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

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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.

ATLANTA, GA

WHEN: March 26; at 9 am.
WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.
RESERVATIONS: Call the Atlanta Federal Information Center, 404–331–2170.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202–523–3517

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Rules and Regulations

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1630

Privacy Act Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986, 1986 U.S. Code Cong. & Ad. News (100 Stat. 514) (to be codified, principally at 5 U.S.C. 8401–8479), as amended by Pub. L. No. 99–509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. No. 99–556, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for federal employees. Regulations of the Board will be contained in Title 6, CFR, Chapter VI Parts 1600–1699. The Executive Director of the Board is publishing in Part 1610 interim regulations governing Board procedures under the Privacy Act of 1974 (5 U.S.C. 552a).

DATES: Interim rules effective April 1, 1987; comments must be received on or before April 1, 1987.

ADDRESS: Comments may be sent to: John J. O'Meara, Federal Retirement Thrift Investment Board, Benjamin Franklin Station, P.O. Box 511, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 653–2573.

SUPPLEMENTARY INFORMATION: The Board, as a new agency, is issuing initial Privacy Act regulations in accordance with section (f) of 5 U.S.C. 552a. The purposes of these regulations are to establish procedures by which an individual may determine if the Board maintains a system of records which includes a record pertaining to that individual and also to establish procedures for individual access to records for purposes of review, amendment and/or correction.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal Board procedures relating to the handling of records and requests for records that pertain to individuals.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Pursuant to 5 U.S.C. 553 (b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. The Board wishes to have these Privacy Act implementing procedures in existence at the time of the statutory commencement date of the Thrift Savings Plan on April 1, 1987.

List of Subjects in 5 CFR Part 1630

Administrative practice and procedure, Privacy, Records.

Title 5 of the Code of Federal Regulations is amended to add Part 1630 to Chapter VI to read as follows:

CHAPTER VI—FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

PART 1630—PRIVACY ACT REGULATIONS

Sec.

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1630.2 Definitions.
1630.3 Annual notice of systems of records maintained.
1630.4 Determining if an individual is the subject of a record.
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1630.10 Access to the accounting of disclosures from records.
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1630.12 Requirements for requests to amend records.
1630.13 Action on request to amend a record.
1630.14 Procedures for review of determination to deny access to or amendment of records.
1630.15 Appeals process.
1630.16 Exemptions.
1630.17 Fees.
1630.18 Penalties.

Authority: 5 U.S.C. 552a.

§ 1630.1 Purpose and scope.

These regulations implement the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records maintained by the Federal Retirement Thrift Investment Board that are contained in a system of records and that contain information about an individual. The regulations establish procedures that (a) authorize an individual's access to records maintained about him or her; (b) limit the access of other persons to those records, and (c) permit an individual to request the amendment or correction of records about him or her.

§ 1630.2 Definitions.

For the puposes of this part—(a) "Agency" means agency as defined in 5 U.S.C. 552(e);

(b) "Board" means the Federal Retirement Thrift Investment Board;

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) "Maintain" means collect, use or distribute;

(e) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Board, including but not limited to education, financial transactions, medical history, and criminal or employment history and that contains the individual's name, identifying number, symbol, or other identifiers assigned to the individual, such as a finger or voice print or a photograph;

(f) "System manager" means the employee of the Board who is responsible for the maintenance, collection, use or distribution of information contained in a system of records;

(g) "System of records" means a group of any records controlled by the Board and from which information is retrieved by the name of the individual;

(h) "Routine use" means, with respect to the disclosure of a record, the use of

that record for a purpose consistent with the purpose for which it was collected;

(i) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8;

(j) "Subject individual" means the individual by whose name or other personal identifier a record is maintained or retrieved;

(k) "Work days" as used in calculating the date when a response is due, includes those days when the Board is open for the conduct of government business and does not include Saturdays, Sundays and legal public holidays.

§ 1630.3 Annual notice of systems of records maintained.

The Board will publish in the **Federal Register** upon establishment or revision a notice of the existence and character of the systems of records the Board maintains. The notice shall include (a) the system name, (b) the system location, (c) the categories of individuals covered by the system, (d) the categories of records in the system, (e) the Board's authority to maintain the system, (f) the routine uses of the system, (g) the Board's policies and practices for maintenance of the system, (h) the system manager, (i) the procedures for notification, access to and correction of records in the system, and (j) the sources of information for the system.

§ 1630.4 Determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Board contains a record pertaining to them should address inquiries to the Privacy Act Officer, Federal Retirement Thrift Investment Board, Benjamin Franklin Station, P. O. Box 511, Washington, DC 20044. With respect to Thrift Savings Plan records, the employee's first inquiry should be made to his or her servicing payroll office.

(b) Inquiries must be in writing and the words "PRIVACY ACT REQUEST" should be printed on both the letter and the envelope. The request letter should contain the complete name and identifying number of the pertinent system as published in the annual **Federal Register** notice describing the Board's Systems of Records; the full name and address of the subject individual; a brief description of the nature, time, place and circumstances of the individual's prior association with the Board; and any other information the individual believes would help the Privacy Act Officer determine whether the information about the individual is included in the system of records. In instances when the information is insufficient to ensure disclosure to the subject individual to whom the record pertains, the Board reserves the right to ask the requestor for additional identifying information.

(c) To the extent possible, the Privacy Act Officer will answer or acknowledge the inquiry within 10 work days of its receipt by the Board. When the response cannot be made within 10 work days, the Privacy Act Officer will provide the requestor with the date when a response may be expected and, whenever possible, the specific reasons for the delay.

§ 1630.5 Requesting access to a record.

(a) An individual requesting access to a record about himself or herself in a system of records maintained by the Board must submit the request in writing to the Privacy Act Officer.

(b) The request for access should contain the same information set forth in § 1630.4(b). However, if the request for access follows a request made under § 1630.4 (a) and (b) of this part, the identifying information need not be repeated provided that a copy of the prior request or a copy of the Board's response to that request is attached. The request should state if a copy of the record is desired.

§ 1630.6 Granting access to a designated individual.

An individual who wishes to have a person of his or her choosing review a record or accompany him or her in reviewing or obtaining a copy of a record must, prior to the disclosure, sign a statement authorizing the disclosure of his or her record. The statement shall be maintained with the record.

§ 1630.7 Action on request.

(a) The Privacy Act Officer shall acknowledge a request for access within 10 work days of its receipt by the Board. At a minimum, the acknowledgement shall include:

(1) When and where the records will be available;

(2) Name, title and telephone number of the official who will make the records available;

(3) Whether access will be granted only by providing a copy of the record through the mail, or only by examination of the record in person if the Privacy Act Officer after consulting with the appropriate system manager has determined the requestor's access would not be unduly impeded;

(4) Fee, if any, charged for copies (See § 1630.17); and

(5) Identification documentation required to verify the identity of the requestor (see § 1630.9).

§ 1630.8 Identification requirements.

(a) A requestor should be prepared to identify himself or herself by signature, i.e., to note by signature the date of access and/or to produce two other legal forms of identification (driver's license, employee identification, annuitant card, passport, etc.).

