: Provided, that such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such States on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

The equation is Formula B from which the weights of Table B are calculated. These limitations are the same as those in Table B, with the 80,000 lb (355.8 kN) gross weight cap. An exception to the bridge Formula B was instituted in the 1974 Act and this permitted the maximum weight of tandems spaced 36 ft. (10.97 m) to 68,000 lbs. (302.06 kN).

*Formula Development*

An important first step in deriving a new bridge formula to assure specified stress ratios are not exceeded in any H15 or HS20 bridge is to identify the lightest and therefore critical bridges. This means finding, for each span, the bridge type that has the least dead load moment and shear. Data was collected from the files of the Federal Highway Administration and from standard designs of state highway departments to find these minimum weight bridge types. Once these lightest weight bridges were found, it was then possible to define the loads that would cause specific stress levels in each span length. This procedure was followed for bridges of both H15 and HS20 design.

For example, uniformly distributed loads of every length between 8 and 120 ft (36.58 m) were placed on the lightest weight bridges of every span to evaluate what total load would cause 1.3 times the design stress in H15 bridges and 1.05 times the design stress HS20 bridges. This multitude of calculations was expeditiously completed with a microcomputer and resulted in a unique weight for each uninform load length and each bridge design. These maximum loads were then plotted versus length. It was determined that the H15 bridges with the 1.3 factor dictated the lesser loads up to lengths of about 70 ft (21.34 m). For longer lengths, the HS20 bridges with the 1.05 factor controlled.

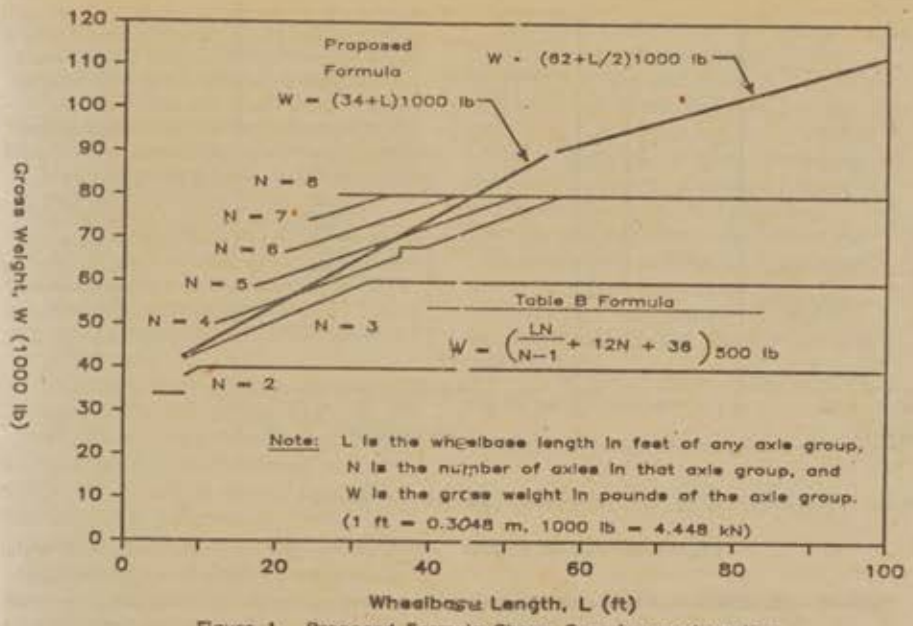



Figure 1. Proposed Formula Shown Superimposed on the Current Table B Formula

Two straight lines were drawn near these results and yielded the formula as shown in figure 1. These two straight lines are shown superimposed over a plot of Table B as modified by the Surface Transportation Assistance Act of 1982. The equations of the two lines are

$W = (34 + L)$ 1000 lb  8 ft $\leq L \leq$ 56 ft
$W = (62 + L/2)$ 1000 lb  56 FR $< L$

Figure 1 shows that the suggested formula would reduce the loads allowed on the shorter axle groupings just as was originally recommended by the footnote of Table B in House Document No. 354.

Application of the proposed formula is to all contiguous subsets of axles in the vehicle. When calculating the allowable weight of such a subset of axles, the wheelbase L is the extreme axle spacing in that subset.

Additionally, the current limits for single axles 20,000 lb (88.96 kN) and tandem axles spaced 4 ft (1.219 m), 34,000 lb (151.2 kN), are retained. While a rigorous economic study of the costs of pavement damage compared to the increased transportation productivity was beyond the scope of this study, a brief review of the AASHTO Road Test results led to the conclusion that if these limits were retained and the proposed formula were adopted, some additional pavement fatigue damage to pavements would result.

*Assumptions*

The assumptions used to make the calculations described above are in general those made by the analyst during the design of a bridge. For example, the impact formula used in the current AASHTO Standard Specifications for Highway Bridges was assumed to be valid. Similarly, the number and weight of trucks on the bridge in the direction of travel and in adjacent lanes were all as dictated by the design specifications. Finally, the detailed distribution of the load to the several types of members supporting the deck was assumed to follow the design rules.

It is recognized that there is continuing debate concerning the validity of each of these assumptions, but it is doubtful that the resolution of any one of them would alter the results of this study.

One other assumption worth noting is that all bridge design ratings were assumed to be as new. No allowance was made for deterioration due to age or prior service.

*Stress Levels Caused by Practical Vehicles*

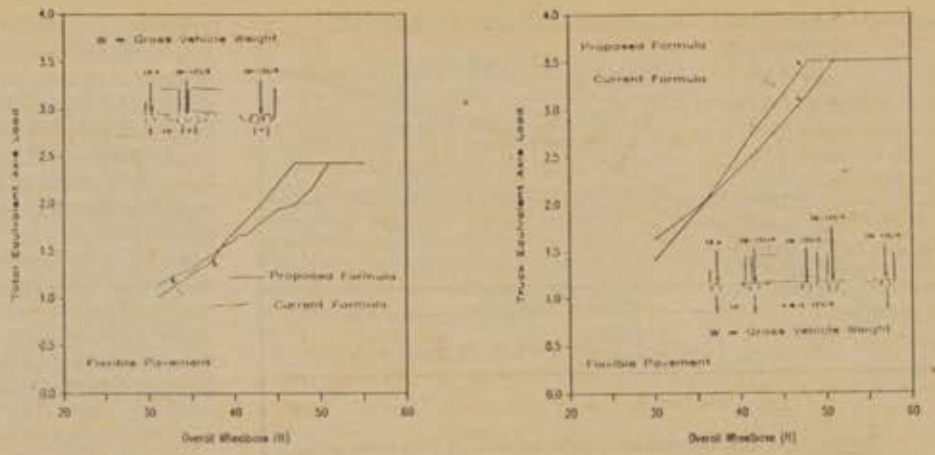
The effectiveness of the proposed formula for limiting weights of practical vehicles for specified overstress ratios 1.05 for HS20 bridges and 1.30 for H15 bridges is evaluated by comparing the calculated critical weights of selected practical vehicles with the curve defined by the proposed formula. The proposed formula is effective in allowing significantly more weight than the present formula for many practical vehicles. This is done without exceeding the design total stress, dead load plus live load plus impact, (DL + LL + I) more than a specified percentage, 30% in the case of H15 bridges and 5% in the case of HS20 brdiges.

*Fatigue Considerations*

The fatigue behavior of highway bridges is influenced primarily by stress range. The stress range is equal to the (LL + I) stresses, therefore any changes in truck weights will result in increased fatigue loading on highway bridges and a corresponding increase in maintenance costs if the increased fatigue loading causes stresses that are above the fatigue endurance limits. To evaluate the significance of the proposed formula on the fatigue lives of highway bridges, it is necessary to make several simplifying assumptions. It is assumed that existing bridges are loaded in flexure to design allowable stresses by design vehicles. Design allowable stresses are a function of the design lifetime in loading cycles and the weld detail category. It is assumed that flexure governs, and shear is not checked. Since existing single, tandem, and triple axle bogies are not changes, shear stresses are not expected to increase as significantly as flexure stresses. Further, only simple spans were evaluated.

For each span checked, the maximum moment caused by the maximum legal weight vehicles and the maximum moment due to the design live load were calculated. With the assumption that the stress range due to the design loading equals the allowable stress range, the stress range due to the maximum weight vehicles is calculated by multiplying the appropriate moment ratio.

The calculated stress ranges are compared to the allowable fatigue stress ranges. The ratio of the calculated stress range to the allowable stress range does not exceed 1.05 except for a small range of spans for all the practical vehicles considered for commonly used structural steels. For most spans and details, the increased stress range is still




(a) 3S2 Vehicle

(b) 2S1–2 Vehicle

(1 ft = 0.3048 m)

Figure 2. Equivalent Axle Loads per Vehicle for Proposed Formula and Existing Formula

well below the allowable stress range. Span-detail combinations which are most affected by the proposed formula are the more critical details in maximum moment regions of longer, 120 to 160 ft (36.57 to 48.77 m), spans.

*Pavement Considerations*

Recognizing that the passage of heavy vehicles causes fatigue damage to pavement as well as to bridges and that the country's investment in pavement is several times larger than that of bridges, no change should be made in the bridge formula without considering the consequences of the change to the pavements. The analytical assessment of the impact of such a change on pavement life is not so straightforward as it is for bridges. It is generally accepted that heavy axles, and very short groupings of axles, are more damaging to pavements while gross vehicles weights, or the longer groupings of axles, are more damaging to bridges.

One measure of the fatigue damage heavy vehicles exert on pavements is termed the "equivalent axle load". The equivalent axle load compares the fatigue damage done by a single axle, or grouping of axles, with the damage done by an 18,000 lb (80.06 kN) axle. So an 18,000 (80.06 kN) single axle is arbitrarily assigned an equivalent axle load value of 1.0. A single axle, or grouping of axles, that causes twice as much damage as an 18,000 lb (80.06 kN) axle is given as equivalent axle load value of 2.0. Tables of equivalent axle loads for single and tandem axles, on different types of pavement surfaces, have been tabulated and published. These tables are based primarily on the results of the AASHO Road Test completed in the late 1950's where the deterioration of various pavement surfaces under repeated heavy truck loadings was observed.

These tables make it possible to estimate the number of equivalent axle loads resulting from the passage of any given heavy truck. If a truck has two widely spaced axles weighing 18,000 lb (80.06 kN) each, for example, it could be said that the passage of that truck generated 2.0 equivalent axle loads. Another truck with three 18,000 lb (80.06 kN) axles would generate 3.0 equivalent axle loads and would be considered 50 percent more damaging to the pavement. Closely spaced axles have an interactive effect, but equivalent axle loads for closely spaced tandem axles (groups of two axles) are also tabulated. This makes it possible to calculate the number of equivalent axle loads generated by most of the heavy truck configurations currently in use.

These calculations were made for trucks conforming to the current bridge formula and for trucks conforming to the proposed bridge formula and the results compared. These comparisons for two common truck configurations are shown in figures 2(a) and (b). Figure 2(a) is for the 3S–2, a semi-trailer truck with a steering axle and two tandems (commonly referred to as the eighteen wheeler). Figure 2(b) is for the 2S–1–2, a semitrailer truck with a full trailer on two axles; so it has a steering axle with four widely spaced single axles.

For very short and very long vehicles, figure 2 shows the equivalent axle loads per truck to be about the same. In fact, for the short ones, those with wheelbases less than about 36 ft (10.97 m), the proposed formula would lead to smaller equivalent axle loads per truck. If the 80,000 lb (355.8 kN) maximum

gross weight per vehicle is maintained, the proposed and current formula come together at wheelbases just over 50 ft (15.24 m) and are identical for all longer lengths. However, in the intermediate lengths, the equivalent axle loads per truck are significantly greater, in some instances by as much as 20 percent. These intermediate truck lengths, 36 to 50 ft (10.97 to 15.24 m), are very common, and the increase in equivalent axle loads would certainly have a detrimental effect on the wearout rate of our pavements.

The calculations and comparisons of the equivalent axle loads per truck, as shown above, are evidence that the new bridge formula, as stated and without further modification, would indeed be detrimental to pavements. Currently, pavement deterioration rates are higher than ever, and a change in the bridge formula should not be allowed to magnify that problem. As a result, it is recommended that a detailed study of the influence of a bridge formula change on pavements be initiated with the goal of suggesting additional modifications that would permit the formula to be used without causing unacceptable pavement deterioration. One alternative such a study could consider would be to shave some weight from the maximum single- and tandem-axle loads to coincide with the adoption of the new formula.

*Conclusions*

The adoption of the proposed bridge formula would bring some changes to the geometry and distribution of truck loads to the axles and bogies. In many cases, higher payloads would result without bringing excessively higher stresses to structural bridge members. If overall length limits or maximum gross weights should ever be increased, the formula would continue to be effective for protecting the bridges against damaging overstresses, not necessarily a feature of the current formula.

The proposed formula is independent of the number of included axles and as such should be simpler to understand and easier to enforce than the present formula.

The proposed formula is based on engineering rationale, albeit several controversial assumptions.

If the proposed bridge formula is not enforced, irrespective of what form of the formula is being used, the bridges are apt to have foreshortened service lives due to fatigue.

The indiscriminate issuing of overweight truck permits, expecially those on a periodic or annual basis, are equally apt to result in foreshortened bridge service lives.

Adoption of the proposed bridge formula, without any change in the maximum single and tandem axle loads, will cause an increase in the average equivalent axle load per truck. This is often considered the primary measure of the fatigue damage a vehicle causes to pavement. So, while the proposed formula will satisfactorily protect the bridge structures, there is real concern about its effect on pavements, a consequence that should be carefully evaluated before any changes are made.

[FR Doc. 85-22253 Filed 9-18-85; 8:45 am]
BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

**[Department Circular—Public Debt Series—No. 29-85]**

### Treasury Notes of September 30, 1987, Series Z-1987

Washington, September 12, 1985.

**1. Invitation for Tenders**

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of September 30, 1987, Series Z-1987 (CUSIP No. 912827 SS 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Govenment accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

**2. Description of Securities**

2.1. The Notes will be dated September 30, 1985, and will accrue interest from that date, payable on a semiannual basis on March 31, 1986, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1987, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

**3. Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, September 18, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 17, 1985, and received no later than Monday, September 30, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foregin central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all other must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

**4. Reservations**

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

**5. Payment and Delivery**

5.1. Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, September 30, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submnitted, which must be received from institutional investors no later than Thursay, September 26, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, September 30, 1985. When payment has been submitted with the tender and the purchase price of the Notes alloted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes alloted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

**6. General Provisions**

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the

Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

**Gerald Murphy,**

*Acting Fiscal Assistant Secretary.*

[FR Doc. 85-22381 Filed 9-16-85; 11:03 am]

BILLING CODE 4810-40-M

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## Customs Service

### Rescheduling of October 1985 Customs Broker Examination

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** Pursuant to § 111.13(b), Customs Regulations (19 CFR 111.13(b)), October 1985 examination for a Customs broker's license would normally be scheduled to be given at each district office on October 7, 1985, the first Monday in October. Because of the observance of the Jewish holiday of Succoth on October 7, 1985, the October 1985 examination normally would be rescheduled to the following Monday, October 14, 1985. However, because of the observance of Columbus Day, on this date, the October 1985 examination is rescheduled to Tuesday, October 15, 1985. All Customs districts will be notified to reschedule the examination accordingly.

**FOR FURTHER INFORMATION CONTACT:** Fred Burn-O'Brien, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: September 2, 1985.

**William von Raab,**

*Commissioner of Customs.*

[FR Doc. 85-22421 Filed 9-18-85; 8:45 am]

BILLING CODE 4820-02-M

# Sunshine Act Meetings

Federal Register
Vol. 50, No. 182
Thursday, September 19, 1985

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).

## CONTENTS



1

**FARM CREDIT ADMINISTRATION**

Federal Farm Credit Board; Special Meeting

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(1)), of a special meeting of the Federal Farm Credit Board ("Federal Board").

**DATES AND TIMES:** The special meeting of the Federal Board is scheduled as follows: Friday, September 27–8:30 a.m. to 4:30 p.m.

**ADDRESS:** Federal Farm Credit Board Special Meeting, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

**FOR FURTHER INFORMATION CONTACT:** Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703–883–4010).

**SUPPLEMENTARY INFORMATION:** A special meeting of the Federal Board has been called and will be held on September 27, 1985. The matters to be considered at the special meeting are:

*1. Executive Session.

**2. System Financial Update and Contingency Planning Progress Report.

*This session of the meeting will be closed to the public pursuant to the exemptions set forth in 5 U.S.C. 552b(c)(2) and (8).

**This session of the meeting will be closed to the public pursuant to the exemptions set forth in 5 U.S.C. 552b(c)(8) and (9).

Dated: September 17, 1985.

**Larry W. Edwards,**

*Acting Governor.*

[FR Doc. 85–22551 Filed 9–17–85; 2:08 pm]

BILLING CODE 6705-01-M

2

**FEDERAL ELECTION COMMISSION**

**DATE AND TIME:** Tuesday, September 24, 1985, 10:00 a.m.

**PLACE:** 1325 K Street, NW, Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:** Compliance. Litigation. Audits. Personnel.

**DATE AND TIME:** Thursday, September 26, 1985, 10:00 a.m.

**PLACE:** 1325 K Street, NW, Washington, DC (Fifth Floor).

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates of future meetings
Correction and approval of minutes
Draft AO 1985–25: James R. Staff, treasurer; Steve Bartlett Congressional Campaign Committee
Statement of basis and purpose for Sunshine Act Regulations
Routine administrative matters

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, information Officer, 202–523–4065.

**Marjorie W. Emmons,**

*Secretary of the Commission.*

[FR Doc. 85–22552 Filed 9–17–85 2:08 pm]

BILLING CODE 6715-01-M

Federal Register

Thursday
September 19, 1985

Part II

# Environmental Protection Agency

40 CFR Part 191

Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 191**

**[AH-FRL 2870-3]**

## Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating generally applicable environmental standards for the management and disposal of spent nuclear fuel and high-level and transuranic radioactive wastes. The standards apply to management and disposal of such materials generated by activities regulated by the Nuclear Regulatory Commission (NRC) and to disposal of similar materials generated by atomic energy defense activities under the jurisdiction of the Department of Energy (DOE). These standards have been developed pursuant to the Agency's authorities and responsibilities under the Atomic Energy Act of 1954, as amended; Reorganization Plan No. 3 of 1970; and the Nuclear Waste Policy Act of 1982.

Subpart A of these standards limits the radiation exposure of members of the public from the management and storage of spent fuel or high-level or transuranic wastes prior to disposal at waste management and disposal facilities regulated by the NRC. Subpart A also limits the radiation exposures to members of the public from waste emplacement and storage operations at DOE disposal facilities that are not regulated by the NRC.

Subpart B establishes several different types of requirements for disposal of these materials. The primary standards for disposal are long-term containment requirements that limit projected releases of radioactivity to the accessible environment for 10,000 years after disposal. These release limits should insure that risks to future generations from disposal of these wastes will be no greater than the risks that would have existed if the uranium ore used to create the wastes had not been mined to begin with. A set of six qualitative assurance requirements is an equally important element of Subpart B designed to provide adequate confidence that the containment requirements will be met. The third set of requirements are limitations on exposures to individual members of the public for 1,000 years after disposal. Finally, a set of ground water protection requirements limits radionuclide concentrations for 1,000 years after disposal in water withdrawn from most Class I ground waters to the concentrations allowed by the Agency's interim drinking water standards (unless concentrations in the Class I ground waters already exceed the limits in 40 CFR Part 141, in which case this set of requirements would limit the increases in the radionuclide concentrations to those specified in 40 CFR Part 141). Subpart B also contains informational guidance for implementation of the disposal standards to clarify the Agency's intended application of these standards, which address a time frame without precedent in environmental regulations. Although disposal of these materials in mined geologic repositories has received the most attention, the disposal standards apply to disposal by any method, except disposal directly into the oceans or ocean sediments.

This notice describes the final rule that the Agency developed after considering the public comments received on the proposed rule published on December 29, 1982, and the recommendations of a technical review conducted by the Agency's Science Advisory Board (SAB). The major comments received on the proposed standards are summarized together with the Agency's responses to them. Detailed responses to all the comments received are discussed in the Response to Comments Document prepared for this final rule.

**DATE:** These standards shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on October 3, 1985. These standards shall become effective on November 18, 1985.

**ADDRESSES:** *Background Information*—The technical information considered in developing this rule, including risk assessments of disposal of these wastes in mined geologic repositories, is summarized in the Background Information Document (BID) for 40 CFR Part 191, EPA 520/1-85-023. Single copies of both the BID and the Response to Comments Document, as available, may be obtained from the Program Management Office (ANR-458), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460; telephone number (703) 557-9351.

*Docket*—Docket Number R-82-3 contains the rulemaking record for 40 CFR Part 191. The docket is available for inspection between 8 a.m. and 4 p.m. on weekdays in the West Tower Lobby, Gallery 1, Central Docket Section, 401 M Street, SW., Washington, DC. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Dan Egan or Ray Clark, Criteria and Standards Division (ANR-460), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460; telephone number (703) 557-8610.

**SUPPLEMENTARY INFORMATION:**

Fissioning of nuclear fuel in nuclear reactors creates a small quantity of highly radioactive materials. Virtually all of these materials are retained in the "spent" fuel elements when they are removed from the reactor. If the fuel is then reprocessed to recover unfissioned uranium and plutonium, most of the radioactivity goes into acidic liquid wastes that will later be converted into various types of solid materials. These highly radioactive liquid or solid wastes from reprocessing spent nuclear fuel have traditionally been called "high-level wastes." If it is not to be reprocessed, the spent fuel itself becomes a waste. The nuclear reactors operated by the nation's electrical utilities currently generate about 2,000 metric tons of spent fuel per year. The relatively small physical quantity of these wastes is apparent when compared to the chemically hazardous wastes regulated under the Resource Conservation and Recovery Act, which are produced at a rate of about 150,000,000 metric tons per year.

Although they are produced in small quantities, proper management and disposal of high-level wastes and spent nuclear fuel are essential because of the inherent hazard of the large amounts of radioactivity they contain. Spent fuel from commercial nuclear power reactors contains about 1.6 billion curies of radionuclides with half-lives greater than 20 years. Over the next decade, this inventory is projected to grow at a rate of about 300 million curies per year from reactors currently licensed to operate. Most of this spent fuel is currently stored at reactor sites. Reprocessing reactor fuel used for national defense activities has produced about 700 million curies of radionuclides with half-lives greater than 20 years. Most of these wastes are stored in various liquid and solid forms on three Federal reservations in Idaho, Washington, and South Carolina.

In addition, a wide variety of wastes contaminated with man-made radionuclides heavier than uranium have been created by various processes, mostly from the atomic energy defense activities conducted by the DOE and its predecessor agencies (the Atomic Energy Commission and the Energy

Research and Development Administration). These wastes are usually called "transuranic" wastes. Most of them are stored at Federal reservations in Idaho, Washington, New Mexico, and South Carolina.

### National Programs for Disposal of These Wastes

Since the inception of the nuclear age in the 1940's, the Federal government has assumed ultimate responsibility for the care and disposal of these wastes regardless of whether they are produced by commercial or national defense activities. In October 1976, President Ford ordered a major expansion of the Federal program to demonstrate a permanent disposal method for high-level wastes. The Agency was directed to develop generally applicable environmental standards to govern the management and disposal of these wastes as part of this initiative. Among EPA's first activities in response to this directive were a series of public workshops conducted in 1977 and 1978 to better understand the various public concerns and technical issues associated with radioactive waste disposal.

In 1981, the DOE, after completing a comprehensive programmatic environmental impact statement, decided to focus the national program on disposal in mined geologic repositories (46 FR 26677). In 1982, Congress passed the Nuclear Waste Policy Act (henceforth designated "NWPA"), which President Reagan signed into law on January 7, 1983. The NWPA contains several provisions that are relevant to this rulemaking. First, it affirmed the DOE's 1981 decision that mined repositories should receive primary emphasis in the national program, although research on some other technologies would be continued. Second, it established formal procedures regarding the evaluation and selection of sites for geologic repositories, including steps for the interaction of affected States and Indian tribes with the Federal Government regarding site selection decisions. Third, the NWPA levied a fee on utilities that generate electrical power with nuclear reactors in order to pay for Federal management and disposal of their spent fuel or high-level wastes. Fourth, the NWPA reiterated the existing responsibilities of the Federal agencies involved in the national program to develop mined geologic repositories, and it assigned some additional tasks regarding site evaluation. Finally, the Act provided a timetable for several key milestones that the Federal agencies were to meet in carrying out the program.

Section 121 of the NWPA reiterated the Agency's responsibility for developing the overall framework of requirements needed to assure protection of public health and the environment, in accordance with the Agency's authorities under the Atomic Energy Act of 1954 and Reorganization Plan Number 3 of 1970. Section 121 also called for the Agency to promulgate these standards by January 7, 1984. The Agency did not meet this deadline. On February 8, 1985, the Natural Resources Defense Council and four other environmental interest groups filed suit to bring about compliance with the NWPA mandate. This litigation was settled by the Agency and the plantiffs agreeing to a consent order requiring promulgation not later than August 15, 1985. The generally applicable environmental standards promulgated by this notice satisfy the terms of this consent order. However, they also represent the culmination of an effort that began almost nine years ago and that has included frequent interactions with the public to help formulate standards responsive to the concerns about disposal of these dangerous materials.

### Objective and Implementation of the Standards

In developing the standards for disposal of spent nuclear fuel and high-level and transuranic radioactive wastes, the Agency has carefully evaluated the capabilities of mined geologic repositories to isolate the wastes from the environment. Because such repositories are capable of performing so well, it has been possible to choose containment requirements that will provide exceptionally good protection to current and future populations for at least 10,000 years after disposal. In fact, EPA's analyses indicate that the small residual risks allowed by the disposal standards would be comparable to the risks that future populations would have been exposed to if the uranium ore used to produce the high-level wastes had not been mined to begin with.[1] The Agency believes that achieving this protection should not significantly increase the cost or difficulty of carrying out the national program for disposing of the wastes from commercial nuclear power plants. In addition, the containment requirements in the final rule are complemented by six qualitative assurance requirements designed to provide confidence that the containment requirements will be met, given the substantial uncertainties inherent in predictions of systems performance over 10,000 years. Because of this comprehensive framework, the Agency is confident that the national program to dispose of these wastes will be carried out with exceptional protection of public health and the environment.

The Nuclear Regulatory Commission (NRC) and the DOE are responsible for implementing these standards. The NRC has already promulgated procedural and technical requirements in 10 CFR Part 60 for disposal of high-level wastes in mined geologic repositories (46 FR 13971, 48 FR 28194). The NRC will obtain compliance with 40 CFR Part 191 for disposal of all high-level wastes by issuing licenses to the DOE, in accordance with 10 CFR Part 60, at various steps in the construction and operation of a repository. The NWPA directs the DOE to select a number of potential sites for geologic repositories, successively reducing this set of alternatives from five to three to one, in consultation with affected States and Indian Tribes and with participation by the public in key steps in the selection process. The DOE will accomplish this through use of site selection guidelines (10 CFR Part 960) that it has developed in accordance with section 112 of the NWPA. Both NRC's 10 CFR Part 60 and DOE's 10 CFR Part 960 incorporate the standards the Agency is promulgating today as the overall performance requirements for a geologic repository. Both of these other rules were designed in concert with EPA"s ongoing development of 40 CFR Part 191. However, both the NRC and DOE must now review these regulations to determine what specific changes will be needed to properly implement the final version of 40 CFR Part 191.

### Review of the Proposed Standards

On December 29, 1982, shortly before the NWPA was enacted, the Agency published 40 CFR Part 191 for public review (47 FR 58196) and asked that comments be received by May 2, 1983. Eighty-three substantive replies were received from a broad spectrum of private citizens, public interest groups, members of the scientific community,

[1] Specifically, the Agency estimates that compliance with the disposal standards would allow no more than 1,000 premature deaths from cancer in the first 10,000 years after disposal of the high-level wastes from 100,000 metric tons of reactor fuel, an average of no more than one premature death every ten years. As this residual risk level is referred to in the following discussion, it should be remembered that it is a speculative calculation that is primarily intended as a tool for comparing risk levels; it should not be considered a reliable projection of the "real" number of health effects resulting from compliance with the disposal standards.

representatives of industry, and State and Federal agencies. These responses contained information and recommendations regarding seven issues on which the Agency sought further public comment (48 FR 21666). Questions concerning these issues were directed to all of the witnesses at two public hearings held during May 1983 in Washington, D.C. and in Denver (48 FR 13444). Copies of these questions were also sent to all those who responded to the initial request for comment, and the availability of these questions was announced in the **Federal Register** (48 FR 21666). The comment period was then held open until June 20, 1983, to receive responses to these additional questions. Responses to major comments—including all those specifically highlighted for public review—are summarized below. Detailed responses to the full range of comments received is described in the Response to Comments Document prepared for the final rule.

**Review of the Technical Basis of the Standards**

In parallel with this public review and comment, the Agency conducted an independent scientific review of the technical basis for the proposed 40 CFR Part 191 through a special Subcommittee of the Agency's Science Advisory Board (SAB) (48 FR 509). This Subcommittee held nine public meetings from January 18, 1983, through September 21, 1983, and prepared a final report that was transmitted on February 17, 1984. While finding that the Agency had generally prepared comprehensive and scientifically competent technical analyses to support the proposed standards, the SAB review developed 46 findings and recommendations regarding specific improvements in the technical analyses and in the standards themselves. Since many of the SAB recommendations were to be considered in developing the final rule, the Agency sought public comment on the information and recommendations presented in the final SAB report (49 FR 19604).

Most of the SAB recommendations involve specific details of the technical assessments and judgments the Agency made in developing these standards. After evaluating the public comments received on the SAB report, the Agency agrees with almost all of the SAB's technical recommendations and has made corresponding changes in the technical basis of the final rule. A few of the Subcommittee's recommendations have implications that involve broader policy judgments. These recommendations have been treated as part of the public comment record and are described below as the major comments on the proposed 40 CFR Part 191 are discussed. A complete itemization of the Agency's responses to each of the findings and recommendations of the SAB is contained in the Response to Comments Document, together with a synopsis of the public comments on the SAB report.

**Summary of the Final Rule**

The rule being promulgated today establishes generally applicable environmental standards for the management and disposal of spent nuclear fuel, high-level radioactive wastes, and transuranic radioactive wastes. The final rule differs in a number of ways from the proposed rule because of changes the Agency has made in response to public comments and in response to the recommendations of the technical review by the Agency's Science Advisory Board. This section provides an overview of the major provisions of the final rule, and changes from the proposed rule are noted. More detail on many of these provisions is provided later as part of the discussion of the comments considered in development of 40 CFR Part 191. The final rule:

(1) Applies to management and disposal of spent nuclear fuel, high-level radioactive wastes as defined by the NWPA, and transuranic wastes containing more than 100 nanocuries per gram of alpha-emitting transuranic isotopes, except for wastes that either the NRC or the Administrator determines do not need the degree of isolation required by this rule. (The proposed rule applied to spent nuclear fuel, high-level wastes exceeding a specific set of concentration limits, and to transuranic wastes containing more than 100 nanocuries per gram.)

(2) Through Subpart A, "Standards for Management and Storage," establishes limits on annual doses to members of the public of 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ from exposures associated with management, storage, and preparation for disposal of any of these materials at facilities regulated by the NRC. These limits apply to the combined exposures from all NRC-licensed facilities covered by this Part or 40 CFR Part 190, the Agency's standards for the commercial uranium fuel cycle. Subpart A also limits annual doses to members of the public from management and storage operations at DOE disposal facilities that are not regulated by the NRC to 25 millirems to the whole body and 75 millirems to any other organ. (The proposed rule applied to the combined exposures from operations regulated by 40 CFR Part 190, waste management and storage operations regulated by the NRC or Agreement States, *and* waste management and storage operations conducted at all DOE facilities.) Subpart A also contains a provision that allows the Administrator to issue alternative standards for waste management and storage operations at DOE disposal facilities that are not regulated by the NRC. (The proposed rule contained a provision to allow the implementing agency, either the NRC or the DOE, to grant variances for unusual operating conditions.)

(3) Establishes several sets of requirements for disposal of these wastes through Subpart B, "Standards for Disposal." The primary standards are *containment requirements* that limit projected releases of radioactivity to the accessible environment for 10,000 years after disposal. Equally important is a set of six *assurance requirements* chosen to provide adequate confidence that the containment requirements will be met. In addition, Subpart B of the final rule includes *individual protection requirements* that limit annual exposures from the disposal facility to members of the public in the accessible environment to 25 millirems to the whole body and 75 millirems to any organ for 1,000 years after disposal. The Subpart also contains *ground water protection requirements* that limit radioactivity concentrations in water withdrawn from most Class I ground waters near a disposal system (as defined in conjunction with the Agency's Ground Water Protection Strategy published in August 1984) for 1,000 years after disposal. Finally, Subpart B provides *guidance for implementation* that indicates how the Agency intends the various numerical standards to be applied. (The proposed rule contained only containment requirements, assurance requirements, and procedural requirements; this last category provided some of the basis for the "guidance for implementation" in the final rule.) Major provisions of each of these sets of requirements include the following:

(a) The containment requirements (Section 191.13) limit the total projected release of specific radionuclides over the entire 10,000-year period after disposal. Releases from all expected and accidental causes are included, except for releases from conceivable events that are judged to have an incredibly small likelihood of occurrence. Quantitative terms are used to identify the probabilities of the releases to which

the containment requirements apply; however, the final rule acknowledges that determination of compliance will have to tolerate much larger uncertainties than would be appropriate for short-term estimates and that judgments may have to be substituted for quantitative predictions in certain situations. Disposal in compliance with the containment requirements is projected to cause no more than 1,000 premature cancer deaths over the entire 10,000-year period from disposal of all existing high-level wastes and most of the wastes yet to be produced by currently operating reactors—an average of 0.1 fatality per year. This level of residual risk to future generations would be comparable to the risks that those generations would have faced from the uranium ore used to create the wastes if the ore had never been mined. Actual risks will probably be significantly less because of the conservative approach called for by the other parts of Subpart B. (The quantitative probabilities in the proposed rule were an order of magnitude smaller than those incorporated into the final rule. The release limits in the final rule are different than those in the proposed rule due to changes in EPA's technical analyses that were recommended by the SAB Subcommittee; however, the level of residual risk is the same as for the proposed rule.)

(b) The assurance requirements (Section 191.14) call for cautious steps to be taken in disposing of these wastes because of the inherent uncertainties in selecting and designing disposal systems that must be very effective for more than 10,000 years. The assurance requirements incorporate the following principles:

(i) Although active institutional controls, such as guarding and maintaining a disposal site, should be encouraged, they cannot be relied upon to isolate these wastes from the environment for more than 100 years after disposal. (The proposed rule limited reliance to "a few hundred years" after disposal.)

(ii) Disposal systems must be monitored to detect substantial changes from their expected performance until the implementing agency determines that there are no significant concerns to be addressed by further monitoring. (This requirement was not included in the proposed rule.)

(iii) The sites where disposal systems are located must be identified by permanent markers, widespread records, and other passive institutional controls to warn future generations of the dangers and location of the wastes.

(iv) Disposal systems must use several different types of barriers, including both engineered and natural ones, to isolate the wastes from the environment to help guard against unexpectedly poor performance from one type of barrier.

(v) Sites for disposal systems should be selected to avoid places where resources have previously been mined, where there is a reasonable expectation of exploration for scarce or easily accessible resources, or where there is a significant concentration of any material which is not otherwise available. (The wording in the proposed rule would have ruled out sites with a significant possibility of being considered for resource exploration in the future. The final rule revises this requirement to allow use of sites with some resource potential if they have other significant advantages compared to potential alternative sites.)

(vi) Recovery of most of the wastes must not be precluded for a reasonable period after disposal if unforeseen events require this in the future.

(c) The individual protection requirements (Section 191.15) limit annual exposures to members of the public in the accessible environment from the disposal system to 25 millirems to the whole body and 75 millirems to any organ. These requirements apply to undisturbed performance of the disposal system for 1,000 years after disposal. All potential pathways of radiation exposure from the disposal system to people must be considered, including the assumption that individuals consume all of their drinking water (2 liters per day) from any "significant source of ground water" located outside the "controlled area" established around a disposal system. A "significant source" is identified by several parameters intended to describe an aquifer sufficient to meet the needs of a "community water system" as defined in the Agency's National Interim Primary Drinking Water Regulations (40 CFR Part 141). (No explicit individual protection requirements were included in the proposed rule.)

(d) The ground water protection requirements (Section 191.16) limit the concentrations of radioactivity (or the *increases* in concentrations, if preexisting concentrations already exceed these limits) in waters withdrawn from most Class I sources of ground water near a disposal system to no more than 15 picocuries per liter of alpha-emitting radionuclides (including no more than 5 picocuries per liter of radium-226 and radium-228 but excluding radon) and to no more than the combined concentrations of radionuclides that emit either beta or gamma radiation that would produce an annual dose equivalent to the total body or any internal organ greater than 4 millirems if individuals consumed all of their drinking water from that source of ground water. These concentration limits are similar to those set in 40 CFR Part 141 for community water systems. Like the individual protection requirements, the ground water protection requirements apply to undisturbed behavior of the disposal system for a period of 1,000 years after disposal. (No explicit ground water protection requirements were included in the proposed rule.)

(e) Section 191.17 of the final rule establishes minimum procedural requirements that the Administrator must follow if additional information considered in the future indicates that it would be appropriate to modify any portion of the disposal standards through further rulemaking. (No similar provision was included in the proposed rule.)

(f) The "guidance for implementation" included as Appendix B to the final rule describes certain analytical approaches and assumptions through which the Agency intends the various long-term numerical standards of Subpart B to be applied. This guidance is particularly important because there are no precedents for the implementation of such long-term environmental standards, which will require consideration of extensive analytical projections of disposal system performance. (The proposed rule contained a corresponding, but less extensive, section entitled "procedural requirements.")

### Overall Approach of the Final Rule

In general, the Agency developed the various elements of this rule by balancing several perspectives. One set of considerations was the expected capabilities of the waste management and disposal technologies to reduce both short- and long-term risks to public health and the environment. These capabilities were examined through a number of performance assessments of the waste management, storage, and disposal facilities planned for the wastes generated by commercial nuclear power plants. Since detailed plans have not yet been determined for disposition of the wastes generated by atomic energy defense activities, similar assessments were generally not performed for these materials. A second consideration, where applicable, was consistency with related environmental standards for radiation exposure. A third factor was evaluation of various

benchmarks to assess the acceptability of the residual risks that might be allowed by the rule. This was particularly important for the disposal standards, where there were few precedents to guide the Agency's judgments. Finally, the Agency placed considerable emphasis on the public concerns expressed during the various phases of this rulemaking, particularly where these concerns involved addressing the substantial uncertainties inherent in the unprecedented time periods of interest.

The final rule reflects a combination of all these perspectives—no single factor predominated. For instance, no portion of this rule is based solely on projections of the "best" protection that technology might provide. If this had been the case, the rule would have been significantly different. On the other hand, the rule cannot be interpreted as setting precedents for "acceptable risk" levels to future generations that should not be exceeded regardless of the circumstances. Instead, because of a number of unique circumstances, the Agency has been able to develop standards for the management and disposal of these wastes that are both reasonably achievable—with little, if any, effort beyond that already planned for commercial wastes—and that limit risks to levels that the Agency believes are clearly acceptably small. The following paragraphs describe how these various perspectives were used in developing the final rule.

*Standards for Management and Storage (Subpart A)*

Upon surveying the expected performance of the technologies planned for the management, storage, and preparation of these wastes for disposal, the Agency found that the likely exposures to members of the public would generally be very small. Therefore, compatibility with related radiation protection standards became a more important perspective for Subpart A.

For waste management and storage operations to be regulated by the NRC, the most relevant existing standards are those provisions of 40 CFR Part 190 that limit annual exposures of members of the public to 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ from uranium fuel cycle facilities. Accordingly, the Agency has decided to extend this coverage to include such waste management and storage operations so that the *combined* exposure from all of the NRC-licensed facilities covered under Part 190 and Subpart A of Part 191 shall not exceed these limits. This will include all operations prior to final closure at high-level waste disposal facilities, since these are to be regulated by the NRC.

For waste management and storage operations conducted at atomic energy defense facilities operated for the Department of Energy (which are not regulated by the NRC), the most relevant existing standards are the 40 CFR Part 61 limitations on air emissions of radionuclides that were recently promulgated under the Agency's Clean Air Act authorities (50 FR 5190). These standards limit annual exposures to members of the public to 25 millirems to the whole body and 75 millirems to any organ, with less stringent alternative standards available if it can be shown that no member of the public will receive a continuous exposure of more than 100 millirems per year or an infreqent exposure of more than 500 millirems per year from all sources (excluding natural background and medical exposures.) These Clean Air Act standards are applicable to those facilities *not* covered by 40 CFR Parts 190, 191 or 192. For DOE waste disposal facilities covered by this rule but not regulated by NRC (i.e., those for defense transuranic wastes), the Agency has included standards in Subpart A similar to those included in the Clean Air Act rule.