(b) If an individual is unable to produce adequate identification, the individual shall sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to $5,000 (see § 1630.18). In addition, depending upon the sensitivity of the records, the Privacy Act Officer after consulting with the appropriate system manager may require further reasonable assurances, such as statements of other individuals who can attest to the identity of the requestor.

(c) If access is granted by mail and, in the opinion of the Privacy Act Officer after consulting with the appropriate system manager, the granting of access through the mail may result in harm or embarrassment if disclosed to a person other than the subject individual, a notarized statement of identity or some other similar assurance of identity will be required.

§ 1630.9 Access of others to records about an individual.

(a) No official or employee of the Board shall disclose any record to any person or to another agency without the express written consent of the subject individual, unless the disclosure is:

(1) To officers or employees (including contract employees) of the Board who need the information to perform their official duties;

(2) Pursuant to the requirements of the Freedom of Information Act, 5 U.S.C. 552;

(3) For a routine use that has been published in a notice in the **Federal Register;**

(4) To the Bureau of the Census for uses under Title 13 of the United States Code;

(5) To a person or agency who has given the Board advance written notice of the purpose of the request and certification that the record will be used only for statistical purposes. (In addition

to deleting personal identifying information from records released for statistical purposes, the Privacy Act Officer shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records);

(6) To the National Archives of the United States if a record has sufficient historical or other value to be preserved by the United States Government, or to the Privacy Act Officer (or a designee) to determine whether the record has that value;

(7) In response to a written request that identifies the record and the purpose of the request made by another agency or instrumentality of any Government jurisdiction within or under the control of the United States for civil or criminal law enforcement activity, if that activity is authorized by law;

(8) To a person who, showing compelling circumstances, needs the information to prevent harm to the health or safety of an individual, but not necessarily the individual to whom the record pertains (upon such disclosure, a notification shall be sent to the last known address of the subject individual);

(9) To either House of Congress, or to a Congressional committee or subcommittee if the subject matter is within its jurisdiction;

(10) To the Comptroller General, or an authorized representative, to carry out the duties of the General Accounting Office;

(11) Pursuant to a court order;

(12) To a consumer reporting agency in accordance with section 3711(f) of Title 31.

§ 1630.10 Access to the accounting of disclosures from records.

Rules governing access to the accounting of disclosures are the same as those granting access to the records.

§ 1630.11 Denials of access.

(a) The Privacy Act Officer may deny an individual access to his or her record if:

(1) In the opinion of the Privacy Act Officer, the individual seeking access has not provided sufficient identification documentation to permit access;

(2) The Board has published rules in the **Federal Register** exempting the pertinent system of records from the access requirement; or

(3) The record relates to the status of the employee's retirement account which is provided to the employee on a semi-annual basis.

(b) If access is denied, the requestor shall be informed of the reasons for denial and the procedures to obtain a review of the denial (see § 1630.15).

§ 1630.12 Requirements for requests to amend records.

(a) Individuals who desire to correct or amend a record pertaining to them should submit a written request to the Privacy Act Officer, Federal Retirement Thrift Investment Board, Ben Franklin Station, P.O. Box 511, Washington, DC 20044. The words "PRIVACY ACT—REQUEST TO AMEND RECORD" should be written on the letter and the envelope.

(b) The request for amendment or correction of the record must state the exact name of the system of records as published in the **Federal Register**; a precise description of the record proposed for amendment; a brief statement describing the information the requestor believes to be inaccurate or incomplete, and why; and the amendment or correction desired. If the request to amend the record is the result of the individual's having accessed the record in accordance with §§ 1630.5, 1630.6, 1630.7 or 1630.8, copies of previous correspondence between the requestor and the Board should be attached, if possible.

(c) Individuals needing assistance in preparing a request to amend a record may contact the Privacy Act Officer at the address cited in § 1630.14(a).

(d) If the individual's identity has not been previously verified, the Board may require identification documentation as described in § 1630.8.

§ 1630.13 Action on request to amend a record.

(a) A request for amendment of a record will be acknowledged within 10 work days of its receipt by the Board. If a decision cannot be made within this time, the requestor will be informed by mail of the reasons for the delay and the date when a reply can be expected, normally within 30 work days from receipt of the request.

(b) The final response will include the Board's determination of whether to grant or deny the request. If the request is denied, the response will include:

(1) The reasons for the decision;

(2) The name and address of the official to whom an appeal should be directed;

(3) The name and address of the official designated to assist the individual in preparing the appeal;

(4) A description of the appeal process with the Board; and

(5) A description of any other procedures which may be required of the individual in order to process the appeal.

§ 1630.14 Procedures for review of determination to deny access to or amendment of records.

(a) Individuals who disagree with the refusal of the Board to grant them access to or to amend a record about them should submit a written request for review to the Privacy Act Officer, Benjamin Franklin Station, P.O. Box 511, Washington, DC 20044. The words "PRIVACY ACT—APPEAL" should be written on the letter and the envelope. Individuals desiring assistance preparing their appeal should contact the Privacy Act Officer.

(b) The appeal letter must be received by the Board within 30 calendar days from the date the requestor received the notice of denial. At a minimum, the appeal letter should identify:

(1) The records involved;

(2) The date of the initial request for access to or amendment of the record;

(3) The date of the Board's denial of that request; and

(4) The reasons supporting the request for reversal of the Board's decision.

Copies of previous correspondence from the Board denying the request to access or amend the record should also be attached, if possible.

(c) The Board reserves the right to dispose of correspondence concerning the request to access or amend a record if no request for review of the Board's decision is received within 180 days of the decision date. Therefore, a request for review received after 180 days may, at the discretion of the Privacy Act Officer, be treated as an initial request to access or amend a record.

§ 1630.15 Appeals process.

(a) Within 20 work days of receiving the request for review, a review group composed of the Privacy Act Officer, the General Counsel and the official having operational control over the record, will propose a determination on the appeal for the Executive Director's final decision. If a final determination cannot be made in 20 work days, the requestor will be informed of the reasons for the delay and the date on which a final decision can be expected. Such extensions are unusual, and should not exceed an additional 30 work days.

(b) If the original request was for access and the initial determination is reversed, the procedures in § 1630.7 will be followed. If the initial determination is upheld, the requestor will be so informed and advised of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(c) If the initial denial of a request to amend a record is reversed, the Board will correct the record as requested and

advise the individual of the correction. If the original decision is upheld, the requestor will be so advised and informed in writing of the right to judicial review pursuant to 5 U.S.C. 552a(g). The requestor will be advised of his or her right to file a concise statement of disagreement with the Executive Director. The statement of disagreement should include an explanation of why the requestor believes the record is inaccurate, irrelevant, untimely or incomplete. The Executive Director shall maintain the statement of disagreement with the disputed record, and shall include a copy of the statement of disagreement to any person or agency to whom the record has been disclosed, if the disclosure was made pursuant to § 1630.9.

§ 1630.16 Exemptions.

(a) Pursuant to subsection (k) of the Privacy Act, 5 U.S.C. 552a, the Board may exempt certain portions of records within designated systems of records from the requirements of the Privacy Act, (including access to and review of such records pursuant to this part) if such portions are:

(1) Subject to the provisions of section 552(b)(1) of the Freedom of Information Act, 5 U.S.C. 552;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act, 5 U.S.C. 552a: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosures of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence.