For other DOE waste management and storage operations, which are usually conducted on large facilities with many other potential sources of radionuclide emissions, the Agency believes that continued regulation under the broader scope of 40 CFR Part 61 is the most effective and practical approach. Otherwise, similar types of emissions from adjoining operations would have to be assessed and regulated through separate rules developed under different authorities; this would cause complex implementation practices without providing any additional protection.

*Standards for Disposal (Subpart B)*

Developing the standards for disposal of spent fuel and high-level and transuranic wastes involved much more unusual circumstances than those for waste management and storage. Because these materials are dangerous for so long, very long time frames are of interest. Standards must be implemented in the design phase for these disposal systems because active surveillance cannot be relied upon over such periods. At the same time, the standards must accommodate large uncertainties, including uncertainties in our current knowledge about disposal system behavior and the inherent uncertainties regarding the distant future. Subpart B addresses these issues by combining several different types of standards. The primary objective of these standards is to isolate most of the wastes from man's environment by limiting long-term releases and the associated risks to populations. In addition, Subpart B limits risks to individuals in ways compatible with this primary objective.

Although developed primarily through consideration of mined geologic repositories, these disposal standards apply to disposal of spent fuel and high-level and transuranic radioactive wastes by any method—with one exception. The standards do not apply to ocean disposal or disposal in ocean sediments because such disposal of high-level waste is prohibited by the Marine Protection, Research, and Sanctuaries Act of 1972. If this law is ever changed to allow such disposal (DOE continues to study the feasibility of this technology, consistent with the NWPA), the Agency will develop appropriate regulations in accordance with the different authorities that would apply.

Also, these disposal standards do not apply to wastes that have already been disposed of. The various provisions of Subpart B are intended to be met through a combination of steps involving disposal system site selection, design, and operational techniques (i.e., engineered barriers). Therefore, the Agency believes it appropriate that these disposal standards only apply to disposal occuring after the standards have been promulgated—so that they can be taken into consideration in devising the proper selection of controls. Some transuranic wastes produced in support of national defense programs were disposed of before the current DOE procedures for transuranic waste management were adopted in 1970. The exclusion of wastes already disposed of applies to these transuranic wastes, for which selection of disposal system sites, designs, and operational techniques are no longer options.

*Containment Requirements (Section 191.13)*

To develop the containment requirements, the Agency assumed that some aspects of the future can be predicted well enough to guide the selection and development of disposal systems for these wastes. A period of 10,000 years was considered because that appears to be long enough to distinguish geologic repositories with relatively good capabilities to isolate wastes from those with relatively poor capabilities. On the other hand, this

period is short enough so that major geologic changes are unlikely and repository performance might be reasonably projected.

The Agency assessed the performance of a number of model geologic repositories similar to those systems now being considered by DOE. Potential radionuclide releases over 10,000 years were evaluated, and very general models of environmental transport and a linear, non-threshold dose-effect relationship were used to relate these releases to the incidence of premature cancer deaths they might cause. For the various repository types, these assessments indicate that disposal of the wastes from 100,000 metric tons of reactor fuel would cause a population risk ranging from no more than about ten to a little more than one hundred premature deaths over the entire 10,000-year period, assuming that the existing provisions of 10 CFR Part 60 regarding engineered barriers are met.

The Agency also evaluated the health risks that future generations would be exposed to from the amount of uranium ore needed to produce 100,000 metric tons of reactor fuel, if this ore had not been mined to begin with. Population risks ranging between 10 and 100,000 premature cancer deaths over 10,000 years were associated with this much unmined uranium ore, depending upon the analytical assumptions made.

These analyses, which have been updated from those prepared for the proposed standards, reinforce the Agency's conclusion that limiting radionuclide releases to levels associated with no more than 1,000 premature cancer deaths over 10,000 years from disposal of the wastes from 100,000 metric tons of reactor fuel satisfies two important objectives. First, it provides a level of protection that appears reasonably achievable by the various options being considered within the national program for commercial wastes. Second, the Agency believes that such a limitation would clearly keep risks to future populations at acceptably small levels, particularly because it appears to limit risks to no more than the midpoint of the range of estimated risks that future generations would have been exposed to if the uranium ore used to create the wastes had never been mined. Thus, because mined geologic repositories appear capable of providing such good protection, the Agency has decided to establish containment requirements that meet these two objectives.

The specific release limits for different radionuclides in Table 1 of the final rule were developed by estimating how many curies of each radionuclide would cause 1,000 premature deaths over 10,000 years if released to the environment. The limits were then stated in terms of the allowable release from 1,000 metric tons of reactor fuel (so that the actual curie values in Table 1 correspond to a risk level of 10 premature deaths over 10,000 years). All of these limits have been rounded to the nearest order of magnitude because of the approximate nature of these calculations. For particular disposal systems, release limits based upon the amount of waste in the system will be developed and will be used in a formula that insures that the desired risk level will not be exceeded if releases of more than one type of radionuclide are predicted. For some of the wastes covered by this rule, 1,000 metric tons of reactor fuel is not an appropriate unit of waste. In these situations, the various Notes to Table 1 provide instructions on how to calculate the proper release limits. In particular, the final rule includes provisions for high-level wastes from reactor fuels that have received substantially different uses in national defense applications (and contain much different amounts of radioactivity) than is typical of most reactor fuel used to generate electricity. The proposed rule would have allowed releases for these different types of fuels to occur in much different proportions to their total radioactivity than the Agency intended.

The release limits apply to radionuclides that are projected to move into the "accessible environment" during the first 10,000 years after disposal. The accessible environment includes all of the atmosphere, land surface, surface waters, and oceans. However, it does not include the lithosphere (and the ground water within it) that is below the "controlled area" surrounding a disposal system. The standards are formulated this way because the properties of the geologic media around a mined repository are expected to provide much of the disposal system's capability to isolate these wastes over these long time periods. Thus, a certain area of the natural environment is envisioned to be dedicated to keeping these dangerous materials away from future generations and may not be suitable for certain other uses. In the final rule, this "controlled area" is not to exceed 100 square kilometers and is not to extend more than five kilometers in any direction from the original emplacement of the wastes in the disposal system. The implementing agencies may choose a smaller area whenever appropriate.

The containment requirements apply to accidental disruptions of a disposal system as well as to any expected releases. Accordingly, they are stated in terms of the probability of releases occurring. This is done in two steps.

First, the release limits calculated in accordance with Notes 1 through 5 to Table 1 apply to those release levels that are projected to occur with a cumulative probability greater than 0.1 for the entire 10,000-year period over which these disposal standards apply. This includes the total releases from those processes that are expected to occur as well as relatively likely disruptions (which the Agency assumes will primarily include predictions of inadvertent human intrusion).

Second, these release limits multiplied by ten apply to all of the releases projected to occur with a cumulative probability greater than 0.001 over the 10,000-year period. The Agency expects that this will include releases that might occur from the more likely natural disruptive events, such as fault movement and breccia pipe formation (near soluble media such as salt formations). This range of probabilities was selected to include the anticipated uncertainties in predicting the likelihood of these natural phenomena. Greater releases are allowed for these circumstances because they are so unlikely to occur.

Finally, the containment requirements place no limits on releases projected to occur with a cumulative probability of less than 0.001 over 10,000 years. Probabilities this small would tend to be limited to phenomena such as the appearance of new volcanos outside of known areas of volcanic activity, and the Agency believes there is no benefit to public health or the environment from trying to regulate the consequences of such very unlikely events.

The containment requirements call for a "reasonable expectation" that their various quantitative tests be met. This phrase reflects the fact that unequivocal numerical proof of compliance is neither necessary nor likely to be obtained. A similar qualitative test, that of "reasonable assurance," has been used with NRC regulations for many years. Although the Agency's intent is similar, the NRC phrase has not been used in 40 CFR Part 191 because "reasonable assurance" has come to be associated with a level of confidence that may not be appropriate for the very long-term analytical projections that are called for by 191.13. The use of a different test of judgment is meant to acknowledge the unique considerations likely to be encountered upon implementation of these disposal standards.

*Assurance Requirements (Section 191.14)*

In contrast to the containment requirements, the assurance requirements were developed from that point of view that there may be major uncertainties and gaps in our knowledge of the expected behavior of disposal systems over many thousands of years. Therefore, no matter how promising the analytical projections of disposal system performance appear to be, these materials should be disposed in a cautious manner that reduces the likelihood of unanticipated types of releases. Because of the inherent uncertainties associated with these long time periods, the Agency believes that the principles embodied in the assurance requirements are important complements to the containment requirements that should insure that the level of protection desired is likely to be achieved.

Each of the assurance requirements was chosen to reduce the potential harm from some aspect of our uncertainty about the future. Designing disposal systems with limited reliance on active institutional controls reduces the risks if future generations do not maintain surveillance of disposal sites. On the other hand, planning for long-term monitoring helps reduce the chances that unexpectedly poor performance of a disposal system would go unnoticed. Using extensive markers and records and avoiding resources when selecting disposal sites both serve to reduce the chances that people may inadvertently disrupt a disposal system because of incomplete understanding of its location, design, or hazards. Designing disposal systems to include multiple types of barriers, both engineered and natural, reduces the risks if one type of barrier performs more poorly than current knowledge indicates. Finally, designing disposal systems so that it is feasible for the wastes to be located and recovered gives future generations an opportunity to rectify the situation if new discoveries indicate compelling reasons (which would not be foreseeable now) to change the way these wastes are disposed of.

The proposed standards contained two other assurance requirements intended to reduce the risks of uncertainty. One of them called for these wastes to be disposed of promptly to reduce the uncertainties associated with storing these materials for indefinitely long times with methods that require active human involvement. However—after this rule was published for public comment—the NWPA was enacted, setting up mandates and procedures intended to insure development of the necessary disposal systems for spent fuel and high-level wastes. Furthermore, the Department has made substantial progress towards developing a repository for disposal of the transuranic wastes from atomic energy defense activities. Because of these steps, the Agency decided that the call for prompt disposal was no longer needed, and this assurance requirement has not been included in the final rule.

The other proposed assurance requirement deleted from the final rule is the provision that called for releases to be kept as small as reasonably achievable even when the numerical containment requirements have been complied with. This would have increased the confidence of achieving the desired level of protection even if there were major uncertainties in analytical projections of long-term isolation. However, the Agency does not believe that it is necessary to retain this assurance requirement in the final standards because of two aspects of the related rules subsequently promulgated by the NRC and DOE for disposal of spent fuel and high-level wastes.

First, NRC's 10 CFR Part 60 implemented the multiple barrier principle by requiring very good performance from two types of engineered components: A 300 to 1,000-year lifetime for waste packages during which there would be essentially no expected release of waste, and a subsequent long-term release rate from the waste form of no more than one part in 100,000 per year. The Agency fully endorses this approach and believes that it represents the best performance reasonably achievable for currently foreseeable engineered components. Second, the DOE has included a provision in its site selection guidelines (10 CFR Part 960) that calls for significant emphasis to be placed on selecting sites that demonstrate the lowest releases over 100,000 years compared to the other alternatives available. Particularly because of the longer time frame involved in this comparison, the Agency believes that this provides adequate encouragement to choose sites that provide the best isolation capabilities available. Therefore, the concept of keeping long-term releases as small as reasonably achievable has been embodied by other agencies' regulations for both the engineered and natural components of disposal systems.

The final rule incorporates the five remaining assurance requirements plus the requirement for long-term monitoring, but it makes them applicable only to disposal facilities that are not regulated by the NRC. In its comments on the proposed rule, the NRC objected to inclusion of the assurance requirements, asserting that they were not properly part of the Agency's authorities assigned by Reorganization Plan No. 3 of 1970. The Agency continues to believe that provisions such as the assurance requirements are an appropriate part of generally applicable standards where they are necessary to establish the regulatory context for numerical standards—as they are in these circumstances because of the major uncertainties involved. However, the two agencies have agreed to resolve this issue by having the Commission modify 10 CFR Part 60 where necessary to incorporate the intent of the assurance requirements, rather than have them included in 40 CFR Part 191 for NRC-licensed disposal facilities. Thus, 10 CFR Part 60 will establish the context needed for appropriate implementation of 40 CFR Part 191.

The NRC staff is preparing the appropriate revisions to Part 60 and has told the Agency that they will be published in the Federal Register for public review and comment within approximately 120 days of today's promulgation of 40 CFR Part 191. EPA has provided NRC with all of the comments received on the assurance requirements during the 40 CFR Part 191 rulemaking, and the Agency will participate in the NRC rulemaking to facilitate our objective of having the intent of all of the assurance requirements embodied in Federal regulation. Finally, the Agency will review the record and outcome of the Part 60 rulemaking to determine if any subsequent modifications to 40 CFR Part 191 are needed.

*Individual and Ground Water Protection Requirements (Sections 191.15 and 191.16)*

While the primary objective of both the proposed and final disposal standards has been to limit potential long-term releases from disposal systems (and the population risks associated with such releases), these two sections have been added to the final rule to provide protection for those individuals in the vicinity of a disposal system. There are a number of difficult issues involved in formulating standards for individual protection in this situation, as discussed later in the "Release Limits vs. Individual Dose Limits" section. However, after evaluating the various comments received on this topic, the Agency

believes that there are also important advantages in providing for individual protection in ways compatible with the containment and assurance requirements. In discussing this issue, the SAB Subcommittee stated that: "We support the use of a population risk criteria. We believe it is impractical to provide absolute protection to every individual for all postulated events or for very long periods. On the other hand, in our view it is important that, for the first several hundred years, residents of the region immediately outside the accessible environment have very great assurance that they will suffer no, or negligible, ill effects from the repository."

The individual protection requirements in the final rule limit the annual exposure from the disposal system to a member of the public in the accessible environment, for the first 1,000 years after disposal, to no more than 25 millirems to the whole body or 75 millirems to any organs. These limitations apply to the predicted behavior of the disposal system, including consideration of the uncertainties in predicted behavior, assuming that the disposal system is not disrupted by human intrusion or the occurrence of unlikely natural events. The Agency chose the limits of 25 millirem/year to the whole body and 75 millirem/year to any organ because it believes that they represent a sufficiently stringent level of protection for situations where no more than a few individuals are likely to receive this exposure. If such an individual were exposed to this level over a lifetime (which seems particularly unlikely given the localized pathways through which waste might escape from a geologic repository), the Agency estimates this would cause a $5 \times 10^{-4}$ chance of incurring a premature fatal cancer.

In choosing a time period for these requirements to protect individuals nearby disposal systems, the Agency took into account concerns such as those expressed by the SAB by examining the effects of choosing different time frames. As 10,000 years was chosen for the containment requirements because it is long enough to encourage use of disposal sites with natural characteristics that enhance long-term isolation, 1,000 years was chosen for the individual protection provisions because the Agency's assessments indicate it is long enough to insure that particularly good engineered barriers would need to be used at potential sites where some ground water would be expected to flow through a mined geologic repository. Use of a time much shorter than 1,000 years would not call for substantial engineered barriers even at disposal sites with a lot of ground water flow.

On the other hand, demonstrating compliance with individual exposure limits for times much longer than 1,000 years appears to be quite difficult because of the analytical uncertainties involved. It would require predicting radionuclide concentrations—even from releases of tiny portions of the waste—in all the possible ground water pathways flowing in all directions from the disposal system, at all depths down to 2,500 feet, as a function of time over many thousands of years. At some of the sites being considered (and possibly all of them, depending upon what is discovered during site characterization) the only certain way to comply with such requirements for periods on the order of 10,000 years appears to be to use very expensive engineered barriers that would rule out any potential releases over most of this period. While such barriers could provide longer-term protection for individuals, they would not provide substantial benefits to populations because the containment and assurance requirements already reduce population risks to very small levels.

Based on all of these considerations, the Agency has decided that a 1,000-year duration is adequate for quantitative limits on individual exposures after disposal. For longer time periods, several of the qualitative assurance requirements should help to reduce the chances that individuals will receive serious radiation exposures. In addition, 40 CFR Part 191 in no way limits the future applicability of the Agency's drinking water standards (40 CFR Part 141)—which protect community water supply systems through institutional controls—or of similar standards that future generations may choose to adopt.

In assessing the performance of a disposal system with regard to individual exposures, all pathways of radioactive material or radiation from the disposal system to people shall be considered. In particular, the assessments must assume that individuals consume all of their drinking water (2 liters per day) from any portion of a "significant source of ground water" anywhere outside of the "controlled area" surrounding the disposal system. Significant sources of ground water are defined to include underground formations that are likely to be able to provide enough water for a community water system as defined in 40 CFR Part 141. (More information regarding this definition is provided later in the "Release Limits vs. Individual Dose Limits" discussion.) Formations that could only provide smaller amounts of potable water have not been included because the Agency wants to avoid discriminating against the use of low-productivity geologic formations that might provide very good long-term isolation as disposal sites. The Agency believes this is reasonable for these standards because of the very small number of such disposal facilities that are contemplated (no more than three or four over the next 100 years.) However, the Agency has no plans to use this classification for other ground water related standards, which usually affect a far greater number of situations.

The Agency has not required these individual protection provisions to assume ground water use within the controlled area because geologic media within the controlled area are an integral part of the disposal system's capability to provide long-term isolation. (But if the implementing agency plans to allow individuals to use ground water within the controlled area, such planned use would have to be considered within the pathways evaluated to determine compliance with § 191.15.) The potential loss of ground water resources is very small because of the small number of such disposal facilities contemplated. Nevertheless, the Agency has also added ground water protection requirements to the final rule (Section 191.16) that protect certain sources of ground water even within the controlled area. These ground water protection requirements are similar to the individual protection requirements because they apply to undisturbed performance for 1,000 years after disposal. However, the ground water protection requirements apply only to those Class I ground waters, as they are identified in accordance with the Agency's Ground-Water Protection Strategy published in August 1984, that meet the following three conditions: (1) They are within the controlled area or near (less than five kilometers beyond) the controlled area; (2) they are supplying drinking water for thousands of persons as of the date that the Department selects the site for extensive exploration as a potential location of a disposal system; and (3) they are irreplaceable in that no reasonable alternative source of drinking water is available to that population.

For such Class I ground waters, § 191.16 limits the radionuclide concentrations in water withdrawn from any portion of them to no more than concentration limits similar to those

established for the output of community water systems in 40 CFR Part 141. However, if the preexisting concentrations of radioactivity in the Class I aquifer already exceed any of these limits at a particular site, § 191.16 then limits any *increases* in the preexisting concentrations to these same concentration limits. The Agency believes these provisions are necessary and adequate to avoid any significant degradation of the important drinking water resources provided by these Class I ground waters.

*Alternative Provisions for Disposal (Section 191.17)*

In developing the disposal standards, the Agency has had to make many assumptions about the characteristics of disposal systems that have not been built, about plans for disposal that are only now being formulated, and about the probable adequacy of technical information that will not be collected for many years. Thus, although the Agency believes that the disposal standards being promulgated today are appropriate based upon current knowledge, we cannot rule out the possibility that future information may indicate needs to modify the standards.

In recognition of this possibility, § 191.17 of the final rule sets forth procedures under which the Administrator may develop modifications to Subpart B, should the need arise. Any such changes would have to proceed through the usual notice-and-comment rulemaking process, and § 191.17 stipulates that such a rulemaking would require a public comment period of at least 90 days, to include public hearings in affected areas of the country. Although such procedures are common practice in rulemakings of this type, they are not required by the statutes relevant to this rule (Administrative Procedures Act mandates can be satisfied by a comment period as short as 14 days). Thus, § 191.17 insures an opportunity for significant public interaction regarding any proposed changes to the disposal standards.

There are several areas of uncertainty the Agency is aware of that might cause suggested modifications of the standards in the future. One of these concerns implementation of the containment requirements for mined geologic repositories. This will require collection of a great deal of data during site characterization, resolution of the inevitable uncertainties in such information, and adaptation of this information into probabilistic risk assessments. Although the Agency is currently confident that this will be successfully accomplished, such projections over thousands of years to determine compliance with an environmental regulation are unprecedented. If—after substantial experience with these analyses is acquired—disposal systems that clearly provide good isolation cannot reasonably be shown to comply with the containment requirements, the Agency would consider whether modifications to Subpart B were appropriate.