(b) Those designated systems of records which are exempt from the requirements of this part or any other requirements of the Privacy Act, 5 U.S.C. 552a, will be indicated in the notice of designated systems of records published by the Board.

(c) Nothing in this part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1630.17 Fees.

(a) Individuals will not be charged for:

(1) The search and review of the record;

(2) Any copies produced to make the record available for access;

(3) Copies of the requested record if access can only be accomplished by providing a copy through the mail; and

(4) Copies of three (3) or less pages of a requested record.

(b) Records will be photocopied for 10 cents a page for paragraphs (a), (1), (2), (3), (4) of this section. If the record is larger than 8½×14 inches, the fee will be the cost of reproducing the record through Government or commercial sources.

(c) Fees shall be paid in full prior to issuance of requested copies. Payment shall be by personal check or money order payable to the Federal Retirement Thrift Investment Board, and mailed or delivered to the Privacy Act Officer, Federal Retirement Thrift Investment Board, Benjamin Franklin Station, P.O. Box 511, Washington, DC 20044.

(d) The Privacy Act Officer may waive the fee if: (1) The cost of collecting the fee exceeds the amount collected; or (2) The production of the copies at no charge is in the best interest of the Board.

(e) A receipt will be furnished on request.

§ 1630.18 Penalties.

(a) Title 18, U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than five years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representation in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act, 5 U.S.C. 552a (i)(3), makes it a misdemeanor, subject to a maximum fine of $5,000 to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i) (1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

Dated: March 11, 1987.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 87-5504 Filed 3-13-87; 8:45 am]

BILLING CODE 6820-SB-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 736

[Amdt. No. 2]

Grain Warehouses; Transfer of Stored Grain

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: An interim final rule was published in the **Federal Register** on May 9, 1986, which permitted grain warehousemen licensed under provisions of the United States Warehouse Act (the Act), as amended (7 U.S.C. 241, *et. seq.*) to transfer receipted stored agricultural products from one licensed warehouse to another licensed warehouse if the warehouseman lacked sufficient space to store the agricultural products of all depositors.

The interim rule is made final with the clarification that warehousemen may transfer stored grain for which receipts have been issued to another licensed warehouse by means other than an actual physical movement.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: R. Ford Lanterman, 202–382–8004.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under the provisions of Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "non major." Milton J. Hertz, Administrator, ASCS, has determined that this action will not result in (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local government, or a geographic region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action does not constitute a review as to the need, currency, and effectiveness of these regulations under D.R. 1512–1. A complete review of these regulations is in process.

Milton J. Hertz, Administrator, ASCS, has certified that this action will not have a significant economic impact on a substantial number of small entities because (i) this action imposes no additional economic costs on small entities; and (ii) the use of the service is voluntary. Therefore, this action is exempt from the Regulatory Flexibility Act and a regulatory flexibility analysis was not prepared.

Reporting and recordkeeping requirements have received OMB clearance under OMB No. 0560–0120 and no additional requirements are proposed by this rule.

Background

The statutory amendment which mandated this change became effective March 20, 1986. The amendment allows a federally licensed warehouseman to transfer receipted stored agricultural products from one licensed warehouse to another licensed warehouse in accordance with regulations to be issued by the Secretary and subject to such terms and conditions as the Secretary may prescribe. This transfer was previously prohibited by the Act.

The amendment grants discretionary authority to the Secretary to assist federally licensed warehousemen in coping with a storage situation that is beyond their control.

This change will help facilitate storage operations of primary receiving warehouses by enabling them to forward grain to other licensed facilities. Receiving warehouses will continue to be responsible for the safekeeping of grain.

Interested parties were given until July 8, 1986, to submit written comments, data, and opinions. Written comments were received from a trade association and a futures exchange. The trade association believed the final rule should allow repositioning of stocks by other means as well as physical transfers and this clarification is included in the final rule. The trade association also believed that all licensed warehouses to which Commodity Credit Corporation (CCC)-owned and loan grain is transferred should be required to have a Uniform Grain Storage Agreement to maintain the integrity of the Federal warehouse receipt. This proposal will not be included since a contractual arrangement cannot be imposed as a licensing requirement.

The futures exchange believed licensed warehouses located in the terminal and futures contract markets should be prohibited from transferring grain outside of the designated delivery point. This proposal will not be included as part of the final regulation since the legislation makes no distinction between warehouses located within a terminal or futures contract market and warehouses located outside such markets.

Therefore, the interim rule, 51 FR 17306, effective May 9, 1986, and this final action with one clarification amends the regulations for grain warehouses.

List of Subjects in 7 CFR Part 736

Grains, Warehouse licenses, Duties of warehouseman, Warehouses.

Final Rule

PART 736—GRAIN WAREHOUSES

Accordingly, 7 CFR Part 736 is amended as follows:

1. The authority citation for 7 CFR Part 736 continues to read as follows:

Authority: Sec. 28, 39 Stat. 490 (7 U.S.C. 268).

2. Section 736.42 is revised to read as follows:

§ 736.42 Excess storage.

(a) If at any time a warehouseman shall store grain in his warehouse in excess of the capacity for which it is licensed, such warehouseman shall immediately notify the Secretary of such excess storage, the reason therefor, and the location thereof.

(b) A warehouseman who lacks sufficient space and desires to transfer stored grain for which receipts have been issued to another licensed warehouse may do so either by physical movement or by other methods accepted as standard industry practice subject to the following terms and conditions:

(1) The transferring (shipping) warehouseman's accepted rules or schedule of charges must contain notice that the warehouseman may forward grain deposited on a commingled basis under such terms and conditions as the Secretary may prescribe.

(2) For purposes of this section of the regulations a licensed warehouse means a warehouse operated by a warehouseman who holds an unsuspended, unrevoked license under the U.S. Warehouse Act for grain, or a warehouse operated by a warehouseman who holds an effective warehouse license for the public storage of grain and/or rice issued by a State that has financial, bonding and examination requirements for the benefit of all depositors.

(3) Non-negotiable warehouse receipts shall be obtained promptly by the shipping warehouseman from the receiving warehouseman for all transferred grain. Such recipts shall have printed or stamped in large bold or outline letters diagonally across the face and covering the face from corner to corner the words "NOT NEGOTIABLE". Receipts are not valid for collateral purposes. They shall be retained by the shipping warehouseman to be presented to and used by Department examiners in lieu of an on-site inventory. The grain covered by such receipts is not the property of either the receiving or shipping warehouseman but held in trust by both solely for the benefit of the depositors whose bailed grain was transferred individually or collectively and the depositor or the depositor's transferee retains title thereto.

(4) The shipping warehouseman's bond shall be increased to consider the addition of the transferred grain to the licensed capacity of the warehouse with the net asset requirements based on the total of the licensed capacity and the forwarded grain. The bond amount need not be more than $500,000 unless necessary to cover a deficiency in net assets to meet requirements. The receiving warehouseman shall not incur storage obligations that exceed the licensed capacity of his warehouse.

(5) The shipping warehouseman continues to retain storage obligation to the owners of all grain deposited in the warehouse for a storage whether forwarded or retained and is, except as otherwise agreed upon under paragraph (b)(6) of this section, required to redeliver the grain upon demand to the depositor or the depositor's transferee at

the warehouse where the grain was first deposited for storage.

(6) The owner of grain deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the grain was first deposited for storage, unless the owner of the commodity, with the consent of both the shipping warehouseman and the receiving warehouseman, elects to take delivery at the warehouse to which grain was transferred under this section.

(7) Nothing in this section shall in any way diminish the right of the owner of the grain to receive on delivery, or the obligation of the warehouseman of a licensed warehouse from which the product is transferred, to deliver to the owner, grain in the amount, and of the kind, quality, and grade, called for by the warehouse receipts or other evidence of storage.

(8) Recording and retention of non-negotiable warehouse receipts received as a result of forwarding a commodity under this section shall be subject to the requirements for warehouse receipts specified elsewhere in these regulations.

(9) If it is the shipping warehouseman's obligation by terms of the warehouse receipt or otherwise to insure the grain subject to the transfer, he must in accordance with 7 CFR 736.33 keep such grain insured in his own name or transfer the grain only to a warehouse where the grain is fully insured.

(c) A warehouseman may transfer stored grain for which receipts have not and are not to be issued to another licensed warehouse for continued storage by complying with the provisions of paragraphs (b) (1), (2), (5), (6), (7), and (9) of this section. However, in no event shall the warehouseman's total storage obligations to others (not including stored receipted grain shipped under provisions of paragraph (b) of this section) exceed the shipping warehouseman's licensed capacity.

Signed at Washington, DC, on March 10, 1987.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87-5545 Filed 3-13-87; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 552]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 552 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 340,000 cartons during the period March 15–21, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 552 (§ 910.852) is effective for the period March 15–21, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1986-87. The committee met publicly on March 10, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by an 11 to 1 vote a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.852 is added to read as follows:

§ 910.852 Lemon Regulation 552.

The quantity of lemons grown in California and Arizona which may be handled during the period March 15 through March 21, 1987, is established at 340,000 cartons.

Dated: March 11, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-5631 Filed 3-13-87; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The current 21 percent per year Federal credit union loan rate ceiling was scheduled to revert to 15 percent on May 15, 1987, unless otherwise provided by the NCUA Board. Prevailing market rates and economic

conditions do not justify a continuation of the 21 percent ceiling. A 15 percent ceiling would, however, restrict certain categories of credit and adversely affect the financial condition of a number of Federal credit unions. Accordingly, the NCUA Board has established an 18 percent Federal credit union loan rate ceiling for the period from May 15, 1987 through September 9, 1988. Loans and line of credit balances existing prior to May 15, 1987 may continue to bear their contractual rate of interest, not to exceed 21 percent. Further, the NCUA Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

EFFECTIVE DATE: May 15, 1987.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Charles H. Bradford, Chief Economist; Daniel Gordon, Economist; or Robert M. Fenner, General Counsel, at the above address. Telephone numbers: (202) 357–1100 (Mr. Bradford or Mr. Gordon); (202) 357–1030 (Mr. Fenner).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for Federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the NCUA Board to set a higher limit, after consultation with Congress and other Federal Financial agencies, for a period not to exceed 18 months, if the Board should determine that: (i) Money market interest rates have risen over the preceding six months; and (ii) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings and growth.

On December 3, 1980, the NCUA Board met and determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for 9 months to 21 percent. In the unstable environment of the first half of the 1980's the NCUA extended the 21 percent ceiling five times, the last one being on November 14, 1985. In its last extension, the NCUA noted that while market rates were well below their historic peaks of the early 1980's, the cost of funds had fallen much less, particularly for increasingly popular high yielding IRA/Keogh accounts and certificates of deposit.

In order to assure an inflow of liquidity into the system, to preserve flexibility in the system so that credit unions could react to any adverse economic developments, and to assure that any increase in the cost of funds would not impinge on earnings of Federal credit unions, the NCUA Board extended the 21 percent from November 14, 1985 until May 14, 1987. The Board emphasized in its November 14, 1985 extension that it did not expect its action to result in increased loan rates. Indeed, this has been true. Credit union loan rates have declined steadily since November 1985.

In view of current market rates (including credit union loan rates), as discussed below, a continuation of the 21 percent ceiling is not justified. On the other hand, reversion to a 15 percent ceiling would unduly affect the earnings and capital of many Federal credit unions. Accordingly, the NCUA Board has established an 18 percent ceiling for loans and line of credit advances made during the period from May 15, 1987 through September 9, 1988.

The NCUA Board would prefer not to set loan interest rate ceilings for Federal credit unions. The Board supports free lending markets and the ability of Federal credit unions' boards of directors to establish loan rates that reflect current market conditions and to balance the interests of credit union members. Congress has, however, required the Board to establish a loan rate ceiling and to justify any ceiling in excess of 15 percent. The following analysis justifies a ceiling above 15 percent, but at the same time justifies a reduction of the current 21 percent ceiling to 18 percent. The Board is prepared to reconsider this action at any time should changes in economic conditions warrant.

Ceiling Above 15 Percent

Recent developments indicate the necessity for a loan ceiling above 15 percent. First, market interest rates, as evidenced by 3 month Treasury Bills, have risen the past six months and are currently 40 basis points above the September 1986 rates. Table 1 shows the average discount rate for the weekly 90-day Treasury Bill auction, by months, September 1986 through February 1987.

TABLE 1—MONTHLY AVERAGE DISCOUNT RATE FOR THE WEEKLY 90-DAY TREASURY BILL AUCTION

Month	Rate (percent)
1986:	
September	5.19
October	5.18
November	5.35
December	5.49
1987:	
January	5.45

TABLE 1—MONTHLY AVERAGE DISCOUNT RATE FOR THE WEEKLY 90-DAY TREASURY BILL AUCTION—Continued

Month	Rate (percent)
February	5.59

Second, while the cost of funds for credit unions has declined in recent years, both gross and net spreads between return on assets and the cost of assets have declined the past three years. See Table 2.

TABLE 2—CREDIT UNION SPREADS*

	1984	1985	1986
Return on Total Assets	12.01%	11.48%	9.93%
Loans	13.75	13.56	12.60
Investments	10.33	9.10	7.10
Earning Assets	12.59%	12.07%	10.45%
−Cost of Total Assets	7.36%	7.10%	6.05%
Total Savings	7.97%	7.71%	6.53%
=Gross Spread	465 bp	438 bp	388 bp
−Operating Expenses	347	336	307
+Other Income	40	48	59
=Net Spread	158 bp	150 bp	140 bp

*All credit unions

Third, credit union losses represent a significant problem that must be weighed in setting a loan rate ceiling. In 1984 a total of 1,041 Federal credit unions, 9.9 percent of all Federal credit unions, registered losses. In 1985 this number had risen to 1,178, representing 11.6 percent of Federal credit unions, and in 1986 a total of 1,360 Federal credit unions, representing 13.9 percent of Federal credit unions, had losses.

Table 3 below shows the number of credit unions, by size, experiencing losses in 1986. The table shows that most credit unions with negative earnings are small and it is these credit unions that would be most adversely affected by a reduction in the interest rate ceiling to 15 percent.