Another situation that might lead to suggested revisions would be if additional information were developed regarding the disposal of certain wastes that appeared to make it inappropriate to retain generally applicable standards addressing all of the wastes covered by this rule. For example, the DOE is considering disposal of some defense wastes by stabilizing them in their current storage tanks, rather than relocating them to a mined repository. The Agency has not assessed the ramifications of such disposal yet, and it is certainly possible that it could be carried out in compliance with all the provisions of Subpart B being promulgated today. However, it is also possible that there may be benefits associated with such disposal that would warrant changes in Subpart B for these types of waste. If so, § 191.17 would govern the consideration of any such revisions.

Other examples of developments that might offer reasons to consider alternative provisions in the future include: The use of reactor fuel cycles or utilizations substantially different than today's; new models of the environmental transport and biological effects of radionuclides that indicate major changes (i.e., approaching an order of magnitude) in the relative risks associated with different radionuclides and the level of protection sought by the disposal standards; or information that indicates that particular assurance requirements might not be needed in certain situations to insure adequate confidence of long-term environmental protection.

*Guidance for Implementation (Appendix B)*

This supplement to the final rule is based upon some of the analytical assumptions that the Agency made in developing the technical basis used for formulating the numerical disposal standards. These analytical assumptions incorporate information assembled as part of the technical basis used to develop the proposed rule. In particular, Appendix B discusses: (1) The consideration of all barriers of a disposal system in performance assessments; (2) reasonable limitations on the scope of performance assessments; (3) the use of average or "mean" values in expressing the results of performance assessments; (4) the types of assumptions regarding the effectiveness of institutional controls; and (5) limiting assumptions regarding the frequency and severity of inadvertent human intrusion into geologic repositories.

The implementing agencies are responsible for selecting the specific information to be used in these and other aspects of performance assessments to determine compliance with 40 CFR Part 191. However, the Agency believes it is important that the assumptions used by the implementing agencies are compatible with those used by EPA in developing this rule. Otherwise, implementation of the disposal standards may have effects quite different than those anticipated by EPA. The final rule to be published in the Code of Federal Regulations will include this informational appendix as guidance to the implementing agencies. Although the other agencies are not bound to follow this guidance, EPA recommends that it be carefully considered in planning for the application of 40 CFR Part 191. The Agency will monitor implementation of the disposal standards as it develops over the next several years to determine whether any changes to the rule are called for to meet the Agency's objectives for these standards.

**Comments on Issues Highlighted for Public Review**

The Agency particularly requested public comment on six issues associated with the proposed rule (47 FR 58196). After these comments were received, additional comments and information were requested on seven issues raised by the initial comments (48 FR 21666). Two of these seven issues (the definition of high-level waste and the use of individual dose limitations in the disposal standards) had been included among the first six issues that were highlighted. Thus, a total of eleven questions received particular attention during the public review and comment process. The following paragraphs summarize the comments received on each of these issues and the Agency's responses to them, including descriptions of any resulting changes made in the final rule.

*Definition of "High-Level Waste"*

Traditionally, the term "high-level waste" has meant the highly radioactive liquid wastes remaining from the

recovery or uranium and plutonium in a nuclear fuel reprocessing plant, and other liquid or solid forms into which such liquid wastes are converted to facilitate managing them. This traditional use of the term has not included radioactive materials from other sources, no matter how radioactive they are. However, somewhat different definitions of high-level waste have appeared in certain laws and regulations affecting specific aspects of radioactive waste management. Most notably, some of these definitions have included unreprocessed spent fuel as the prospects for a commercial fuel reprocessing industry became more uncertain.

In the proposed rule, high-level waste was defined in the traditional sense, including spent fuel if disposed of without reprocessing. But the proposed definition also included minimum radioactivity concentrations below which such materials would not be subject to the stringent isolation requirements of 40 CFR Part 191. To identify these minimum concentrations, the maximum concentrations that the NRC determined that it would generally accept in near-surface disposal facilities under 10 CFR Part 61 (47 FR 57446) were adapted. Since this represented a modification of the traditional meaning of high-level waste, the Agency particularly sought comment on this aspect of the proposed rule.

Shortly after 40 CFR Part 191 was published for public review, the NWPA was enacted. The NWPA distinguished between spent nuclear fuel and high-level waste, and it defined high-level waste to include both: "(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and (B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation." This definition allow for inclusion of highly radioactive material not related to reprocessing of spent nuclear fuel, and it reflects the concept that some derivatives of nuclear fuel reprocessing may not contain sufficient radioactivity to warrant exceptional isolation.

Many of the comments regarding the proposed definition suggested that EPA adopt the definition in the NWPA, although in response to the specific questions distributed in conjunction with the Agency's public hearings, many responders thought that the Agency should define the phrase "sufficient concentrations" contained in part A of the NWPA definition. However, several commenters argued that the proposed lower limits for high-level waste concentrations had been improperly taken out of the context of 10 CFR Part 61 and could require expensive disposal of wastes with relatively small hazards.

After considering these comments and other information currently available, the Agency decided to incorporate the NWPA definition of high-level waste in the final 40 CFR Part 191 without further elaboration of the phrase "sufficient concentrations." The Agency recognizes that this introduces some uncertainty regarding the applicability of this rule. However, the Commission is now beginning a rulemaking that should assemble the technical information needed to develop a more specific definition of high-level wastes. Since the NRC definition would not necessarily apply to all the situations covered by 40 CFR Part 191 (e.g., management and storage of defense high-level wastes prior to disposal is not regulated by NRC), the Agency will follow the Commission's rulemaking to determine what appropriate elaborations of the NWPA definition should be incorporated into 40 CFR Part 191. Upon completion of the NRC rulemaking, the Agency will initiate steps to appropriately modify this rule. In addition, EPA will address disposal of any radioactive wastes that are not covered by 40 CFR Part 191 or 40 CFR Part 192 (the Agency's standards for disposal of uranium mill tailings) as it considers standards for disposal of low-level radioactive wastes (48 FR 39563).

Finally, incorporating the NWPA definition of high-level waste also includes the phrase "consistent with existing law" when describing the NRC's responsibilities to identify materials as high-level waste. Promulgation of 40 CFR Part 191 with this definition does not signify Agency acceptance or endorsement of any particular interpretation of the phrase "consistent with existing law." The Agency presumes that the Commission will specify the applicability of its existing authorities as it conducts the relevant rulemaking efforts.

*The Level of Protection*

In the proposed rule, the containment requirements for disposal systems limited the residual risks to no more than an estimated 1,000 premature cancer deaths over the first 10,000 years after disposal of the wastes from 100,000 metric tons of heavy metal (MTHM) used as fuel in a nuclear reactor. The Agency pointed out that a variety of mined repository designs using different combinations of geologic media and engineered controls were expected to meet these requirements. It was also estimated that the residual risks to future generations appeared to be no greater than if the uranium ore used to create the wastes had not been mined. EPA particularly asked for comment on whether it had taken an appropriate and reasonable approach in choosing this level of protection based upon these considerations.

Most of the public comments found this approach satisfactory. However, some commenters argued that the risks from unmined uranium ore did not necessarily define an acceptably low level of residual risks. They pointed out that such risks may vary from place to place (and a high-level waste repository could "redistribute" them) and that society sometimes does take measures to clean-up naturally-occurring radioactivity, implying that such natural risks are not always "acceptable."

On the other hand, some commenters felt that the level of protection sought in the proposed rule was far too stringent when compared to risks allowed and accepted by society from other activities. For example, the SAB Subcommittee recommended that the desired level of protection be relaxed by at least a factor of ten for this reason, coupled with the Subcommittee's concern that the uncertainties in analytical projections over thousands of years could make it difficult to demonstrate compliance with the proposed containment requirements.

After evaluating the public comments and updated performance assessments of geologic repositories, the Agency has retained the proposed level of protection as the basis for the long-term containment requirements in the final rule—even though it is true that long-term assessments of repository performance will encounter substantial uncertainties, as the SAB Subcommittee pointed out. Three reasons support this decision.

First, revising the performance assessments in accordance with many of the technical recommendations of the SAB has reinforced the Agency's conclusion that the proposed level of protection can reasonably be achieved by a variety of combinations of repository sites and designs—and EPA's regulatory impact analyses indicate that this level of protection can be achieved without significant effects on the cost of disposing of these wastes.

Second, comparing this level of protection with the comparable risks

from equivalent amounts of unmined uranium ore continues to reinforce the Agency's belief that this is an acceptably small residual risk for future generations. Therefore, the Agency believes that this level of protection represents a reasonable basis for these disposal standards.

Third, rather than relax the level of protection, the Agency has chosen to address the uncertainties that concerned the SAB Subcommittee by adding § 191.13(b) and by providing a more detailed "Guidance for Implementation" section to replace the proposed "Procedural Requirements." For example, this guidance points out that the entire range of possible projections of releases need not meet the containment requirements. Rather, compliance should be based upon the projections that the implementing agencies believe are more realistic. Furthermore, these revisions acknowledge that the quantitative calculations needed may have to be supplemented by reasonable qualitative judgments in order to appropriately determine compliance with the disposal standards.

In retaining the proposed level of protection, the Agency emphasizes that it is making a decision applicable only to the circumstances involving disposal of spent nuclear fuel and high-level and transuranic wastes. This rule cannot be used to establish precedents such as "no incremental risk to future generations" for extrapolation to other disposal problems. For other situations, evaluations of technological feasibility and cost-effectiveness must be considered for the particular set of circumstances. If mined geologic repositories were not capable of providing such good protection, the Agency might have chosen considerably different standards.

*Time Period for Containment Requirements*

Many commenters addressed the 10,000-year period used for the proposed containment requirements. A few argued that this period was too long and that EPA should only be concerned with a few hundred to a thousand years. A number of commenters supported the focus on 10,000 years. However, many commenters felt that it was inappropriate for the standards to ignore the period after 10,000 years. Some suggested that the containment requirements should address periods ranging from 50,000 to 500,000 years.

In the proposed rule, the Agency indicated that 10,000 years was chosen, in part, because compliance with quantitative standards for a substantially longer period would have entailed considerably more uncertain calculations. There was no intention to indicate that times beyond 10,000 years were unimportant, but the Agency felt that a disposal system capable of meeting the proposed containment requirements for 10,000 years would continue to protect people and the environment well beyond 10,000 years. The SAB Subcommittee reviewed and supported these technical arguments for limiting the containment requirements to a 10,000-year period. Those commenters who argued for longer periods did not suggest effective ways that might compensate for the substantially greater uncertainties inherent in longer projections of disposal system performance.

However, many of the commenters and the SAB Subcommittee suggested that more qualitative or comparative assessments beyond 10,000 years might be appropriate. The Agency agreed with these comments and worked with the DOE to formulate comparative assessment provisions that have been incorporated into the final version of the Department's site selection guidelines (10 CFR Part 960). These provisions call for comparisons of the projected releases from undisturbed performance of alternative repository sites over 100,000 years to be a significant consideration in site selection. Since natural barriers are expected to provide the primary protection for such long time frames, this provision should allow for appropriate consideration of longer time periods without requiring the absolute values of these very uncertain calculations to meet a specific quantitative test. With the inclusion of this comparative test in 10 CFR Part 960, the Agency believes that no modification is needed in 40 CFR Part 191.

*Use of Quantitative Probabilities in the Containment Requirements*

The containment requirements in the proposed rule applied to two categories of potential releases ("reasonably foreseeable" and "very unlikely") based upon their projected probabilities of occurrence over the first 10,000 years after disposal. In its comments on the proposed rule, the NRC objected to the proposed quantitative definitions of these probabilities on the basis that calculation of such probabilities could be so uncertain that it would be impractical to determine whether the standards had been complied with. Instead, the NRC suggested substitution of qualitative terms to identify the two categories of potential releases. The wording proposed by the NRC was formulated in terms of releases that might be caused by geologic processes and events.

In the second round of comment, the Agency sought information on whether to adopt the NRC's recommended wording or to retain definitions based on quantitative probabilities. Although a number of commenters agreed with the NRC position, the preponderance of comments supported retention of the quantitative probabilities. The SAB Subcommittee strongly supported retention of the probabilistic structure, but with substantially less restrictive probabilities and with the proviso that the Agency be sure that such conditions would be ". . . practical to meet and [would] not lead to serious impediments, legal or otherwise, to the licensing of high-level waste repositories." After considering all of this information, the Agency has revised the structure of the containment requirements in several ways that will retain quantitative objectives for long-term containment while allowing the implementing agencies enough flexibility to make qualitative judgments when necessary.

First, the final rule does not use the terms "reasonably foreseeable" and "very unlikely" releases. Instead, the permissible probabilities for two different levels of cumulative releases (over 10,000 years after disposal) are now incorporated directly into the containment requirements.

Second, the numerical probabilities associated with the two release categories have been increased by an order of magnitude to reflect further assessments of the uncertainties associated with projecting the probabilities of geologic events such as fault movement.

Third, the final rule clearly indicates that comprehensive performance assessments, including estimates of the probabilities of various potential releases whenever meaningful estimates are practicable, are needed to determine compliance with the containment requirements.

Fourth, a paragraph has been added to the final containment requirements (Section 191.13) to emphasize that unequivocal proof of compliance is neither expected nor required because of the substantial uncertainties inherent in such long-term projections. Instead, the appropriate test is a reasonable expectation of compliance based upon practically obtainable information and analysis. This paragraph was patterned after a paragraph that considered similar issues in NRC's 10 CFR Part 60.

Finally, the "Guidance for Implementation" section has been

added (Appendix B). This part of the rule describes the Agency's assumptions regarding performance assessments and uncertainties and should discourage overly restrictive or inappropriate implementation of the containment requirements.

The Agency believes that these revisions to the proposed rule preserve an objective framework for application of the containment requirements that requires very stringent isolation while allowing the implementing agencies adequate flexibility to handle specific uncertainties that may be encountered.

Within this framework, the possibility of inadvertent human intrusion into or nearby a repository requires special attention. Such intrusion can significantly disrupt the containment afforded by a geologic repository (as well as being dangerous for the intruders), and repositories should be selected and designed to reduce the risks from such potential disruptions. However, assessing the ways and the reasons that people might explore underground in the future—and evaluating the effectiveness of passive controls to deter such exploration near a repository—will entail informed judgment and speculation. It will not be possible to develop a "correct" estimate of the probability of such intrusion. The Agency believes that performance assessments should consider the possibilities of such intrusion, but that limits should be placed on the severity of the assumptions used to make the assessments. Appendix B to the final rule describes a set of parameters about the likelihood and consequences of inadvertent intrusion that the Agency assumed were the most pessimistic that would be reasonable in making performance assessments. The implementing agencies may adopt these assumptions or develop similar ones of their own. However, as indicated under the discussion of institutional controls, the Agency does not believe that institutional controls can be relied upon to completely eliminate the possibility of inadvertent intrusion.

*Definition of "Accessible Environment"*

The containment requirements limit releases to the "accessible environment" for 10,000 years after disposal. In the proposed rule, ground water within 10 kilometers of a disposal system was excluded from the definition of accessible environment. This definition was intended to reflect the concept that the geologic media surrounding a mined repository are part of the long-term containment system, with disposal sites being selected so that the surrounding media prevent or retard transport of radionuclides through ground water. Such surrounding media would be dedicated for this purpose, with the intention to prohibit incompatible activities (either those that might disrupt the disposal system or those that could cause significant radiation exposures) in perpetuity. Applying standards to the ground water contained within these geologic media surrounding a repository would ignore the role of this natural barrier, and it could reduce the incentive to search for sites with characteristics that would enhance long-term containment of these wastes. (At the same time, the Agency recognized that the institutional controls designed to reserve this area around a disposal system cannot be considered infallible, and other provisions of the rule are designed to reduce the consequences of potential failures.)

Many commenters objected to the definition of accessible environment incorporated in the proposed rule. Some recommended that all ground water, or all "potable" ground water, should be included. Others agreed that it was appropriate to exclude some ground water in the immediate vicinity of a repository, but argued that the proposed 10-kilometer distance was too long—particularly for ground water sources that were likely to be used in the future. A few commenters thought that the proposed definition was too restrictive by including all ground water beyond 10 kilometers; they suggested that poor quality ground water sources unlikely to be used in the future should not be part of the accessible environment at all.

After considering these comments, the Agency has decided to make several changes in the definition of the "accessible environment." First, the concept of a "controlled area" has been adopted from NRC's 10 CFR Part 60. This establishes an area around a disposal system that is to be identified by markers, records, and other passive institutional controls intended to prohibit incompatible activities from the area. Consistent with the proposed 40 CFR Part 191, the current NRC definition of "controlled area" limits its distance from the edge of a repository to no more than 10 kilometers. The final 40 CFR Part 191 defines "accessible environment" to include: (1) The atmosphere, land surfaces, surface waters, and the oceans, wherever they are located; and (2) portions of the lithosphere—and the ground water within it—that are beyond the controlled area.

Second, the Agency has made the definition of the "controlled area" more restrictive than that currently incorporated in 10 CFR Part 60. This revised definition limits the controlled area to a distance no greater than five kilometers from the original emplacement of wastes in a disposal system, rather than 10 kilometers. Furthermore, the revised definition limits the area encompassed by the controlled area to no more than 100 square kilometers, which is approximately the area that would be encompassed by a controlled area at a distance of three kilometers from all sides of a typical repository configuration. (A distance of five kilometers from all sides of a typical repository would correspond to an area of about 200 square kilometers, whereas a distance of ten kilometers from all sides corresponds to an area of almost 500 square kilometers.) This revised definition substantially reduces the area of the lithosphere that would have been removed from the "accessible environment" defined in the proposed rule, and it somewhat reduces the distance used in the proposed rule. The five-kilometer distance was chosen to retain reasonable compatibility with the NRC's requirement for a preemplacement ground water travel time of 1,000 years to the accessible environment (one of the 10 CFR Part 60 requirements developed in concert with the proposed rule), while still providing for greater isolation than called for by the proposed rule. This definition of the accessible environment will allow a controlled area to be established asymmetrically around a repository based upon the particular characteristics of a site.

*Release Limits vs. Individual Dose Limits*

The Agency believes that the containment requirements in § 191.13 will insure that the overall population risks to future generations from disposal of these wastes will be acceptably small. However, the situation with regard to potential individual doses is more complicated. Even with good engineering controls, some waste may eventually (i.e., several hundreds or thousands of years after disposal) be released into any ground water that might be in the immediate vicinity of a geologic repository. Since ground water generally provides relatively little dilution, anyone using such contaminated ground water in the future may receive a substantial radiation exposure (e.g., several rems per year or more). This possibility is inherent in collecting a very large amount of radioactivity in a small area.

The proposed rule did not contain any numerical restrictions on such potential individual doses after disposal. Rather, the proposal relied on several of the qualitative assurance requirements to greatly reduce the likelihood of such exposures. In particular, the assurance requirement calling for extensive permanent markers and records was intended to perpetuate information to future generations about the dangers of intruding into the vicinity of a repository. The assurance requirement to avoid sites with significant resources was intended to reduce the incentive to explore around a repository even if the information passed on was ignored or misunderstood. And the assurance requirements to use multiple barriers, both engineered and natural, and to keep releases as small as reasonably achievable were intended to encourage reduction of releases to ground water beyond that needed to meet the containment requirements—further reducing the potential for harmful individual exposures.

This approach to potential individual exposures was highlighted for comment when 40 CFR Part 191 was proposed. After receiving many recommendations to incorporate a limitation on individual doses after disposal, the Agency sought comment on further details of such a limitation in the second round of comments. For example, EPA asked whether such a limitation should apply to ground water use, whether it should apply only for ground water at some distance from a geologic repository or for any ground water source, and whether reliance on existing individual dose limitations (such as 40 CFR Part 141 or 10 CFR Part 20) for protection regarding ground water would be adequate.

The responses resulting from these questions offered a wide range of suggestions. A number of commenters opposed inclusion of an individual dose limitation for disposal on the grounds that calculations to judge compliance with such a standard would be highly speculative and not an appropriate basis upon which to judge the adequacy of a disposal system. In contrast, some other commenters argued that an individual dose standard in the 5 to 25 millirems per year range should apply to use of ground water in the accessible environment for an indefinitely long period into the future. Another group of commenters supported inclusion of some limitation on individual exposure, but only to the extent that it would not compromise the primary intent of long-term isolation and containment of the wastes.

These comments did not offer information that changed the Agency's perception of some of the problems associated with individual dose limitations for disposal. First, relying *only* upon an individual dose standard for disposal could encourage disposal methods that would enhance dilution of any wastes released. Thus, disposal sites near bodies of surface water or large sources of ground water might be preferred—which the Agency believes is an inappropriate policy that would usually increase overall population exposures.

This concern could be met by *adding* an individual dose limitation to the proposed containment requirements, rather than replacing them. However, the Agency's performance assessments of geologic repositories indicate that doses from using ground water close to a repository can become substantial (e.g., several rems per year) after a few hundred or thousand years, because the geological and geochemical characteristics of appropriate sites tend to concentrate eventual releases of wastes in any ground water that is close to the site. A study published by the National Academy of Sciences in April 1983 confirms this potential for large individual doses if flowing ground water can contact the wastes after the waste canisters are presumed to start leaking. Although it might be possible to find certain geologic settings that avoid this problem, such restrictive siting prerequisites could substantially delay development of disposal systems without providing significantly more protection to populations. Furthermore, even if reasonable limitations on individual exposure might be met at certain sites for very long times, demonstrating compliance with such limitations could be very difficult because of the additional complexities involved in estimating individual exposures rather than amounts of radioactivity released. The SAB Subcommittee report generally agreed with the technical aspects of these conclusions.

On the other hand, analyses of repository systems with good engineering controls show that they should be able to prevent significant doses from ground water use for at least a thousand years after disposal. Such protection would be compatible with both the proposed containment and assurance requirements. Accordingly, the SAB Subcommittee recommended that the Agency include a requirement limiting individual doses for the first 500 years after disposal, and one of the States that commented on the proposed rule suggested an individual dose limit for 1,000 years after disposal.

After considering all of this information, the Agency has decided to include two new sections in the final rule. The first (Section 191.15) limits exposures to members of the public after disposal, while the second (Section 191.16) limits concentrations in water withdrawn from certain important sources of ground water after disposal.

The individual protection requirements in § 191.15 limit exposures from a disposal system to individuals in the accessible environment to 25 millirems per year to the whole body and 75 millirems per year to any organ. These limits apply only to undisturbed performance of the disposal system (i.e., without any consideration of human intrusion or disruption by unlikely natural events), and they apply for the first 1,000 years after disposal. All potential pathways of radiation or radioactive material from the disposal system to people (associated with undisturbed performance) shall be considered, including the assumption that an individual drinks two liters per day of water from any "significant source of ground water" outside of the "controlled area" surrounding a disposal system. If the implementing agency plans to allow individuals to use ground water within the controlled area, such planned use would also have to be considered within the pathways evaluated to determine compliance with § 191.15.

"Significant sources of ground water" are defined to include any aquifer currently providing the primary source of water for a community water system or any aquifer that satisfies all of the following five conditions: (1) It is saturated with water containing less than 10,000 milligrams per liter of total dissolved solids; (2) it is within 2,500 feet of the land surface; (3) it has a transmissivity of a least 200 gallons per day per foot, provided that (4) each of the underground formations or parts of underground formations included within the aquifer must have an individual hydraulic conductivity greater than 2 gallons per day per square foot; and (5) it must be capable of providing a sustained yield of 10,000 gallons per day of water to a pumped or flowing well.

Although such quantitative distinctions are inevitably somewhat arbitrary, the Agency believes that they provide reasonable demarcations to identify underground formations that could meet the needs of community water systems in the future. The selected transmissivity of 200 gallons per day per foot and the sustained yield

of 10,000 gallons per day roughly correspond to the size of a ground water source required to support the needs of about 20 households; this is similar to the size of the community water system considered in 40 CFR Part 141. The water quality criterion of 10,000 milligrams per liter of total dissolved solids has been used in several previous Agency regulations and is based upon congressional guidance in the legislative history of the Safe Drinking Water Act. The maximum depth criterion of 2,500 feet was chosen because almost all of the wells used to provide water to significant numbers of people do not extend below this depth. The minimum hydraulic conductivity criterion of 2 gallons per day per square foot was chosen to insure that only reasonably permeable formations are considered, rather than including unproductive formations that might be in the vicinity of a "significant source of ground water."

The ground water protection requirements in § 191.16(a) limit the concentrations in water withdrawn from any "special source of ground water" in the vicinity of a disposal system to concentrations similar to those established for the output of community water systems by 40 CFR Part 141: (1) 5 picocuries per liter of radium-226 and radium-228; (2) 15 picocuries per liter of alpha-emitting radionuclides (including radium-226 and radium-228 but excluding radon); or (3) the combined concentrations of radionuclides that emit either beta or gamma radiation that would produce an annual dose equivalent to the total body or any internal organ greater than 4 millirems per year if an individual continuously consumed 2 liters per day of drinking water from that source of water. However, if the preexisting radionuclide concentrations in the special source of ground water already exceed any of these limits, then § 191.16(b) limits any *increases* in the preexisting concentrations to the concentration limits set in § 191.16(a). Like the individual protection requirements, the ground water protection requirements apply only for undisturbed performance of the disposal system and apply for the first 1,000 years after disposal. Unlike the individual protection requirements, the ground water requirements would apply to a "special source" if it was within the controlled area.

"Special sources" are defined to include only those Class I ground waters—to be identified in accordance with the Agency's Ground-Water Protection Strategy published in August 1984—that meet the following three conditions: (1) They are within the controlled area or near (less than five kilometers beyond) the controlled area; (2) they are supplying drinking water for thousands of persons as of the date that the Department selects the site for extensive exploration as a potential location of a disposal system; and (3) they are irreplaceable in that no reasonable alternative source of drinking water is available to that population.

*Need for the Assurance Requirements*

The preceding issues dealt with the quantitative requirements of the disposal standards. While numerical standards are important to bring about appropriate selection and design of disposal systems, the Agency has long recognized that the numerical standards chosen for Subpart B, by themselves, do not provide either an adequate context for environmental protection or a sufficient basis to foster public confidence in the national program. There are too many uncertainties in projecting the behavior of natural and engineered components for many thousands of years—and too many opportunities for mistakes or poor judgments in such calculations—for the numerical requirements on overall system performance in Subpart B to be the sole basis to determine the acceptability of disposal systems for these very hazardous wastes. These uncertainties and potential errors in quantitative analysis could ultimately prevent the degree of protection sought by the Agency from being achieved. (Theoretically, it might be possible to develop adequate confidence in achieving this level of protection by choosing much more stringent numerical standards, but this could lead to substantial difficulties in implementation.) Therefore, the proposed standards also included qualitative assurance requirements chosen to ensure that cautious steps are taken to reduce the problems caused by these uncertainties. The proposed rule emphasized that the assurance requirements were an essential complement to the quantitative containment requirements that were selected.

In its comments on the proposed rule, the NRC argued that the assurance requirements were not properly part of the Agency's generally applicable standards. The Commission agreed that the overall numerical performance standards were not sufficient, but suggested that its regulations and procedures were the appropriate vehicle to provide the necessary confidence that the inherent uncertainties would not compromise environmental protection. The Agency believes that it does have the authority to give regulatory expression to the context within which it has chosen to establish one set of numerical standards rather than another. However, because it might not be appropriate to exercise this authority, the Agency sought public comment on the need for the assurance requirements in the second round of comments.

The preponderance of comments received on this question strongly supported retention of the assurance requirements in 40 CFR Part 191. In particular, virtually all of the various State governments that commented on the rule described the assurance requirements as an essential part of the regulations governing disposal of these wastes. Subsequently, two of these States, Nevada and Minnesota, petitioned the Commission to incorporate the assurance requirements proposed as part of 40 CFR Part 191 into its own rules (50 FR 18267).

Based upon these comments, the Agency and the NRC have reached an agreement that should accomplish the desired regulatory goals while avoiding the jurisdictional issue. EPA has included the assurance requirements in the final rule, modified as appropriate in response to other comments. However, these requirements will not be applicable to disposal facilities to be licensed by the Commission. Instead, as discussed previously, the NRC staff plans to propose modifications to 10 CFR Part 60, developed in consultation with EPA, for public review and comment within approximately 120 days to insure that the objectives of all of the assurance requirements in 40 CFR Part 191 will be accomplished through compliance with 10 CFR Part 60. The Agency has provided the Commission with all of the comments received by EPA regarding the assurance requirements, so that the NRC can use them in its rulemaking. In addition, the Agency will participate in the NRC rulemaking to facilitate incorporation of the principles of all of the assurance requirements in Federal regulation. Finally, the Agency will review the record and outcome of the Part 60 rulemaking to determine if any subsequent modifications to 40 CFR Part 191 are needed.

*Approach Toward Institutional Controls*

The Agency particularly sought comment on its proposed approach to reliance on institutional controls. The proposed rule limited reliance on "active institutional controls" (such as controlling access to a disposal site,

performing maintenance operations, or cleaning up releases) to a reasonable period of time after disposal, described as on the order of a "few hundred years." On the other hand, "passive institutional controls" (such as permanent markers, records, archives, and other methods of preserving knowledge) were considered to be at least partially effective for a longer period of time.

Few commenters argued with the distinction between active and passive institutional controls, or with the amount of reliance the proposed rule envisioned for passive controls. However, many commenters felt that "a few hundred years" was too long a period to count on active controls. Accordingly, the final rule limits reliance on active institutional controls to no more than 100 years after disposal. This was the time period the Agency considered in criteria for radioactive waste disposal that were proposed for public comment in 1978 (43 FR 53262), a period that was generally supported by the commenters on that proposal. After this time, no contribution from any of the active institutional controls can be projected to prevent or limit potential releases of waste from a disposal system.

The concept of passive institutional controls has now been incorporated into the definition of "controlled area" that is used to establish one of the boundaries for applicability of the containment requirements and the individual protection requirements in the final rule. Because the assumptions made about the effectiveness of passive institutional controls can strongly affect implementation of the containment requirements, the Agency's intent has been elaborated in the "guidance for implementation" section. The Federal Government is committed to retaining control over disposal sites for these wastes as long as possible. Accordingly (and in compliance with one of the assurance requirements), an extensive system of explanatory markers and records will be instituted to warn future generations about the location and dangers of these wastes. These passive controls have not been assumed to prevent all possibilities of inadvertent human intrusion, because there will always be a realistic chance that some individuals will overlook or misunderstand the markers and records. (For example, exploratory drilling operations occasionally intrude into areas that clearly would have been avoided if existing information had been obtained and properly evaluated.) However, the Agency assumed that society in general will retain knowledge about these wastes and that future societies should be able to deter systematic or persistent exploitation of a disposal site.

The Agency also assumed that passive institutional controls should reduce the chance of inadvertent intrusion compared to the likelihood if no markers and records were in place. Specific judgments about the chances and consequences of intrusion should be made by the implementing agencies when more information about particular disposal sites and passive control systems is available. The parameters described in the "guidance for implementation" represent the most severe assumptions that the Agency believed were reasonable to use in its analyses to evaluate the feasibility of compliance with this rule (analyses that are summarized in the BID). The implementing agencies are free to use other assumption if they develop information considered adequate to support those judgments.

The role envisioned for institutional controls in this rulemaking has been adapted from the general approach the Agency has followed in its activities involving disposal of radioactive wastes since the initial public workshops conducted in 1977 and 1978. The Agency's overall objective has been to protect public health and the environment from disposal of radioactive wastes without relying upon institutional controls for extended periods of time—because such controls do not appear to be reliable enough over the very long periods that these wastes remain dangerous. Instead, the Agency has pursued standards that call for isolation of the wastes through the physical characteristics of disposal system siting and design, rather than through continuing maintenance and surveillance. This principle was enunciated in the general criteria published for public comment in 1978 (43 FR 53262), and it has been incorporated into the Agency's standards for disposal of uranium mill tailings (48 FR 590, 48 FR 45926).

This approach has been tailored to fit two circumstances associated with mined geologic repositories. First, 40 CFR Part 191 places containment requirements on a broad range of potential unplanned releases as well as the expected behavior of the disposal system. Therefore, determining compliance with the standards involves performance assessments that consider the probabilities and consequences of a variety of disruptive events, including potential human intrusion. Not allowing passive institutional controls to be taken into account to some degree when estimating the consequences of inadvertent human intrusion could lead to less protective geologic media being selected for repository sites. The Agency's analyses indicate that repositories in salt formations have particularly good capabilities to isolate the wastes from flowing ground water and, hence, the accessible environment. However, salt formations are also relatively easy to mine and are often associated with other types of resources. If performance assessments had to assume that future societies will have no way to ever recognize and limit the consequences of inadvertent intrusion (from solution mining of salt, for example), the scenarios that would have to be studied would be more likely to eliminate salt media from consideration than other rock types. Yet, this could rule out repositories that may provide the best isolation, compared to other alternatives, if less pessimistic assumptions about survival of knowledge were made.

The second circumstance that the Agency considered in evaluating the approach towards institutional controls taken in this rule is the fact that the mined geologic repositories planned for disposal of the materials covered by 40 CFR Part 191 are different from the disposal systems evisioned for any other types of waste. The types of inadvertent human activities that could lead to significant radiation exposures or releases of material from geologic repositories appear to call for much more intensive and organized effort than those which could cause problems at, for example, an unattended surface disposal site. It appears reasonable to assume that information regarding the disposal system is more likely to reach (and presumably deter) people undertaking such organized efforts than it is to inform individuals involved in mundane activities.

These considerations led the Agency to conclude that a limited role for passive institutional controls would be appropriate when projecting the long-term performance of mined geologic repositories to judge compliance with these standards. However, such assumptions would not necessarily be applicable to other Agency actions where different issues are involved.

*Avoiding Sites With Natural Resources*

The proposed rule contained an assurance requirement that would have prohibited use of sites where there is a reasonable expectation that future exploration for scarce or easily

accessible resources might occur. The comments received on this issue generally agreed that sites with resources should be avoided. However, some commenters suggested that the requirement should be more restrictive, to include "potentially accessible" resources. Other commenters argued that the Agency should be less restrictive regarding sites with possible resource potential—discouraging but not prohibiting their use—because other attributes of the site might overcome the relative disadvantages presented by resource potential.

After considering these comments, the Agency agreed with the latter viewpoint. This judgment was reinforced by the belief that disposal sites should be chosen after comparative evaluation of a variety of alternatives, and the proposed assurance requirement could have inhibited this process. Therefore, this assurance requirement has been revised in the final rule to identify resource potential as a disincentive but not as an outright prohibition for site selection. Instead, the revised assurance requirement states that places with resource potential shall not be used "unless the favorable characteristics of such places compensate for their greater likelihood of being disturbed in the future."

This wording implies a qualitative comparison, because the Agency is not aware of quantitative formulas comprehensive enough to provide adequate comparisons to govern site selection. However, the Agency does not intend that sites with resource potential can be used merely upon identification of a few features that might be more favorable than at a site without significant resources. Rather, sites with resources should only be used if it is reasonably certain that they would provide better *overall* protection than the practical alternatives that are available.

The following example illustrates the effect of the change in this assurance requirement. When discussing the proposed assurance requirement, the Agency implied that disposal in salt domes might not be acceptable because such formations seemed more likely than others to attract exploration in the future. The modification of this assurance requirement in the final rule means that salt domes should not be peremptorily removed from consideration, but should be compared against all of the characteristics of alternative sites in terms of the overall environmental protection expected.

*Long-Term Monitoring*

The proposed rule addressed active institutional controls over a disposal site only in a negative sense—to prohibit reliance upon them for more than a few hundred years after disposal. The Agency's intent was to be sure that long-term protection of the environment did not depend upon positive actions by future generations. Almost all commenters agreed with this intent, although many suggested a shorter period of reliance was appropriate (see the preceding discussion under "Approach Towards Institutional Controls").

However, several commenters (including most of the States) also urged addition of a requirement for long-term monitoring of a repository after disposal. This view did not deny the need to select and design disposal systems without depending upon active controls in the future. However, it broadened this perspective by arguing that a disposal system so designed should still be monitored for a long time after disposal to guard against unexpected failures.

The Agency had not considered this viewpoint in developing the proposed rule. Accordingly, further information on this idea was sought during the "second round" of public comment, and the Agency surveyed the capabilities and expectations of long-term monitoring approaches. Evaluating this information led the Agency to several conclusions:

(1) Perhaps most importantly, the techniques used for monitoring after disposal must not jeopardize the long-term isolation capabilities of the disposal system. Furthermore, plans to conduct monitoring after disposal should never become an excuse to relax the care with which systems to isolate these wastes must be selected, designed, constructed, and operated.

(2) Monitoring for radionuclide releases to the accessible environment is not likely to be productive. Even a poorly performing geologic repository is very unlikely to allow measurable releases to the accessible environment for several hundreds of years of more, particularly in view of the engineered controls needed to comply with 10 CFR Part 60. A monitoring system based only on detecting radionuclide releases—a system which would almost certainly not be detecting anything for several times the history of the United States—is not likely to be maintained for long enough to be of much use.

(3) Within the above constraints, however, there are likely to be monitoring approaches which may, in a relatively short time, significantly improve confidence that a repository is performing as intended. Two examples are of particular interest. One involves the concept of monitoring ground water sources at a variety of distances for benign tracers intentionally released to the ground water in the repository; this approach can evaluate the delay involved in ground water movement from the repository to the environment and can serve to validate expectations of the performance expected from the system's natural barriers. Another concept involves monitoring the small uplift of the land surface over the repository in order to validate predictions of the system's thermal behavior. Both of these approaches can be carried out without enhancing pathways for the wastes to escape from the repository.

Based on these conclusions and the public comments on this question, the Agency has included a provision for long-term monitoring after disposal in the assurance requirements of the final rule: "Disposal systems shall be monitored after disposal to detect substantial and detrimental deviations from expected performance. This monitoring shall be done with techniques that do not jeopardize the isolation of the wastes and shall be conducted until there are no significant concerns to be addressed by further monitoring." This new provision is consistent with the overall intent of the assurance requirements: To take prudent and cautious steps necessary to minimize the risks posed by the inherent uncertainties in expectations of the future. Beyond this broad mandate, however, the Agency has not specified the details of a monitoring program. That is properly left to the implementing agencies. Furthermore, the precise objectives of an appropriate monitoring program probably should not be spelled out until much more information is gathered about the characteristics and expected behavior of specific sites and designs.

*Ability To Recover Wastes After Disposal*

The proposed rule included an assurance requirement that recovery of these wastes be feasible for "a reasonable period of time" after disposal. The Agency specifically sought comment on whether this was a desirable provision, since it would rule out certain disposal concepts, such as deep-well injection of liquid wastes. The comments received were split about evenly between those who thought the provision should be retained and those who thought it was detrimental to the overall rule. Many of those who opposed

the requirement argued that it would encourage designing a geologic repository to make retrieving waste relatively easy—which might compromise the isolation capabilities of the repository or which might encourage recovery of the waste to make use of some intrinsic value it might retain (the potential energy content of spent nuclear fuel, for example).

The intent of this provision was not to make recovery of waste easy or cheap, but merely possible in case some future discovery or insight made it clear that the wastes needed to be relocated. EPA reiterates the statement in the preamble to the proposal that *any* current concept for a mined geologic repository meets this requirement *without* any additional procedures or design features. For example, there is no intent to require that a repository shaft be kept open to allow future recovery. To meet this assurance requirement, it only need be technologically feasible (assuming current technology levels) to be able to mine the sealed repository and recover the waste—albeit at substantial cost and occupational risk. The Commission's requirements for multiple engineered barriers within a repository (10 CFR Part 60) adequately address any concerns about the feasibility of recovering wastes from a repository.

Therefore, this provision should not have any effect upon plans for mined geologic repositories. Rather, it is intended to call into question any other disposal concept that might not be so reversible—because the Agency believes that future generations should have options to correct any mistakes that this generation might unintentionally make. Almost all of the commenters agreed with the validity of this objective. Accordingly, the Agency has decided to retain this assurance requirement in the final rule as proposed.

**Health Impacts of 40 CFR Part 191**

*Waste Management and Storage.* Waste management and storage activities conducted in accordance with Subpart A would limit the maximum risk to a member of the public in the general environment to a $5 \times 10^{-4}$ chance of incurring a premature fatal cancer over a lifetime. Of course, a risk this large would exist only for an individual continuously exposed to the full amount of the dose limits over his or her lifetime. Because the Agency believes that such continuous exposure is very unlikely, the actual risks to individuals are expected to be much lower. It is theoretically possible under the final rule that an individual could be exposed to 25 millirems per year (to the whole body) from *both* an NRC-licensed facility and a DOE facility not licensed by NRC, for a total of 50 millirem/year. However, the Agency believes that this is particularly improbable and does not foresee a significant public health impact from this possibility.