TABLE 3—FEDERAL CREDIT UNIONS EXPERIENCING LOSSES IN 1986

Asset size	No. of FCUs
Less than $1 million	664
$1–2 million	196
$2–5 million	219
$5–10 million	129
$10–20 million	80
$20 million–50 million	51
$50 million over	21
Total	1,360

The decline in spreads the past two years and the increase in Federal credit unions registering losses may not be directly attributed to a low loan ceiling, but these adverse trends do raise a warning flag imposing too low a ceiling

that may threaten the safety and soundness of many credit unions by reducing their flexibility.

Fourth, Federal credit union capital ratios (net worth to total assets) have declined the past two years—from 6.4 percent in December 1984 to 6.3 percent in 1985 to 6.0 percent in December 1986.

Each of the foregoing developments are conditions precedent for setting a loan ceiling above 15 percent.

Moreover, approximately a third of all Federal credit unions are currently charging over 15 percent for some loans, generally unsecured or credit card loans. These unsecured loans account for 23 percent of total credit union loan volume and are an important part of credit union loan operations.

The cost of handling these unsecured loans, particularly the credit card loan, is very high. Delinquency ratios and losses are higher than for other credits. Also efficiency of operations is an important determinant in setting a loan rate. Unfortunately, some inefficient credit unions could be forced into insolvency with a loan ceiling as low as 15 percent.

To drop the loan ceiling to 15 percent would place severe strains, if not a shock, on a large segment of the credit union movement.

Lower Current Ceiling from 21 Percent to 18 Percent

While a loan ceiling above 15 percent is justified, the NCUA Board cannot justify a continuation of the current 21 percent ceiling, in light of current market conditions. Market interest rates have fallen dramatically in recent years. Current rates are anywhere from one-third to one half those of the peak years 1980–1981. Thus, the current situation is vastly different from that of 1980 when the 21 percent ceiling was first imposed. See Table 4 below.

TABLE 4.—MARKET INTEREST RATES ON SELECTED INSTRUMENTS

Date as of December	Prime rate	3-month Treasury	One-year Treasury	Ten year Treasury
1980	21.50	15.66	13.26	12.84
1981	15.75	10.93	11.50	13.72
1982	11.50	8.01	8.23	10.54
1983	11.00	8.96	9.16	11.83
1984	10.75	8.16	8.38	11.50
1985	9.50	7.07	7.06	9.26
1986	7.50	5.49	5.60	7.11
Percentage point decline since 1980	14.00	10.17	7.66	5.73

There are good economic reasons to believe that we will probably not see a return to the high inflation, high interest rate levels of 1980–81 very soon. One important factor is modest wage demands by labor. Workers are still more concerned about job security than they are about wage levels. Hence, with labor costs making up two-thirds of final product costs, there should be very little price pressure from this important source. Second, surpluses in food crops and other basic commodities will keep downward pressure on commodity prices. Third, responsible Federal Reserve Board policy actions, with concern for inflation as well as for a sluggish economy, should continue to moderate inflation. The large increases in M–1 the past year and a half have not been inflationary because of steep offsetting declines in the velocity of money. Finally, the economy is not vigorous right now, and is not putting upward pressure on interest rates. For these reasons the staff sees little cause for interest rates to rise very much over the next 18 months.

Credit Union Experience

Credit unions have responded, albeit slowly, to falling market interest rates by reducing lending rates the past three years. Table 5 shows average rates charged by credit unions for two-year unsecured personal loans and new auto loans as of December 1983 through 1986.

TABLE 5.—RATES CHARGED BY CREDIT UNIONS FOR UNSECURED PERSONAL LOANS AND NEW AUTOMOBILE LOANS

As of December	1983–1986	
	Unsecured personal loans (percent)	New automobile loans (percent)
1983	16.4	13.1
1984	16.6	13.5
1985	16.2	12.6
1986	15.0	10.9

Average unsecured loan rates have declined from 16.4 percent in 1983 to 15.0 percent in 1986. New auto loan rates have declined from 13.1 percent in 1983 to 10.9 percent in 1986.

While most credit union lending rates are below 15 percent, there are a sizeable number of credit unions with loan rates above 15 percent, and a ceiling of 15 percent would be too low; it could be devastating to a large segment of the credit union movement. On the other hand, a ceiling of 18 percent would hurt relatively few credit unions. Table 6 below shows the number of Federal credit unions charging various loan rates on various types of loans, as of December 1986. Table 7 shows the number of credit unions charging any rates above the stated bracket amount. While 3,067 credit unions charge more than 15 percent on at least one type of loan, only 122 Federal credit unions, 1.2 percent of the total, charge any rates above 18 percent.

TABLE 6.—NUMBER OF FEDERAL CREDIT UNIONS[1] CHARGING "MOST COMMON RATE" DECEMBER 1986

	Unsecured loans	New auto loans	First mortgages	Other real estate loans	Agricultural loans	Commercial loans	All other loans to members
15.00 or less	5,937	7,533	2,120	2,958	260	391	7,433
15.01 to 16.00	944	22	16	47	14	17	297
16.01 to 17.00	522	6	1	4	7	4	89
17.01 to 18.00	1,299	22	8	12	18	8	229
18.01 to 19.00	47	0	0	0	2	1	3
19.01 to 20.00	21	0	0	0	0	2	3
20.01 to 21.00	45	1	1	2	0	1	4
Total	8,815	7,584	2,146	3,023	301	424	8,058
Average	14.96	11.47	11.26	12.15	13.73	13.03	13.10

[1] 9,761 Federal Credit Unions.

TABLE 7.—Number of Federal Credit Unions Charging "Most Common Rate" on Any Loan December 1986

Interest rate	Number of FCUs	Percent of total[1]
Over 15.00	3,067	31.4
18.00	1,349	13.8
Over 18.00	122	1.2
19.0	40	.4
Over 19.0	74	.8
20.0	23	.2
21.0	50	.5

[1] 9,761 Federal Credit Unions.

The 122 credit unions charging over 18 percent for any loans are the ones that would be hurt by an 18 percent ceiling. With 99 percent of credit unions able to operate with all of their loan rates at 18 percent or below, the problem is dealing with these relatively few inefficient operators. In these cases, it will be necessary for credit union boards and management, NCUA examiners and other interested parties to work together to find ways to bring cost of funds or operating expenses down to a level that would accommodate lower loan rates.

In a special survey of the credit card operations of 300 credit unions conducted in September 1986, it was found that one in four charge credit card rates of 15 percent or less. Almost three-fourths of the credit unions offer credit card rates between 15 and 18 percent and only 6 of these 300 credit unions charge rates in excess of 18 percent. See Table 8.

TABLE 8.—DISTRIBUTION OF CREDIT CARD INTEREST RATES (SEPTEMBER 1986)

Credit card rate	Distribution (in percent)
15 percent or less	25
15.01 to 16 percent	17
16.01 to 17 percent	34
17.01 to 18 percent	22
Over 18 percent	2

Almost half (47%) of large credit unions, defined as those with more than $50 million in assets, reduced their credit card rates between December 1985 and September 1986. And the trend seems to be continuing. In the financial system as a whole there have been a number of reductions in card rates the past six months.