*Waste Disposal.* A disposal system complying with Subpart B would confine almost all of the radioactive wastes to the immediate vicinity of the repository for a very long time. Because the wastes would be so well isolated from the environment, the Agency is confident that any risks to future populations would be very small. Similarly, risks to most future individuals would also be very small (and effectively zero in almost all cases)—except for the possibility that an individual in the distant future might use ground water from the vicinity of a repository. In this case, there is a chance that such an individual might receive a substantial exposure. The following paragraphs describe the possible health impacts of the residual risks from a disposal system that would be in compliance with 40 CFR Part 191.

*Population Risks:* With regard to exposure of populations, the Agency has estimated the potential long-term health risks to future generations from various types of mined geologic repositories using very general models of environmental transport and a linear, nonthreshold dose-effect relationship between radiation exposures and premature deaths from cancer. Food chains, ways of life, and the size and geographical distributions of populations will undoubtedly change over a 10,000-year period. Unlike geological processes, factors such as these cannot be usefully predicted over such long periods of time. Thus, in making these health effects projections, the Agency found it necessary to depend upon very general models of environmental pathways and to assume current population distributions and death rates. The SAB Subcommittee evaluated these models carefully, and, although a number of specific changes were recommended for particular parameters, the Subcommittee endorsed the general approach. As a consequence of using these generalized models, EPA's projections are intended to be used primarily as a tool for comparing the performance of one waste disposal system to another and for comparison of the risks of waste disposal with those of undisturbed ore bodies. The results of these analyses should not be considered a reliable projection of the "real" or absolute number of health effects resulting from compliance with the disposal standards.

These health risk models were used to assess the long-term health risks from several different model repositories containing the wastes from 100,000 MTHM—which could include all existing wastes and the future wastes from all currently operating reactors. The Agency estimates that this quantity of waste, when disposed of in accordance with the proposed standards, would cause no more than 1,000 premature deaths from cancer in the first 10,000 years after disposal: an average of no more than one premature death every 10 years. Most of the model repositories considered had projected population risks at least a factor of ten below this, or about 100 deaths over 10,000 years. The projections for the actual repositories that are constructed are expected to be closer to this lower figure. Any such increase in the number of cancer deaths would be very small compared to today's incidence of cancer, which kills about 350,000 people per year in the United States. Similarly, any such increase would be much less than the approximately 6,000 premature cancer deaths per year that the same linear, non-threshold dose-effect relationship predicts for the nation due to natural background radiation.

*Individual Risks:* With regard to exposures of individuals, the Agency examined the potential doses to persons who might use ground water from the immediate vicinity of a repository at various times in the future. For these analyses, only the expected undisturbed performance of a repository was considered (e.g, there was no evaluation of exposures that might occur if a repository was disrupted by movement of a fault). In most of the cases studied, no exposures occurred for more than one thousand years after disposal. After that, these analyses predict that significant exposures (on the order of a few rems per year in the vicinity of the repository over the next several thousands of years) may appear for some of the geologic media considered. These projections are similar to those contained in the April 1983 report published by the National Academy of Sciences. The BID contains more detailed descriptions of the Agency's individual dose calculations.

*Intergenerational Risk:* As described earlier, the Agency has chosen to rely on provisions that limit risks to populations as the primary standards for the long-term performance of disposal systems. Although the projections of the residual population risk are clearly very small, the discontinuity between when the

wastes are generated and when the projected health effects manifest themselves made it difficult to determine what level of residual risk should be allowed by these disposal standards. The difficulty arose because most of the benefits derived in the process of waste production fall upon the current generation, while most of the risks fall upon future generations. Thus, a potential problem of intergenerational equity with respect to the distribution of risks and benefits became apparent. This problem is sometimes referred to as the intergenerational risk issue, and it is not unique to the disposal of high-level radioactive wastes. If the Agency tried to insure that these standards fully satisfied a criterion of intergenerational equity with respect to the distribution of risks and benefits, it might appear that no risk should be passed on to future generations. This is a condition which the Agency believes cannot be met by disposal technologies foreseeable within this century. However, there is one particular factor which has reinforced EPA's decision about the reasonableness of the risks permitted under the disposal standards. This is the following evaluation of the risks associated with undisturbed uranium ore bodies. Additionally, for the purpose of comparing the risks permitted under the standards to other radiation risks which people are currently exposed to, a brief discussion of the risks from other natural sources of radiation is also included.

*Uranium Ore:* Most uranium ore in the United States occurs in permeable geologic strata containing flowing ground water. Radionuclides in the ore, particularly uranium and radium, continuously enter this ground water. EPA estimated the potential risks from these undisturbed ore bodies using the same generalized environmental models that were used for releases from a waste repository. The effects associated with the amount of ore needed to produce the high-level wastes that would fill the model geologic repository can vary considerably. Part of this variation corresponds to actual differences from one ore body to another; part can be attributed to uncertainties in the assessment. After revising the population risk models in accordance with the recommendations of the SAB Subcommittee, these estimates of the risks from unmined ore bodies ranged from about 10 to more than 100,000 excess cancer deaths over 10,000 years. Thus, leaving the ore unmined appears to present a risk to future generations comparable to the risks from disposal of wastes covered by these standards.

*Variations in Natural Background:* Radionuclides occur naturally in the earth in very large amounts, and are produced in the atmosphere by cosmic radiation. Everyone is exposed to natural background radiation from these natural radionuclides and from direct exposure to cosmic radiation. Individual exposures average about 100 millirems per year, with a range of about 60 to 200 millirem/year. These natural background radiation levels have remained relatively constant for a very long time. According to the same linear, nonthreshold dose effect relationship used in EPA's other analyses, an increase of one millirem per year (about one percent) in natural background in the United States would result in about 60 additional deaths per year, or 600,000 over a 10,000-year period.

*Natural Radionuclide Concentrations in Ground Water:* One source of this exposure to natural background radiation comes from naturally occurring radionuclides found in ground water. Radium is the most important of the naturally occurring radioactive materials likely to occur in public water supply systems, but uranium is also found in ground waters due to its natural occurrence. Surveys of radionuclides in ground water systems indicate: a United States range of 0.1 to 50 picocuries (pCi) per liter for radium-226 (with isolated sources exceeding 100 pCi/liter); up to 74 pCi/liter for all alpha-emitting radionuclides other than uranium (although most of the alpha-emitting concentrations are below 3 pCi/liter); and up to 650 pCi/liter for total uranium concentrations. Elevated radium-226 concentrations are found along the Atlantic coastal region and the Midwest; low levels are usually found in the treated water supplies in the western States. Elevated uranium and alpha-emitting radionuclide concentrations are generally limited to the Rocky Mountain region and Maine and Pennsylvania in the east.

The Agency's primary drinking water regulations (40 CFR Part 141) limit the contamination levels for radium-226 and radium-228 to 5 pCi/liter and the levels for total alpha-emitting contamination (excluding radon and uranium) to 15 pCi/liter. Elevated concentrations of radium in drinking water are generally a problem associated with smaller community water systems, with an estimated 500 systems exceeding 5 pCi/liter. The Agency's risk assessments indicate that continuous consumption of water containing the maximum amount of radium allowed may cause between 0.7 and 3 cancers per year per million exposed persons.

**Environmental Impacts**

A Draft Environmental Impact Statement (EIS) was prepared for the proposed rule, in accordance with the Agency's procedures for the voluntary preparation of EIS's (30 FR 37419). However, section 121(c) of the NWPA subsequently exempted this action from preparation of an EIS under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and from any environmental review under subparagraph (E) or (F) of section 102(2) of the NEPA. Accordingly, a Final EIS has not been prepared for promulgation of this rule. The potential health impacts of this action are summarized above, and much of the information that would have been contained in a Final EIS is documented in the Background Information Document that accompanies this final version of 40 CFR Part 191.

**Regulatory Impacts**

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. The final rule has not been classified as a "major rule" in accordance with the guidelines provided by the Executive Order. Any comments received from OMB and EPA's responses to those comments are available for public inspection in the docket cited above under the heading "ADDRESSES."

The Agency has had to take an unusual approach in considering the regulatory impacts of this proposed action—as required by Executive Order 12291. In most cases, a regulation concerns an ongoing activity and may be considered a burden whose costs should be judged against the regulatory benefits. Here, it was not possible to quantify the costs and benefits of this action compared to the consequences of no regulation because there is no specific "baseline" program to consider. The appropriate regulations must be established before the regulated activity can even begin. Thus, the typical perspectives on costs and benefits are altered. Instead, the Agency evaluated how the costs of commercial waste management and disposal might change in response to different levels of protection from the containment requirements. Similar evaluations were not performed for the wastes from atomic energy defense activities because sufficient information was not available.

To evaluate the effects of different levels of protection, EPA considered the performance of different repository designs in several different geologic

media. The costs of the various engineering controls that might be needed to meet different levels of protection were estimated. In addition, allowances were made for the increased research and development costs that might be needed to demonstrate compliance with the standards if projected performance for a particular disposal system indicated releases less than an order of magnitude below the long-term radionuclide release limits in § 191.13.

Since the regulatory impact analyses that supported the proposed rule were performed, the NRC has promulgated minimum requirements for the engineered barriers of a disposal system (in 10 CFR Part 60), more data concerning disposal sites being considered by the Department have become available, and the Agency has reviewed its performance assessments to reduce overestimates of long-term risks in accordance with the SAB review. After evaluating all of this new information, the Agency believes that there need not be any significant additional costs to the national program for disposal of commercial wastes caused by retaining the proposed level of protection in the final rule, compared to the costs of choosing levels considerably less stringent. In other words, all of the disposal sites being evaluated by the Department, assuming compliance with the existing requirements of 10 CFR Part 60, are expected to be able to meet these disposal standards without additional precautions beyond those already planned.

**List of Subjects in 40 CFR Part 191**

Environmental protection, Nuclear energy, Radiation protection, Uranium, Waste treatment and disposal.

**Regulatory Flexibility Certification**

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Administrator hereby certifies that this rule will not have any significant impact on small businesses or other entitites, and that a Regulatory Flexibility Analysis is not required. This rule will affect only a small number of facilities, most of which are or will be operated by the United States Government.

Dated: August 15, 1985.

**Lee M. Thomas,**

*Administrator.*

A new Part 191 is hereby added to Title 40, Code of Federal Regulations, as follows:

**SUBCHAPTER F—RADIATION PROTECTION PROGRAMS**

## PART 191—ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR MANAGEMENT AND DISPOSAL OF SPENT NUCLEAR FUEL, HIGH-LEVEL AND TRANSURANIC RADIOACTIVE WASTES

**Subpart A—Environmental Standards for Management and Storage**



**Subpart B—Environmental Standards for Disposal**



**Authority:** The Atomic Energy Act of 1954, as amended; Reorganization Plan No. 3 of 1970; and the Nuclear Waste Policy Act of 1982.

### Subpart A—Environmental Standards for Management and Storage

**§ 191.01 Applicabliity.**

This Subpart applies to:

(a) Radiation doses received by members of the public as a result of the management (except for transportation) and storage of spent nuclear fuel or high-level or transuranic radioactive wastes at any facility regulated by the Nuclear Regulatory Commission or by Agreement States, to the extent that such management and storage operations are not subject to the provisions of Part 190 of title 40; and

(b) Radiation doses received by members of the public as a result of the management and storage of spent nuclear fuel or high-level or transuranic wastes at any disposal facility that is operated by the Department of Energy and that is not regulated by the Commission or by Agreement States.

**§ 191.02 Definitions.**

Unless otherwise indicated in this Subpart, all terms shall have the same meaning as in Subpart A of Part 190.

(a) "Agency" means the Environmental Protection Agency.

(b) "Administrator" means the Administrator of the Environmental Protection Agency.

(c) "Commission" means the Nuclear Regulatory Commission.

(d) "Department" means the Department of Energy.

(e) "NWPA" means the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425).

(f) "Agreement State" means any State with which the Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919).

(g) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(h) "High-level radioactive waste," as used in this Part, means high-level radioactive waste as defined in the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425).

(i) "Transuranic radioactive waste," as used in this Part, means waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes, with half-lives greater than twenty years, per gram of waste, except for: (1) High-level radioactive wastes; (2) wastes that the Department has determined, with the concurrence of the Administrator, do not need the degree of isolation required by this Part; or (3) wastes that the Commission has approved for disposal on a case-by-case basis in accordance with 10 CFR Part 61.

(j) "Radioactive waste," as used in this Part, means the high-level and transuranic radioactive waste covered by this Part.

(k) "Storage" means retention of spent nuclear fuel or radioactive wastes with the intent and capability to readily retrieve such fuel or waste for subsequent use, processing, or disposal.

(l) "Disposal" means permanent isolation of spent nuclear fuel or radioactive waste from the accessible environment with no intent of recovery, whether or not such isolation permits the recovery of such fuel or waste. For example, disposal of waste in a mined geologic repository occurs when all of the shafts to the repository are backfilled and sealed.

(m) "Management" means any activity, operation, or process (except for transportation) conducted to prepare spent nuclear fuel or radioactive waste for storage or disposal, or the activities associated with placing such fuel or waste in a disposal system.

(n) "Site" means an area contained within the boundary of a location under the effective control of persons possessing or using spent nuclear fuel or radioactive waste that are involved in

any activity, operation, or process covered by this Subpart.

(o) "General environment" means the total terrestrial, atmospheric, and aquatic environments outside sites within which any activity, operation, or process associated with the management and storage of spent nuclear fuel or radioactive waste is conducted.

(p) "Member of the public" means any individual except during the time when that individual is a worker engaged in any activity, operation, or process that is covered by the Atomic Energy Act of 1954, as amended.

(q) "Critical organ" means the most exposed human organ or tissue exclusive of the integumentary system (skin) and the cornea.

**§ 191.03 Standards.**

(a) Management and storage of spent nuclear fuel or high-level or transuranic radioactive wastes at all facilities regulated by the Commission or by Agreement States shall be conducted in such a manner as to provide reasonable assurance that the combined annual dose equivalent to any member of the public in the general environment resulting from: (1) Discharges of radioactive material and direct radiation from such management and storage and (2) all operations covered by Part 190; shall not exceed 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other critical organ.

(b) Management and storage of spent nuclear fuel or high-level or transuranic radioactive wastes at all facilities for the disposal of such fuel or waste that are operated by the Department and that are not regulated by the Commission or Agreement States shall be conducted in such a manner as to provide reasonable assurance that the combined annual dose equivalent to any member of the public in the general environment resulting from discharges of radioactive material and direct radiation from such management and storage shall not exceed 25 millirems to the whole body and 75 millirems to any critical organ.

**§ 191.04 Alternative standards.**

(a) The Administrator may issue alternative standards from those standards established in 191.03(b) for waste management and storage activities at facilities that are not regulated by the Commission or Agreement States if, upon review of an application for such alternative standards:

(1) The Administrator determines that such alternative standards will prevent any member of the public from receiving a continuous exposure of more than 100 millirems per year dose equivalent and an infrequent exposure of more than 500 millirems dose equivalent in a year from all sources, excluding natural background and medical procedures; and

(2) The Administrator promptly makes a matter of public record the degree to which continued operation of the facility is expected to result in levels in excess of the standards specified in 191.03(b).

(b) An application for alternative standards shall be submitted as soon as possible after the Department determines that continued operation of a facility will exceed the levels specified in 191.03(b) and shall include all information necessary for the Administrator to make the determinations called for in 191.04(a).

(c) Requests for alternative standards shall be submitted to the Administrator, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

**§ 191.05 Effective date.**

The standards in this Subpart shall be effective on November 18, 1985.

## Subpart B—Environmental Standards for Disposal

**§ 191.11 Applicability.**

(a) This Subpart applies to:

(1) Radioactive materials released into the accessible environment as a result of the disposal of spent nuclear fuel or high-level or transuranic radioactive wastes;

(2) Radiation doses received by members of the public as a result of such disposal; and

(3) Radioactive contamination of certain sources of ground water in the vicinity of disposal systems for such fuel or wastes.

(b) However, this Subpart does not apply to disposal directly into the oceans or ocean sediments. This Subpart also does not apply to wastes disposed of before the effective date of this rule.

**§ 191.12 Definitions.**

Unless otherwise indicated in this Subpart, all terms shall have the same meaning as in Subpart A of this Part.

(a) "Disposal system" means any combination of engineered and natural barriers that isolate spent nuclear fuel or radioactive waste after disposal.

(b) "Waste," as used in this Subpart, means any spent nuclear fuel or radioactive waste isolated in a disposal system.

(c) "Waste form" means the materials comprising the radioactive components of waste and any encapsulating or stabilizing matrix.

(d) "Barrier" means any material or structure that prevents or substantially delays movement of water or radionuclides toward the accessible environment. For example, a barrier may be a geologic structure, a canister, a waste form with physical and chemical characteristics that significantly decrease the mobility of radionuclides, or a material placed over and around waste, provided that the material or structure substantially delays movement of water or radionuclides.

(e) "Passive institutional control" means: (1) Permanent markers placed at a disposal site, (2) public records and archives, (3) government ownership and regulations regarding land or resource use, and (4) other methods of preserving knowledge about the location, design, and contents of a disposal system.

(f) "Active institutional control" means: (1) Controlling access to a disposal site by any means other than passive institutional controls; (2) performing maintenance operations or remedial actions at a site, (3) controlling or cleaning up releases from a site, or (4) monitoring parameters related to disposal system performance.

(g) "Controlled area" means: (1) A surface location, to be identified by passive institutional controls, that encompasses no more than 100 square kilometers and extends horizontally no more than five kilometers in any direction from the outer boundary of the original location of the radioactive wastes in a disposal system; and (2) the subsurface underlying such a surface location.

(h) "Ground water" means water below the land surface in a zone of saturation.

(i) "Aquifer" means an underground geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

(j) "Lithosphere" means the solid part of the Earth below the surface, including any ground water contained within it.

(k) "Accessible environment" means: (1) The atmosphere; (2) land surfaces; (3) surface waters; (4) oceans; and (5) all of the lithosphere that is beyond the controlled area.

(l) "Transmissivity" means the hydraulic conductivity integrated over the saturated thickness of an underground formation. The transmissivity of a series of formations is the sum of the individual

transmissivities of each formation comprising the series.

(m) "Community water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(n) "Significant source of ground water," as used in this Part, means: (1) An aquifer that: (i) Is saturated with water having less than 10,000 milligrams per liter of total dissolved solids; (ii) is within 2,500 feet of the land surface; (iii) has a transmissivity greater than 200 gallons per day per foot, provided that any formation or part of a formation included within the source of ground water has a hydraulic conductivity greater than 2 gallons per day per square foot; and (iv) is capable of continuously yielding at least 10,000 gallons per day to a pumped or flowing well for a period of at least a year; or (2) an aquifer that provides the primary source of water for a community water system as of the effective date of this Subpart.

(o) "Special source of ground water," as used in this Part, means those Class I ground waters identified in accordance with the Agency's Ground-Water Protection Strategy published in August 1984 that: (1) Are within the controlled area encompassing a disposal system or are less than five kilometers beyond the controlled area; (2) are supplying drinking water for thousands of persons as of the date that the Department chooses a location within that area for detailed characterization as a potential site for a disposal system (e.g., in accordance with Section 112(b)(1)(B) of the NWPA); and (3) are irreplaceable in that no reasonable alternative source of drinking water is available to that population.

(p) "Undisturbed performance" means the predicted behavior of a disposal system, including consideration of the uncertainties in predicted behavior, if the disposal system is not disrupted by human intrusion or the occurrence of unlikely natural events.

(q) "Performance assessment" means an analysis that: (1) Identifies the processes and events that might affect the disposal system; (2) examines the effects of these processes and events on the performance of the disposal system; and (3) estimates the cumulative releases of radionuclides, considering the associated uncertainties, caused by all significant processes and events. These estimates shall be incorporated into an overall probability distribution of cumulative release to the extent practicable.

(r) "Heavy metal" means all uranium, plutonium, or thorium placed into a nuclear reactor.

(s) "Implementing agency," as used in this Subpart, means the Commission for spent nuclear fuel or high-level or transuranic wastes to be disposed of in facilities licensed by the Commission in accordance with the Energy Reorganization Act of 1974 and the Nuclear Waste Policy Act of 1982, and it means the Department for all other radioactive wastes covered by this Part.

### § 191.13 Containment requirements.

(a) Disposal systems for spent nuclear fuel or high-level or transuranic radioactive wastes shall be designed to provide a reasonable expectation, based upon performance assessments, that the cumulative releases of radionuclides to the accessible environment for 10,000 years after disposal from all significant processes and events that may affect the disposal system shall:

(1) Have a likelihood of less than one chance in 10 of exceeding the quantities calculated according to Table 1 (Appendix A); and

(2) Have a likelihood of less than one chance in 1,000 of exceeding ten times the quantities calculated according to Table 1 (Appendix A).