A recent study by the Federal Reserve Board analyzed the economic effects of credit card rate ceilings. Although the analysis was directed toward commercial banks and retailers the conclusions are likely to apply to credit unions as well. The study showed that rising earnings on credit card operations in 1984–85, the latest data available, were due not only to the reduced cost of funds, but also to more selective credit card standards which were established in the late 1970's and early 1980's. The Federal Reserve staff anticipates that restrictive interest rate ceilings would result in more stringent card issuance criteria and increases in nonrate prices, e.g., grace periods, the loss of insurance for lost cards, discounts on a diversity of services and provisions for emergency cash. Therefore it is possible that a reduction in the interest rate ceiling would bring alteration in practices to make up for lost income by other adjustments.

Conclusion

A balance is needed to permit credit union management the flexibility to address the needs of their credit unions. Any ceiling should be set to give adequate flexibility for independent operation. While other types of lenders remit profits to stockholders, credit unions return excess earnings to members through interest refunds and bonus dividends. These are in addition to regular dividends on member shares.

The decline in interest rates in the past five years, and particularly the past two years, justifies a lower ceiling, particularly since there are strong economic indications that these lower rates are here to stay for a time.

An 18 percent ceiling would not impose any hardship on 99 percent of the credit unions. For most credit unions an 18 percent ceiling should provide ample flexibility to adjust to changing economic conditions. Any unexpected economic upheavals would require emergency NCUA Board action on the ceiling.

Accordingly, the NCUA Board has established a Federal credit union loan interest rate ceiling of 18 percent per year for the period from May 15, 1987 through September 9, 1988. As previously indicated, loans and line of credit balances existing on or before May 14, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

Regulatory Procedures

The NCUA Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C 553(b)(B). Due to the need for a planning period and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action on the loan rate ceiling is necessary.

For the same reasons, a regulatory flexibility analysis is not required, 5 U.S.C. 604(a). However, the NCUA Board has considered the need for this rule, and the alternatives, as set forth above.

This final rule takes effect on May 15, 1987. Such action is necessary in order to prevent a reversion to a 15 percent loan rate ceiling.

List of Subjects in 12 CFR Part 701

Credit Unions, Loan interest rates.

By the National Credit Union Administration Board March 11, 1987.

Rosemary Brady,

Secretary of the Board.

PART 701—AMENDED

The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix), 1766.

Accordingly, § 701.21(c)(7) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(7) *Loan interest rates*—(i) *General.* Except when a higher maximum rate is provided for in § 701.21(c)(7)(ii), a Federal credit union may extend credit to its members at rates not to exceed 15 percent per year on the unpaid balance inclusive of all finance charges. Variable rates are permitted on the condition that the effective rate over the term of the loan (or line of credit) does not exceed the maximum permissible rate.

(ii) *Temporary rates.*—(A) *21 percent maximum rate.* Effective from December 3, 1980 through May 14, 1987, a Federal credit union may extend credit to its members at rates not to exceed 21 percent per year on the unpaid balance inclusive of all finance charges. Loans and line of credit balances existing on or before May 14, 1987, may continue to bear rates of interest of up to 21 percent per year after May 14, 1987.

(B) *18 percent maximum rate.* Effective May 15, 1987, a Federal credit union may extend credit to its members at rates not to exceed 18 percent per

year on the unpaid balance inclusive of all finance charges.

(C) *Expiration.* After September 9, 1988, or as otherwise ordered by the NCUA Board, the maximum rate on Federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraph (c)(7)(ii) (A) and (B) of this section, on loans and line of credit balances existing on or before September 9, 1988.

[FR Doc. 87-5607 Filed 3-13-87; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 748

Report of Crime or Catastrophic Act and Bank Secrecy Act Compliance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Amendment to final rule.

SUMMARY: The NCUA Board has revised, to August 1, 1987, the date by which federally-insured credit unions must have written compliance programs in place to meet the requirements of the Bank Secrecy Act and the Department of Treasury's implementing regulations. The Department of Treasury's regulations are currently undergoing change and it is expected that final regulations will be issued in the next few weeks. The August 1 deadline will provide ample time for NCUA to issue compliance guidelines and for federally-insured credit unions to establish compliance programs that reflect the requirements of the revised Department of Treasury regulations.

EFFECTIVE DATE: March 11, 1987.

FOR FURTHER INFORMATION CONTACT: John K. Ianno, Staff Attorney, Litigation Division, (202) 357-1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION:

Background

Effective January 27, 1987, the NCUA Board issued a regulation, as directed by Congress, requiring that federally-insured credit unions establish programs to assure compliance with the financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Act (the Bank Secrecy Act) and the Department of Treasury's implementing regulations at 31 CFR Part 103. NCUA's regulation required that federally-insured credit unions have written compliance programs in place by April 27, 1987. This date was based in large part on the fact that the Department of Treasury's regulations were undergoing change and the NCUA Board wished to allow adequate time for development of compliance programs incorporating those revised regulations. It now appears the Department of Treasury's regulations will be issued in late March or early April. The NCUA Board has therefore revised, to August 1, 1987, the date by which federally-insured credit unions must have written compliance programs in place. This should allow approximately 30 days, after issuance of the Department of Treasury's final rules, for NCUA to complete and distribute compliance guidelines, and an additional 90 days for federally-insured credit unions to develop and implement their new compliance programs.

This extension of time applies only to the establishment of a compliance program in accordance with Part 746 of NCUA's regulations. Credit unions should be aware that they continue to be required to comply with the requirements of the Bank Secrecy Act and existing Department of Treasury regulations.

Reason for Adoption Without Prior Notice and Comment

Immediate adoption of this amendment is necessary so that credit unions will not be required to implement compliance programs pursuant to 12 CFR 748.2 prior to publication of the Department of Treasury's final rule and NCUA's guidelines in this area.

Due to time constraints, the NCUA Board has determined that application of the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553) to this action would be impracticable and that good cause exists for making this action effective immediately.

Paperwork Reduction Act

This amendment imposes no recordkeeping requirements on credit unions and therefore the requirements of the Paperwork Reduction Act of 1980 do not apply.

List of Subjects in 12 CFR 748

Report of Crime or Catastrophic Act, Bank Secrecy Act compliance.

PART 748—[AMENDED]

1. The authority citation for 12 CFR Part 748 continues to read as follows:

Authority: 12 U.S.C. 1766(a); 12 U.S.C. 1786(q); 31 U.S.C. 5311.

2. Section 748.2(b) is revised to read as follows:

§ 748.2 Bank Secrecy Act compliance programs and procedures.

* * * * *

(b) Compliance Procedures. On or before August 1, 1987, each federally-insured credit union shall develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with recordkeeping and reporting requirements set forth in Subchapter II of Chapter 53 of title 31, United States Code, the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act and the implementing regulations promulgated thereunder by the Department of Treasury, 31 CFR Part 103. This program shall be reduced to writing, approved by the board of directors of the institution, and noted in the minutes.

* * * * *

By the National Credit Union Administration Board on the 11th day of March 1987.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 87-5608 Filed 3-13-87; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-56-AD; Amdt. 39-5582]

Airworthiness Directives; British Aerospace (BAe) Models HP137 Mkl, Jetstream 200 and Jetstream 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace (BAe) Models HP137 Mkl Series, Jetstream 200 Series, and certain Jetstream 3101 Series airplanes, which requires a recurring torque loading check on the nose landing gear top cap securing bolts. Three incidents have occurred in service, where the bolts securing the top cap to the steering tube on the nose landing gear have been found fractured and loose. These defects may cause loss of control of the aircraft.

DATES: Effective date: April 20, 1987. Compliance: As prescribed in the body of the AD.

ADDRESSES: British Aerospace (BAe), CAA Mandatory Service Bulletin (MSB) No. 32-JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, BAe Airweapons Division Service Bulletin (S/B) No. 32-12 dated November 29, 1985, BAe S/B No. 32-

JA860331 dated September 1, 1986, BAe Airweapons Division S/B No. 32–20 dated March 4, 1986, BAe S/B No. 32–JA860332 dated September 8, 1986, and BAe Airweapons Division S/B No. 32–21 dated March 4, 1986, applicable to this AD may be obtained from British Aerospace plc, Manager, Product Support Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; or British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey A. Chimerine, FAA, Project Support Staff Foreign, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring a recurring torque loading check for the proper torque of 26–28 ft-lbs on the nose landing gear top cap securing bolts on all BAe Models HP137 Mkl, Jetstream 200, and certain Jetstream 3101 Series airplanes, was published in the Federal Register on November 13, 1986 (52 FR 41110). The proposal resulted from three incidents which occurred in service on British Aerospace (BAe) Air Weapons Division (AWD) manufactured nose landing gear units, where the bolts securing the top cap to the steering tube on the nose landing gear were found to have been fractured and loose. Consequently, British Aerospace issued BAe, CAA MSB No. 32–JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, and BAe AWD S/B No. 32–12 dated November 29, 1985, which introduced a recurring torque loading check for the proper torque of 26–28 ft-lbs on the nose landing gear top cap securing bolts of aircraft in service. Subsequently, BAe issued, for the Jetstream Series 3101 airplanes, S/B No. 32–JA860331 dated September 1, 1986, and BAe AWD S/B No. 32–20 dated March 4, 1986, and for the HP137 Mkl and Jetstream Series 200 airplanes, S/B No. 32–JA860332 dated September 8, 1986, and BAe AWD S/B No. 32–21 dated March 4, 1986, which introduced a modification by replacing the existing top cap and bolts and installing a reinforced top cap, new bolts with larger clamping area, dowel retaining plate and spirol pins.

The Civil Airworthiness Authority-United Kingdom (CAA–UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, classified this BAe MSB No. 32–JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of BAe MSB No. 32–JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, BAe AWD S/B No. 32–12 dated November 29, 1985, BAe S/B No. 32–JA860331 dated September 1, 1986, and BAe AWD S/B No. 32–20 dated March 4, 1986, BAe S/B No. 32–JA860332 dated September 8, 1986, and BAe AWD S/B No. 32–21 dated March 4, 1986, and the mandatory classification of BAe MSB No. 32–JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, by the CAA–UK, and concluded that the condition addressed by BAe MSB No. 32–JA840827 dated January 16, 1986, revised February 4, 1986 and February 7, 1986, and BAe AWD S/B No. 32–12 dated November 29, 1985, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change, except for minor editorial changes and that reference to BAe S/B No. 32–JA860332 dated September 8, 1986, and BAe AWD S/B No. 32–21 dated March 4, 1986, which was inadvertently omitted, is now included. The FAA has determined that this regulation involves 75 airplanes at an approximate annual cost on an estimated average annual usage of these airplanes of $120 for each airplane, or a total annual fleet cost of $9,000.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

British Aerospace: Applies to British Aerospace Models HP137 Mkl and Jetstream 200 Series (all serial numbers) and Jetstream Model 3101 airplanes certificated in any category, as follows:

1. Serial Numbers 601 to 606 inclusive, incorporating nose landing gear BAe type numbers 1863, 1873/2A or 1873/3A, and

2. Serial Numbers 607 and subsequent, incorporating nose landing gear BAe type BOOA702852A with "strike off" numbers 1, 2, 3 or 4.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the failure and loosening of the nose landing gear top cap securing bolts and possible loss of control of the aircraft, accomplish the following:

(a) Within the next 200 landings after the effective date of this AD, visually inspect the nose landing gear top cap securing bolts in accordance with Section 2.

"ACCOMPLISHMENT INSTRUCTIONS" in British Aerospace Air Weapons Division Service Bulletin (S/B) No. 32-JA840827 dated January 16, 1986, revised February 4, 1986, and February 7, 1986.

(1) If a cracked or loose bolt is found, before further flight, remove, replace, lubricate, and retorque the top cap securing bolts in accordance with BAe Air Weapons Division S/B No. 32-12 and repeat the inspection of paragraph (a) of this Airworthiness Directive (AD) before the next 1,000 landings, and every 1,000 landings thereafter, or modify the nose landing gear in accordance with paragraph (b) of this AD.

(2) If no defect is found, repeat the inspection of paragraph (a) of this AD before the next 1,000 landings, and every 1,000 landings thereafter, or modify the nose landing gear in accordance with paragraph (b) of this AD.

Note.—If landings are not recorded, substitute one landing for each ½ hour of flight time.

(b) The repetitive inspection required by paragraph (a) of this AD may be discontinued when the nose landing gear is modified either in accordance with BAe S/B No. 32-JA860331 dated September 1, 1986, and BAe Airweapons Division S/B No. 32-20 dated March 4, 1986, for the Jetstream 3101 airplanes, or in accordance with BAe S/B No. 32-JA860332 dated September 8, 1986, and BAe Airweapons Division S/B No. 32-21 dated March 4, 1986, for the HP137 Mkl and Jetstream Series 200 airplanes, by replacing the existing top cap and bolts and installing a new reinforced top cap, new bolts with larger clamping area, dowel retaining plate and spirol pins.

(c) Aircraft may be flown in accordance with Federal Aviation Regulations (FAR) 21.197 to a location where this AD can be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to British Aerospace plc, Manager, Product Support Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; or British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on April 20, 1987.

Issued in Kansas City, Missouri, on March 5, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-5512 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 234, 235, 237, and 240

[Docket No. R-87-1294; FR-1928]

Single Family Mortgage Insurance on Hawaiian Home Lands

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

ACTION: Final rule.

SUMMARY: This final rule implements section 247 of the National Housing Act, which authorizes FHA insurance of mortgages executed by native Hawaiians on one- to four-family residences located on Hawaiian home lands. A special rule for insuring mortgages on Hawaiian home lands is necessary to reflect the role of the Department of Hawaiian Home Lands in providing security to the Secretary in this program, involving land to which title is restricted to native Hawaiians, and to set out the distinctive mortgage application and claims processing requirements associated with the program. This rule provides that Hawaiian home lands will be eligible for mortgage insurance under section 203(b) only.

Some provisions concerning defaulted mortgages insured pursuant to section 247 have already been published as part of a final rule on the subject of defaulted mortgages, as a whole. See §§ 203.350(c), 203.665 and 204.400 published on March 5, 1987 (52 FR 6908). Those provisions are described in the preamble to this rule although the rule text of those sections is not repeated here.