(b) Performance assessments need not provide complete assurance that the requirements of 191.13(a) will be met. Because of the long time period involved and the nature of the events and processes of interest, there will inevitably be substantial uncertainties in projecting disposal system performance. Proof of the future performance of a disposal system is not to be had in the ordinary sense of the word in situations that deal with much shorter time frames. Instead, what is required is a reasonable expectation, on the basis of the record before the implementing agency, that compliance with 191.13 (a) will be achieved.

### § 191.14 Assurance requirements.

To provide the confidence needed for long-term compliance with the requirements of 191.13, disposal of spent nuclear fuel or high-level or transuranic wastes shall be conducted in accordance with the following provisions, except that these provisions do not apply to facilities regulated by the Commission (see 10 CFR Part 60 for comparable provisions applicable to facilities regulated by the Commission):

(a) Active institutional controls over disposal sites should be maintained for as long a period of time as is practicable after disposal; however, performance assessments that assess isolation of the wastes from the accessible environment shall not consider any contributions from active institutional controls for more than 100 years after disposal.

(b) Disposal systems shall be monitored after disposal to detect substantial and detrimental deviations from expected performance. This monitoring shall be done with techniques that do not jeopardize the isolation of the wastes and shall be conducted until there are no significant concerns to be addressed by further monitoring.

(c) Disposal sites shall be designated by the most permanent markers, records, and other passive institutional controls practicable to indicate the dangers of the wastes and their location.

(d) Disposal systems shall use different types of barriers to isolate the wastes from the accessible environment. Both engineered and natural barriers shall be included.

(e) Places where there has been mining for resources, or where there is a reasonable expectation of exploration for scarce or easily accessible resources, or where there is a significant concentration of any material that is not widely available from other sources, should be avoided in selecting disposal sites. Resources to be considered shall include minerals, petroleum or natural gas, valuable geologic formations, and ground waters that are either irreplaceable because there is no reasonable alternative source of drinking water available for substantial populations or that are vital to the preservation of unique and sensitive ecosystems. Such places shall not be used for disposal of the wastes covered by this Part unless the favorable characteristics of such places compensate for their greater likelihood of being disturbed in the future.

(f) Disposal systems shall be selected so that removal of most of the wastes is not precluded for a reasonable period of time after disposal.

### § 191.15 Individual protection requirements.

Disposal systems for spent nuclear fuel or high-level or transuranic radioactive wastes shall be designed to provide a reasonable expectation that, for 1,000 years after disposal, undisturbed performance of the disposal system shall not cause the annual dose equivalent from the disposal system to any member of the public in the accessible environment to exceed 25 millirems to the whole body or 75 millirems to any critical organ. All potential pathways (associated with undisturbed performance) from the disposal system to people shall be

considered, including the assumption that individuals consume 2 liters per day of drinking water from any significant source of ground water outside of the controlled area.

**§ 191.16 Ground water protection requirements.**

(a) Disposal systems for spent nuclear fuel or high-level or transuranic radioactive wastes shall be designed to provide a reasonable expectation that, for 1,000 years after disposal, undisturbed performance of the disposal system shall not cause the radionuclide concentrations averaged over any year in water withdrawn from any portion of a special source of ground water to exceed:

(1) 5 picocuries per liter of radium-226 and radium-228;

(2) 15 picocuries per liter of alpha-emitting radionuclides (including radium-226 and radium-228 but excluding radon); or

(3) The combined concentrations of radionuclides that emit either beta or gamma radiation that would produce an annual dose equivalent to the total body or any internal organ greater than 4 millirems per year if an individual consumed 2 liters per day of drinking water from such a source of ground water.

(b) If any of the average annual radionuclide concentrations existing in a special source of ground water before construction of the disposal system already exceed the limits in 191.16(a), the disposal system shall be designed to provide a reasonable expectation that, for 1,000 years after disposal, undisturbed performance of the disposal system shall not increase the existing average annual radionuclide concentrations in water withdrawn from that special source of ground water by more than the limits established in 191.16(a).

**§ 191.17 Alternative provisions for disposal.**

The Administrator may, by rule, substitute for any of the provisions of Subpart B alternative provisions chosen after:

(a) The alternative provisions have been proposed for public comment in the **Federal Register** together with information describing the costs, risks, and benefits of disposal in accordance with the alternative provisions and the reasons why compliance with the existing provisions of Subpart B appears inappropriate;

(b) A public comment period of at least 90 days has been completed, during which an opportunity for public hearings in affected areas of the country has been provided; and

(c) The public comments received have been fully considered in developing the final version of such alternative provisions.

**§ 191.18 Effective date.**

The standards in this Subpart shall be effective on September 19, 1985.

## Appendix A—Table for Subpart B

TABLE 1.—RELEASE LIMITS FOR CONTAINMENT REQUIREMENTS

[Cumulative releases to the accessible environment for 10,000 years after disposal]

| Radionuclide | Release limit per 1,000 MTHM or other unit of waste (see notes) (curies) |
|---|---|
| Americium-241 or -243 | 100 |
| Carbon-14 | 100 |
| Cesium-135 or -137 | 1,000 |
| Iodine-129 | 100 |
| Neptunium-237 | 100 |
| Plutonium-238, -239, -240, or -242 | 100 |
| Radium-226 | 100 |
| Strontium-90 | 1,000 |
| Technetium-99 | 10,000 |
| Thorium-230 or -232 | 10 |
| Tin-126 | 1,000 |
| Uranium-233, -234, -235, -236, or -238 | 100 |
| Any other alpha-emitting radionuclide with a half-life greater than 20 years | 100 |
| Any other radionuclide with a half-life greater than 20 years that does not emit alpha particles | 1,000 |

**Application of Table 1**

**Note 1:** *Units of Waste.* The Release Limits in Table 1 apply to the amount of wastes in any one of the following:

(a) An amount of spent nuclear fuel containing 1,000 metric tons of heavy metal (MTHM) exposed to a burnup between 25,000 megawatt-days per metric ton of heavy metal (MWd/MTHM) and 40,000 MWd/MTHM;

(b) The high-level radioactive wastes generated from reprocessing each 1,000 MTHM exposed to a burnup between 25,000 MWd/MTHM and 40,000 MWd/MTHM;

(c) Each 100,000,000 curies of gamma or beta-emitting radionuclides with half-lives greater than 20 years but less than 100 years (for use as discussed in Note 5 or with materials that are identified by the Commission as high-level radioactive waste in accordance with part B of the definition of high-level waste in the NWPA);

(d) Each 1,000,000 curies of other radionuclides (i.e., gamma or beta-emitters with half-lives greater than 100 years or any alpha-emitters with half-lives greater than 20 years) (for use as discussed in Note 5 or with materials that are identified by the Commission as high-level radioactive waste in accordance with part B of the definition of high-level waste in the NWPA); or

(e) An amount of transuranic (TRU) wastes containing one million curies of alpha-emitting transuranic radionuclides with half-lives greater than 20 years.

**Note 2:** *Release Limits for Specific Disposal Systems.* To develop Release Limits for a particular disposal system, the quantities in Table 1 shall be adjusted for the amount of waste included in the disposal system compared to the various units of waste defined in Note 1. For example:

(a) If a particular disposal system contained the high-level wastes from 50,000 MTHM, the Release Limits for that system would be the quantities in Table 1 multiplied by 50 (50,000 MTHM divided by 1,000 MTHM).

(b) If a particular disposal system contained three million curies of alpha-emitting transuranic wastes, the Release Limits for that system would be the quantities in Table 1 multiplied by three (three million curies divided by one million curies).

(c) If a particular disposal system contained both the high-level wastes from 50,000 MTHM *and* 5 million curies of alpha-emitting transuranic wastes, the Release Limits for that system would be the quantities in Table 1 multiplied by 55:

$$\frac{50{,}000\ \text{MTHM}}{1{,}000\ \text{MTHM}} + \frac{5{,}000{,}000\ \text{curies TRU}}{1{,}000{,}000\ \text{curies TRU}} = 55$$

**Note 3:** *Adjustments for Reactor Fuels with Different Burnup.* For disposal systems containing reactor fuels (or the high-level wastes from reactor fuels) exposed to an average burnup of less than 25,000 MWd/MTHM or greater than 40,000 MWd/MTHM, the units of waste defined in (a) and (b) of Note 1 shall be adjusted. The unit shall be multiplied by the ratio of 30,000 MWd/MTHM divided by the fuel's actual average burnup, except that a value of 5,000 MWd/MTHM may be used when the average fuel burnup is below 5,000 MWd/MTHM and a value of 100,000 MWd/MTHM shall be used when the average fuel burnup is above 100,000 MWd/MTHM. This adjusted unit of waste shall then be used in determining the Release Limits for the disposal system.

For example, if a particular disposal system contained only high-level wastes with an average burnup of 3,000 MWd/MTHM, the unit of waste for that disposal system would be:

$$1{,}000\ \text{MTHM} \times \frac{(30{,}000)}{(5{,}000)} = 6{,}000\ \text{MTHM}$$

If that disposal system contained the high-level wastes from 60,000 MTHM (with an average burnup of 3,000 MWd/MTHM), then

the Release Limits for that system would be the quantities in Table 1 multiplied by ten:

$$\frac{60{,}000\ \text{MTHM}}{6{,}000\ \text{MTHM}} = 10$$

which is the same as:

$$\frac{60{,}000\ \text{MTHM}}{1{,}000\ \text{MTHM}} \times \frac{(5{,}000\ \text{MWd/MTHM})}{(30{,}000\ \text{MWd/MTHM})} = 10$$

**Note 4:** *Treatment of Fractionated High-Level Wastes.* In some cases, a high-level waste stream from reprocessing spent nuclear fuel may have been (or will be) separated into two or more high-level waste components destined for different disposal systems. In such cases, the implementing agency may allocate the Release Limit multiplier (based upon the original MTHM and the average fuel burnup of the high-level waste stream) among the various disposal systems as it chooses, provided that the total Release Limit multiplier used for that waste stream at all of its disposal systems may not exceed the Release Limit multiplier that would be used if the entire waste stream were disposed of in one disposal system.

**Note 5:** *Treatment of Wastes with Poorly Known Burnups or Original MTHM.* In some cases, the records associated with particular high-level waste streams may not be adequate to accurately determine the original metric tons of heavy metal in the reactor fuel that created the waste, or to determine the average burnup that the fuel was exposed to. If the uncertainties are such that the original amount of heavy metal or the average fuel burnup for particular high-level waste streams cannot be quantified, the units of waste derived from (a) and (b) of Note 1 shall no longer be used. Instead, the units of waste defined in (c) and (d) of Note 1 shall be used for such high-level waste streams. If the uncertainties in such information allow a range of values to be associated with the original amount of heavy metal or the average fuel burnup, then the calculations described in previous Notes will be conducted using the values that result in the smallest Release Limits, except that the Release Limits need not be smaller than those that would be calculated using the units of waste defined in (c) and (d) of Note 1.

**Note 6:** *Uses of Release Limits to Determine Compliance with 191.13* Once release limits for a particular disposal system have been determined in accordance with Notes 1 through 5, these release limits shall be used to determine compliance with the requirements of 191.13 as follows. In cases where a mixture of radionuclides is projected to be released to the accessible environment, the limiting values shall be determined as follows: For each radionuclide in the mixture, determine the ratio between the cumulative release quantity projected over 10,000 years and the limit for that radionuclide as determined from Table 1 and Notes 1 through 5. The sum of such ratios for all the radionuclides in the mixture may not exceed one with regard to 191.13(a)(1) and may not exceed ten with regard to 191.13(a)(2).

For example, if radionuclides A, B, and C are projected to be released in amounts $Q_a$, $Q_b$, and $Q_c$, and if the applicable Release Limits are $RL_a$, $RL_b$, and $RL_c$, then the cumulative releases over 10,000 years shall be limited so that the following relationship exists:

$$\frac{Q_a}{RL_a} + \frac{Q_b}{RL_b} + \frac{Q_c}{RL_c} \leq 1$$

## Appendix B—Guidance for Implementation of Subpart B

[Note: The supplemental information in this appendix is not an integral part of 40 CFR Part 191. Therefore, the implementing agencies are not bound to follow this guidance. However, it is included because it describes the Agency's assumptions regarding the implementation of Subpart B. This appendix will appear in the Code of Federal Regulations.]

The Agency believes that the implementing agencies must determine compliance with §§ 191.13, 191.15, and 191.16 of Subpart B by evaluating long-term predictions of disposal system performance. Determining compliance with § 191.13 will also involve predicting the likelihood of events and processes that may disturb the disposal system. In making these various predictions, it will be appropriate for the implementing agencies to make use of rather complex computational models, analytical theories, and prevalent expert judgment relevant to the numerical predictions. Substantial uncertainties are likely to be encountered in making these predictions. In fact, sole reliance on these numerical predictions to determine compliance may not be appropriate; the implementing agencies may choose to supplement such predictions with qualitative judgments as well. Because the procedures for determining compliance with Subpart B have not been formulated and tested yet, this appendix to the rule indicates the Agency's assumptions regarding certain issues that may arise when implementing §§ 191.13, 191.15, and 191.16. Most of this guidance applies to any type of disposal system for the wastes covered by this rule. However, several sections apply only to disposal in mined geologic repositories and would be inappropriate for other types of disposal systems.

*Consideration of Total Disposal System.* When predicting disposal system performance, the Agency assumes that reasonable projections of the protection expected from all of the engineered and natural barriers of a disposal system will be considered. Portions of the disposal system should not be disregarded, even if projected performance is uncertain, except for portions of the system that make negligible contributions to the overall isolation provided by the disposal system.

*Scope of Performance Assessments.* Section 191.13 requires the implementing agencies to evaluate compliance through performance assessments as defined in § 191.12(q). The Agency assumes that such performance assessments need not consider categories of events or processes that are estimated to have less than one chance in 10,000 of occurring over 10,000 years. Furthermore, the performance assessments need not evaluate in detail the releases from all events and processes estimated to have a greater likelihood of occurrence. Some of these events and processes may be omitted from the performance assessments if there is a reasonable expectation that the remaining probability distribution of cumulative releases would not be significantly changed by such omissions.

*Compliance with Section 191.13.* The Agency assumes that, whenever practicable, the implementing agency will assemble all of the results of the performance assessments to determine compliance with § 191.13 into a "complementary cumulative distribution function" that indicates the probability of exceeding various levels of cumulative release. When the uncertainties in parameters are considered in a performance assessment, the effects of the uncertainties considered can be incorporated into a single such distribution function for each disposal system considered. The Agency assumes that a disposal system can be considered to be in compliance with § 191.13 if this single distribution function meets the requirements of § 191.13(a).

*Compliance with Sections 191.15 and 191.16.* When the uncertainties in undisturbed performance of a disposal system are considered, the implementing agencies need not require that a very large percentage of the range of estimated radiation exposures or radionuclide concentrations fall below limits established in §§ 191.15 and 191.16, respectively. The Agency assumes that compliance can be determined based upon "best estimate" predictions (e.g., the mean or the median of the appropriate distribution, whichever is higher).

*Institutional Controls.* To comply with § 191.14(a), the implementing agency will assume that none of the active institutional controls prevent or reduce radionuclide releases for more than 100 years after disposal. However, the Federal Government is committed to retaining ownership of all disposal sites for spent nuclear fuel and high-level and transuranic radioactive wastes and will establish appropriate markers and records, consistent with § 191.14(c). The Agency assumes that, as long as such passive institutional controls endure and are understood, they: (1) can be effective in deterring systematic or persistent exploitation of these disposal sites; and (2) can reduce the likelihood of inadvertent, intermittent human intrusion to a degree to be determined by the implementing agency. However, the Agency believes that passive institutional controls can never be assumed to eliminate the chance of inadvertent and intermittent human intrusion into these disposal sites.

*Consideration of Inadvertent Human Intrusion into Geologic Repositories.* The most speculative potential disruptions of a mined geologic repository are those associated with inadvertent human intrusion. Some types of intrusion would have virtually no effect on a repository's containment of

waste. On the other hand, it is possible to conceive of intrusions (involving widespread societal loss of knowledge regarding radioactive wastes) that could result in major disruptions that no reasonable repository selection or design precautions could alleviate. The Agency believes that the most productive consideration of inadvertent intrusion concerns those realistic possibilities that may be usefully mitigated by repository design, site selection, or use of passive controls (although passive institutional controls should not be assumed to completely rule out the possibility of intrusion). Therefore, inadvertent and intermittent intrusion by exploratory drilling for resources (other than any provided by the disposal system itself) can be the most severe intrusion scenario assumed by the implementing agencies. Furthermore, the implementing agencies can assume that passive institutional controls or the intruders' own exploratory procedures are adequate for the intruders to soon detect, or be warned of, the incompatibility of the area with their activities.

*Frequency and Severity of Inadvertent Human Intrusion into Geologic Repositories.* The implementing agencies should consider the effects of each particular disposal system's site, design, and passive institutional controls in judging the likelihood and consequences of such inadvertent exploratory drilling. However, the Agency assumes that the likelihood of such inadvertent and intermittent drilling need not be taken to be greater than 30 boreholes per square kilometer of repository area per 10,000 years for geologic repositories in proximity to sedimentary rock formations, or more than 3 boreholes per square kilometer per 10,000 years for repositories in other geologic formations. Furthermore, the Agency assumes that the consequences of such inadvertent drilling need not be assumed to be more severe than: (1) Direct release to the land surface of all the ground water in the repository horizon that would promptly flow through the newly created borehole to the surface due to natural lithostatic pressure—or (if pumping would be required to raise water to the surface) release of 200 cubic meters of ground water pumped to the surface if that much water is readily available to be pumped; and (2) creation of a ground water flow path with a permeability typical of a borehole filled by the soil or gravel that would normally settle into an open hole over time—not the permeability of a carefully sealed borehole.

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Part III

# Environmental Protection Agency

Regulatory Status of Grain Fumigants; Notice

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30097; FRL-2901-1]

### Regulatory Status of Grain Fumigants

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This Notice summarizes the current regulatory status of chemical substitutes for ethylene dibromide (EDB) for insect control in stored grains, including alternative grain fumigants and grain protectants. Liquid grain fumigant products containing carbon tetrachloride, carbon disulfide, or ethylene dichloride may not be sold or distributed in commerce after December 31, 1985. Use of existing stocks of these products may continue through June 30, 1986. All of the registrations of carbon tetrachloride, carbon disulfide, and ethylene dichloride grain fumigant products are being voluntarily cancelled, or have been suspended. After December 31, 1985, the grain fumigants methyl bromide, chloropicrin, aluminum phosphide, and magnesium phosphide will continue to be available; several grain protectants will also be available for preventive treatments.

**FOR FURTHER INFORMATION CONTACT:** By mail:

Linda K. Vlier, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7451).

**SUPPLEMENTARY INFORMATION:**

### I. Background

Prior to cancellation and suspension actions by the Environmental Protection Agency, the pesticide ethylene dibromide (EDB) was used to fumigate stored grains and grain milling machinery to control insect infestations that could damage grain quality and reduce marketable quantities. In September 1983, EPA issued a decision to cancel the use of EDB on harvested grains and grain and flour milling equipment. Because this decision was appealed by registrants, the cancellation did not take effect immediately. When EDB residues were subsequently detected in consumer grain products, EPA issued, in February 1984, a suspension order stopping all further sale, distribution, and use of EDB for grain fumigation.

Many EDB grain fumigant products, now cancelled, also contained one or more of several other active ingredients registered for use as grain fumigants. Two of these chemicals, chloroform and methylene chloride, were used as grain fumigants only in formulations that also contained EDB. All existing product registrations of these grain fumigant formulations were cancelled together with other EDB registrations. However, carbon tetrachloride, carbon disulfide (also named carbon bisulfide), and ethylene dichloride have continued in use as active ingredients in liquid grain fumigant products. In addition, methyl bromide, formulated as a liquified gas, is currently registered for fumigation of stored grains. Chloropicrin is also registered and used mainly in combination with methyl bromide. Aluminum phosphide and magnesium phosphide, in solid formulations that release phosphine gas, are also registered for grain fumigation.

On taking action to eliminate the use of EDB on grains, EPA began a comprehensive review of EDB substitutes to ensure that continued and, in some cases, expanded use of these chemicals would not present unreasonable risks from either occupational or dietary exposures. The chemical fumigants as a group are known to be acutely toxic, and overexposure to fumigant vapors can cause serious acute illness or death. The chronic toxicity of some of the grain fumigants has not been fully evaluated, since definitive data are not available in all areas for all chemicals.

However, aluminum phosphide, magnesium phosphide, and chloropicrin have been reviewed under EPA's Registration Standards program to assure that they meet current standards for registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Agency issued Registration Standards on aluminum phosphide in 1981, on magnesium phosphide in 1982, and on chloropicrin in 1982. Based on additional residue data submitted to meet requirements set in these Registration Standards, EPA has concluded that residues of concern will not result from the use of aluminum or magnesium phosphide as grain fumigants. Chloropicrin is currently exempt from the requirement of a tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) when used as a post-harvest fumigant. These tolerance exemptions were originally established in the 1950's, on the grounds that residues of chloropicrin did not appear to persist in ready-to-eat grain products. However, the data supporting these exemptions do not meet present-day standards. In accordance with the Registration Standard on chloropicrin, EPA will be reevaluating these tolerance exemptions, in light of additional data required from registrants, to determine whether the exemptions should be retained, or replaced with specific tolerances. Additional residue data on chloropicrin are due for submission to EPA by October 31, 1985.

For carbon tetrachloride, carbon disulfide, ethylene dichloride, and methyl bromide, significant data needed to fully assess their effects were not available. Moreover, in the case of carbon tetrachloride, concerns had previously been raised about its oncogenicity, or tumor-causing potential. It has been shown to cause cancer in test animals. Concerns were also raised about potential liver and kidney effects from long-term exposure to carbon tetrachloride. Prior to the cancellation of EDB, EPA had started a Special Review to evaluate the effects of carbon tetrachloride. However, the Special Review on carbon tetrachloride will not be formally concluded until the completion of additional regulatory actions described in Units II.B and C below. EPA expects to conclude this Special Review for remaining uses of carbon tetrachloride in 1986.

Because of these concerns and data deficiencies, EPA developed two regulatory initiatives designed to address the potential health risks both from long-term consumer exposure to residues of these grain fumigants and from occupational exposure: (1) A special "Data Call-In" for the grain fumigants and (2) a Label Improvement Program.

### II. Results of Data Call-In Program

#### *A. Data Requirements*

Under sec. 3(c)(2)(B) of FIFRA, EPA is authorized to require the submission of additional data to maintain an existing registration of a pesticide. Registrants who receive FIFRA sec. 3(c)(2)(B) notifications are required to respond to EPA within 90 days after receipt of such notification. If a registrant does not respond within 90 days, or otherwise fails to demonstrate that his company is taking appropriate steps to secure the data required, EPA may suspend the registration of the pesticide, and may specify provisions concerning the continued sale and use of existing stocks of the pesticide.

Because data were lacking in key areas for carbon tetrachloride, carbon disulfide, ethylene dichloride, and methyl bromide, EPA required submission of certain data under sec. 3(c)(2)(B) as a condition of continued registration of fumigant products

containing these active ingredients. These data included product chemistry data and residue studies, and any chronic (long-term) toxicity studies not previously required through EPA's Data Call-In program for existing pesticides. For methyl bromide, the Agency has also required further studies including additional applicator and other occupational exposure data. The data required by EPA are listed in the following Table 1:

TABLE 1.—FUMIGANT DATA CALL-IN REQUIREMENTS AND REGISTRATION STATUS

| Chemical | Data required | Status |
|---|---|---|
| Carbon tetrachloride | Product chemistry, Analytical methodology, Residue studies, teratogenicity study, Reproduction study. | All grain fumigant registrations being voluntarily canceled, or have been suspended by EPA. |
| Carbon disulfide | Product chemistry, Analytical methodology, Residue studies, Chronic feeding study, Oncogenicity study, Reproductive study. | All grain fumigant registration being voluntarily canceled, or have been suspended by EPA. |
| Ethylene dichloride | Product chemistry, Analytical methodology, Residue studies, Teratogenicity study, Reproduction study. | All grain fumigant registrations being voluntarily canceled, or have been suspended by EPA. |
| Methyl bromide | Product chemistry | Received March 1985. |
| | Residue studies | Partial data submissions and waiver requests received March 1985; review due for completion October 1985. |
| | Analytical methodology | Received March 1985. |
| | Oncogenicity studies | Due Jan. 1987. |
| | Reproduction study | Due Jan. 1986. |
| | Applicator exposure studies (dermal & respiratory) | Due 6 mos. from protocol approval: Respiratory protocol submitted July 1985; review due for completion October 1985. Waiver requested for dermal protocol denied August 1985; protocol due September 1985. |
| | Post-fumigation studies (dermal and respiratory) | Due 6 mos. from protocol approval: Respiratory protocol submitted July 1985; review due for completion October 1985. |
| | Efficacy study | Due 6 months from protocol approval: Waiver request denied August 1985. Protocol due September 1985. |
| | Environmental fate studies | Waiver requests for some studies denied August 1985 and these studies are due September 1, 1987; remainder due in February and June 1986. |

*B. Suspensions and Voluntary Cancellations*

As indicated in Table 1, registrants of methyl bromide have made commitments to EPA to secure and submit the data required by EPA for continued registration. Registrations of methyl bromide products will therefore continue, based on the registrants' compliance with FIFRA requirements. EPA is evaluating additional health and safety studies on methyl bromide as they are submitted. The Agency expects to issue a Registration Standard on methyl bromide in May 1986.

However, none of the registrants of carbon tetrachloride, carbon disulfide, or ethylene dichloride agreed to supply the data required by EPA under sec. 3(c)(2)(B) of FIFRA. All of these registrants have either requested voluntary cancellation in lieu of complying with additional data requirements, or failed to respond to EPA's Data Call-In notices. Thus, all these registrations are being voluntarily cancelled, or are suspended under sec. 3(c)(2)(B) of FIFRA.

*C. Cancellation of Suspended Registrations*

Suspension of registration under FIFRA sec. 3(c)(2)(B) may continue indefinitely until EPA determines that the registrant has complied fully with the requirements that served as the basis for suspension. To clear the Agency's records, and close off the possibility of reinstatement at an unspecified future date, EPA is taking steps to cancel those suspended registrations of products containing carbon tetrachloride, carbon disulfide, and ethylene dichloride.

For suspended registrations where voluntary cancellations are not obtained, EPA expects to issue notices of intent to cancel under sec. 6(b) of FIFRA. Section 6(b) cancellations are based on a finding of unreasonable adverse effects on the environment when both risks and benefits are considered. Where registrants and users are unwilling to sponsor testing required for continued registration and have not exercised their section 3(c)(2)(B) hearing rights, the Agency concludes that there are not substantial benefits to offset potential risks.

*D. Use of Existing Stocks*

According to information provided to EPA, production of carbon tetrachloride, carbon disulfide, and ethylene dichloride technical products for use as a pesticide on stored grain stopped as of December 31, 1984. However, existing stocks of these products do remain. For registrants who have elected the option of voluntary cancellation, EPA will permit continued sale, distribution, and use of these grain fumigant products provided the following terms and conditions concerning the sale, distribution, and use of existing stocks are met. Grain fumigant products containing carbon tetrachloride, carbon disulfide, or ethylene dichloride may not be sold or distributed after December 31, 1985. To avoid potential disposal problems for users holding small quantities after December 31, 1985, use of these products may continue through June 30, 1986. However, the Agency believes that most existing stocks will have been used by December 31, 1985. There will be no disposal or indemnification program for stocks of carbon tetrachloride, carbon disulfide, or ethylene dichloride grain fumigants.

*E. Stop Sale, Use or Removal Orders*

In the case of registrants whose grain fumigant products have been suspended under sec. 3(c)(2)(B) of FIFRA, EPA is issuing "stop sale, use or removal" orders under sec. 13(a) of FIFRA. These orders become effective immediately upon receipt, and EPA may also invoke civil and criminal penalties for failure to comply with the provisions of such an order.

For registrants of suspended grain fumigant products who elect to cancel voluntarily their registrations, EPA will vacate the stop sale order, and permit the sale and distribution of existing stocks through December 31, 1985.

EPA will also be issuing stop sale orders to all registrants and other identified holders of products subject to voluntary cancellation. These orders will be effective January 1, 1986.

Receipt of stop sale, use, or removal orders does not entitle holders of grain fumigant products to either indemnification for the value of the product, or Federal disposal of the pesticide.

*F. Revocation of Exemptions from Tolerances*

Chloroform, methylene chloride, carbon tetrachloride, carbon disulfide, and ethylene dichloride currently are exempt from tolerance requirements

under the Federal Food, Drug, and Cosmetic Act (FFDCA) when used to fumigate stored grains. These exemptions from the requirement of a tolerance were established in the 1950's, based on analytical capabilities then available. The exemptions were granted because testing with available analytical methodologies indicated that detectable residues would not occur in grain-based consumer products when these fumigants were applied according to label directions.

After the cancellation of all registrations of carbon tetrachloride, carbon disulfide, and ethylene dichloride grain fumigant products, EPA will be taking steps to revoke these exemptions from tolerances as well as the exemptions for chloroform and methylene chloride. (As stated earlier in this Notice, all grain fumigant products containing chloroform and methylene chloride also contained EDB and were previously cancelled together with other EDB registrations.) Revocation of exemptions from tolerances for these chemicals will be consistent with EPA's Policy Statement on Revocation of Tolerances for Cancelled Pesticides, as published in the **Federal Register** of September 29, 1982 (47 FR 42956). In the near future, a **Federal Register** notice will be published proposing revocation of exemptions from tolerances for chloroform, methylene chloride, carbon tetrachloride, carbon disulfide, and ethylene dichloride. Public comment will be solicited on the proposed revocations from tolerance exemptions announced in this initial **Federal Register** notice. A second **Federal Register** notice will then be published to accomplish the final action concerning the exemptions.

In the meantime, EPA believes that the phase-out period for sale, distribution, and use of fumigant products containing carbon tetrachloride, carbon disulfide, and ethylene dichloride on stored grains will not compromise protection of public health. Because the registrants have not submitted the residue studies required by the Data Call-In on grain fumigants, EPA does not have adequate data to make reliable quantitative estimates of residue levels of these chemicals in consumer products derived from treated grains. However, the limited data available to the Agency suggest that residues of carbon tetrachloride in ready-to-eat grain-based products are now verylow (averaging less than 10 parts per billion (ppb)). The Agency does not have comparable data on carbon disulfide and ethylene dichloride, but believes that residue levels are similarly low. Within the next 2 to 3 years, all residues of the liquid grain fumigants are expected to disappear from grain-based consumer products.

### III. Label Improvement Program

In addition to the Data Call-In program, EPA also developed a Label Improvement Program (LIP) to help minimize occupational exposure to fumigants, including the EDB substitutes. On November 15, 1984, the Agency issued PR Notice 84–5, Label Improvement Program for Fumigants, which provided for label changes including upgraded precautionary statements, use of detector devices, inclusion of reentry threshold levels above which respirators are required, placarding of fumigated spaces in English and Spanish, and safe handling and disposal instructions.

Based on comments received after the notice was issued, and other developments pertinent to fumigant products, the Agency has now issued PR Notice 85–6 on August, 30, 1985, to clarify and revise PR Notice 84–5. PR Notice 85–6 will be mailed to manufacturers, formulators, producers, and registrants of fumigant products within the next 6 weeks. The dates by which registrants are expected to comply with the Label Improvement Program by making label changes are March 31, 1986, for all products released for shipment and September 30, 1986, for all products in channels of trade.

Because all legal sale and distribution of existing stocks of carbon tetrachloride, carbon disulfide, and ethylene dichloride will cease by December 31, 1985, prior to the September 30, 1986, compliance date specified by PR Notice 85–6 for fumigant products in channels of trade, the LIP will not, as a practical matter, affect products containing these active ingredients.

With regard to aluminum and magnesium phosphide, the Agency has now completed the review of new data submitted in response to the Registration Standards issued in 1981 and 1982 for these active ingredients. This review may result in labeling provisions in addition to or different from those specified in PR-Notices 84–5 and 85–6. The Agency intends to consolidate all these label changes into one document and prescribe them at one time. Accordingly, registrants of aluminum and magnesium phosphide products need not comply with the LIP until notified by the Agency of specific labeling requirements and new compliance deadlines.

However, the provisions of the LIP will apply to methyl bromide and chloropicrin as sole or combined active ingredients. All methyl bromide and chloropicrin products released for shipment must bear the revised labeling as of March 31, 1986. All methyl bromide and chloropicrin products in channels of trade must bear the revised labeling as of September 30, 1986.

### IV. Pending Proposals for Restricted Use Classification

EPA previously had proposed to classify grain fumigant uses of carbon disulfide for restricted use by certified pesticide applicators or persons under their direct supervision, as published in the **Federal Register** of August 1, 1979 (44 FR 45219). The Agency subsequently proposed similarly to classify grain fumigant uses of carbon tetrachloride, chloroform, ethylene dichloride, and sulfur dioxide for restricted use, as published in the **Federal Register** of October 12, 1983 (48 FR 46397). EPA was ready to complete these rulemakings. However, because of the various cancellations and suspensions of these grain fumigants described earlier, the Agency has held these final actions in abeyance. As soon as all cancellation actions on these grain fumigants are completed, the Agency will withdraw these proposals. All grain fumigant registrations of sulfur dioxide have been suspended or are being cancelled voluntarily because the products also contain carbon tetrachloride, carbon disulfide, or ethylene dichloride; sulfur dioxide has been used in liquid grain fumigant mixtures primarily to provide a warning order.

### V. Summary of Existing and New Registrations for Insect Control on Stored Grains

Effective January 1, 1986, there may be no further sale or distribution of any grain fumigant products containing carbon tetrachloride, carbon disulfide, or ethylene dichloride. Effective July 1, 1986, there may be no further use of any existing stocks of these products. This will eliminate the use of liquid grain fumigant products, except for some liquid formulations of chloropicrin as a sole active ingredient.

After December 31, 1985, the major grain fumigants available in commerce will be solid formulations containing aluminum phosphide and magnesium phosphide, and liquified gas formulations containing methyl bromide or combinations of methyl bromide and chloropicrin. Methyl bromide will continue to be the subject of review under EPA's Registration Standards program. In the event that additional data submissions raise concerns about

the potential long-term effects of methyl bromide, an in-depth risk assessment may be necessary. Because of their acute toxicity, aluminum phosphide, magnesium phosphide, methyl bromide, and chloropicrin are restricted for use only by or under the direct supervision of certified pesticide applicators.

In addition to these grain fumigants for remedial treatment of insect infestations, several grain protectants are available for preventive treatment of grains. Registered grain protectants include malathion, which has been the most widely used protectant, synergized pyrethrins, silicon dioxide, diatomaceous earth, and *Bacillus thuringiensis*. Recently, in June 1985, EPA also registered a new grain protectant, chlorpyrifos-methyl (Reldan) for use on wheat, oats, barley, and rice. The registration of chlorpyrifos-methyl is supported by the full complement of test data needed to satisfy current registration requirements under FIFRA. Chlorpyrifos-methyl is applied to grain entering storage or transport containers, using mechanically assisted application methods. These application methods serve to minimize potential exposure during the application process. Under certain conditions, a single application of chlorpyrifos-methyl is expected to provide extended residual protection against insect infestations for approximately 12 months.

Another grain protectant, pirimiphos-methyl (Actellic), is currently registrered by EPA to treat certain grains only for export to countries which have approved the import of these treated grains. However, the manufacturer has also applied for the registration of pirimiphos-methyl for use on corn, sorghum, rice, and wheat grown for domestic U.S. consumption. After submission and review of additional residue chemistry and metabolism studies required for registration, EPA will be in a position to reach a decision on the use of pirimiphos-methyl on grains grown for consumption in this country.

In addition to registered grain protectants and fumigants, a variety of other practices are available for insect control on harvested grains. These include modified atmospheres in sealed bins of silos, using carbon dioxide, nitrogen, and combustion gases to diplace atmospheric oxygen and kill insect pests. Non-chemical measures include hermetic sealing of bins to limit penetration by insects and create an environment without sufficient oxygen to support insect life, and drying and heating or cooling of grains to temperatures high or low enough to repress insect activity. Rigorous cleaning practices also serve to remove food and harborage for insect propagation. Many of these preventive and remedial, non-chemical and chemical practices can be combined as appropriate in integrated pest management (IPM) strategies. Also, gamma radiation is approved for use on wheat and wheat flour and may find more extensive practical application in the future.

Because several insecticides as well as non-chemical means of pest control are currently available for use on stored grains, the Agency believes that the phase-out of carbon tetrachloride, carbon disulfide, and ethylene dichloride grain fumigants, according to the timetable prescribed in this Notice, will not result in significant impacts on the grain industry. The recent registration of chlorpyrifos-methyl provides a new option for preventive treatment of grains, and further advances in technologies for pest control on stored grains can be expected in the coming years. By cancelling grain registrations of carbon tetrachloride, carbon disulfide, and ethylene dichloride, EPA is eliminating from commerce a group of fumigants that do not have adequate test data bases to meet current scientific and regulatory standards under FIFRA. The registration of those chemical alternatives that will remain available are based on the registrants' compliance with FIFRA requirements. Grain uses of these pesticides according to label directions approved by EPA are not expected to present unreasonable risks from dietary or occupational exposures.

Dated: September 13, 1985.

**Steven Schatzow,**

*Director, Office of Pesticide Programs.*

[FR Doc. 85-22546 Filed 9-18-85; 8:45 am]

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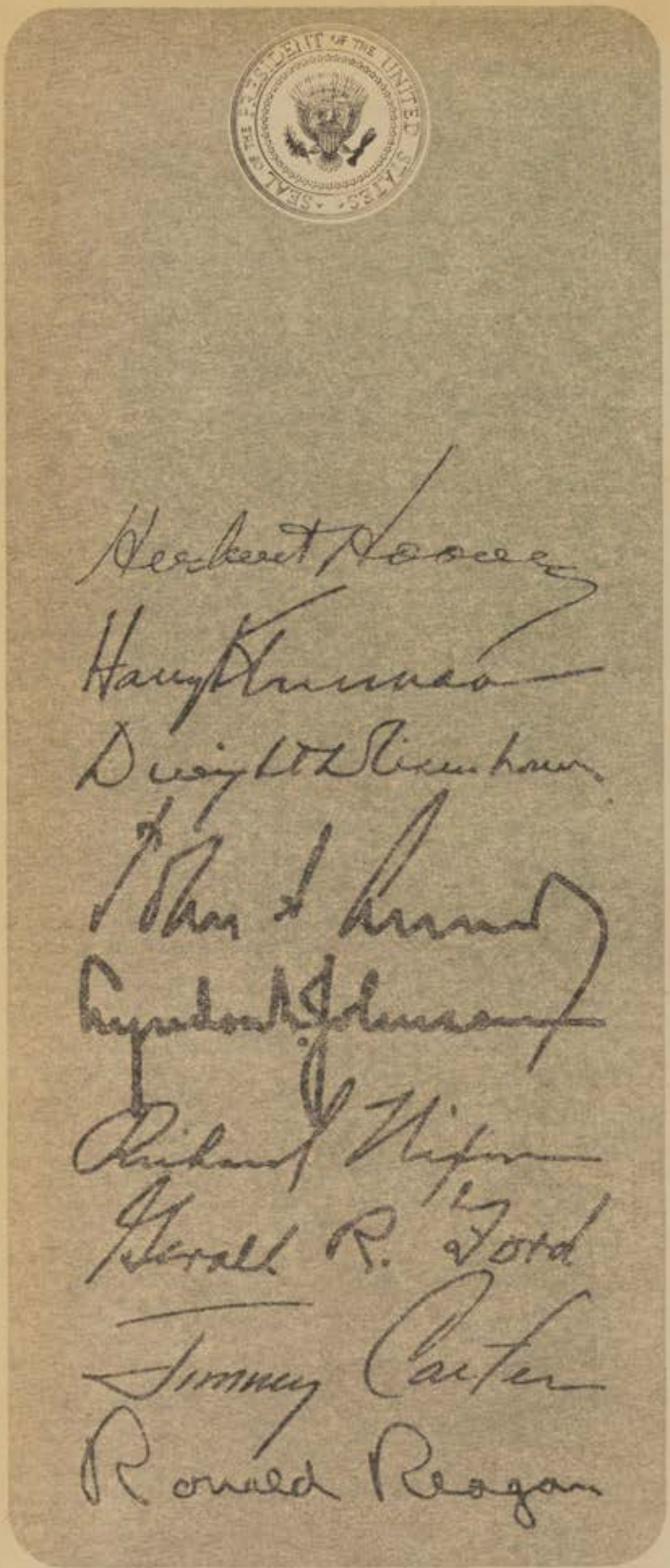

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