EFFECTIVE DATE: The Department must complete a number of administrative actions before this rule can be made effective. These actions include execution of an agreement with the Department of Hawaiian Home Lands (referenced herein), preparation of the note and mortgage instruments and issuance of processing instructions. The rule will become effective on a date to be published in a notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alan Kappeler, Director, Insured Single Family Housing, Department of Housing and Urban Development, Room 9266, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone (202) 755-3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On July 23, 1986, the Department published a proposed rule (51 FR 26409) to provide for FHA mortgage insurance of homestead leasehold interests in one- to four-family residences and in condominiums located on Hawaiian home lands. The proposed rule indicated that publication of a final rule would be premised on several actions taking place.

The first premise was that the United States Congress would enact a bill approving changes in the Hawaiian Homes Commission Act of 1920 that would permit a non-native Hawaiian to hold an interest in Hawaiian home lands as security for a home purchase or home improvement loan if Federal agency insured the loan. Such a bill was enacted and was approved by the President on October 27, 1986 (Pub. L. 99-557, 100 Stat. 3143).

The second premise was that the Congress would enact a change in the National Housing Act to transfer the program of mortgage insurance for one- to four-family residences, under section 203 of the National Housing Act pursuant to section 247 of that Act, from an obligation of the Mutual Mortgage Insurance Fund (MMIF) to the General Insurance Fund. (The program for condominiums on Hawaiian home lands, with mortgages insured under section 234 of the National Housing Act pursuant to section 247, is already an obligation of the General Insurance Fund.) This change for the insurance program for one- to four-family residences on Hawaiian home lands is desirable because it is significantly different from other insurance programs included in the MMIF. (For simplicity, the program for one- to four-family residences, as distinguished from the program for condominium units, will be called the single family insurance program in this preamble.)

One feature of programs covered by the Mutual Insurance Fund is that the FHA mortgage insurance premium is paid in a lump sum at the time the loan is closed ("one-time MIP"). Another feature of these programs is the refund of a portion of the mortgage insurance premium to a mortgagor upon termination of insurance when there has been favorable nationwide claim experience on the types of mortgages covered in that fund ("distributive share"). The General Insurance Fund programs do not have these features.

Sections 203.420–203.425 specify the conditions under which a mortgagor of a single family residence covered under the MMIF may be given a "distributive share" of the net profit to the MMIF. This profit is based on income from mortgage insurance premiums and expenses for payment of claims. In the case of mortgages on single family residences on Hawaiian home lands, it is expected that under an agreement to be executed by HUD and the State of Hawaii's Department of Hawaiian Home Lands (DHHL), the DHHL will assume all the risk of loss on mortgage insurance claims on Hawaiian home lands, by providing adequate security to HUD to cover expected defaults. Therefore, payment of insurance claims of Hawaiian home lands mortgages will result in a neutral impact on profit or loss to the MMIF. Because of this essential difference, the Department believes it is inappropriate, and unnecessary to the success of this program, to provide for participation in distributive shares under the MMIF to mortgagors of homes on Hawaiian home lands, and that it would be appropriate for this program to be an obligation of the General Insurance Fund.

However, the legislative proposal to transfer FHA insurance on single family residences on Hawaiian home lands from the MMIF to the General Insurance Fund was not enacted during the ninety-ninth Congress. Rather than delay the issuance of a final rule and implementation of the program until enactment of such legislation (as the proposed rule indicated would be the case), the Secretary has decided to exercise his discretion under sections 205 and 247 of the National Housing Act to provide in this rule that no distributive share payments will be made with respect to insured mortgages on single family residences on Hawaiian home lands.

Section 205 of the National Housing Act, 12 U.S.C. 1711, required the Secretary to establish the Mutual Insurance Fund and prescribed the two accounts of which it is composed. Section 205(b) authorizes the Secretary to determine how much of the premiums paid by mortgagors is to be credited, in accord with sound actuarial and accounting practices, to the account from which distributive shares are paid. Section 205(c) authorizes, but does not require, the Secretary to distribute to any mortgagor, after termination of insurance, an equitable portion of the appropriate account in the MMIF. No mortgagor has any vested right to any amount in the account, in accordance with section 205(d). These provisions permit the Secretary to decide that, in particular classes of cases, distribution of a portion of the profits of the MMIF is not "equitable" or is inappropriate, especially where—as in the case of Hawaiian home lands—a class of mortgagors does not contribute to the profit.

Even without the special flexibility given by section 205 concerning payment of distributive shares, section 247(a) would permit the Secretary to disregard any limitation in the National Housing Act that he "determines is contrary to promoting the availability of such insurance of Hawaiian home lands", providing certain other eligibility conditions (specified in this rule) are satisfied. Distribution of profits of the MMIF to mortgagors of single family residences on Hawaiian home lands would be detrimental to the MMIF and would unduly affect distributive shares payable to other classes, unless HUD were reimbursed by the DHHL for such payments. If the DHHL were required to reimburse HUD for such distributions, the requirement would increase its costs of operating the program and would adversely affect participation in the program. Therefore, the payment of distributive shares would be "contrary to promoting the availability of such insurance of Hawaiian home lands."

This change in the legal basis for the rule's provision that no distributive shares be paid to mortgagors of single family residences on Hawaiian home lands has no detrimental effect of prospective mortgagors, since they had no expectation under the proposed rule of receiving distributive shares.

The Department is now satisfied that distributive shares are not necessary under the current legal framework—although we continue to believe that the program should be moved, by legislative change, to become a charge on the General Insurance Fund. We are also satisfied that non-native Hawaiians can hold a security interest in Hawaiian home lands for home purchase loans insured by FHA, and that an agreement will be executed with the Department of Hawaiian Home Lands under which it will assume duties and obligations necessary to the satisfactory operation of this program.

One other aspect of the issue of transfer of the single family mortgage program from one insurance fund to the other was the extent to which such a transfer would affect the applicability of the provision for paying mortgage insurance premiums in a lump sum at the time the mortgage is issued (one-time MIP), as opposed to paying them periodically. Currently, a one-time MIP is charged in the programs covered by the MMIF, but periodic payment of the MIP is provided with respect to programs covered by the GIF. The proposed rule stated that if the program for insurance of single family mortgages was moved to the GIF, the final rule would provide for applicability of the one-time MIP. Although the program for conventional single family homes remains under the MMIF, to which the one-time MIP applies, the program for condominiums (Part 234) remains under the GIF.

The Department has decided that, instead of proceeding to administer both the single family insurance program and the condominium insurance program under two different insurance funds with different premium payment practices, the final rule will implement only the single family program. If both programs are brought under the GIF by legislative change, the rule may be expanded to cover condominiums. The exclusion of condominiums if this final rule has been discussed with DHHL officials, who concurred in this approach. They do not anticipate significant demand for mortgage insurance on condominiums on Hawaiian home lands in the near future. Similarly, mortgage insurance for homes in federally impacted areas, which is an obligation of the Special Risk Insurance Fund, and mortgage insurance for rehabilitation loans, which is an obligation of the GIF, have been excluded for Hawaiian home lands in this final rule.

Although not eligible for participation in distributive shares, a mortgagor on Hawaiian home lands may be eligible for a refund or unearned MIP. Section 203.283 prescribes the conditions under which a mortgagor may receive a refund of unearned MIP—when the insurance is terminated. If a mortgagor defaults and the mortgage is assigned to the Secretary, the mortgage insurance is terminated for a reason not stated in § 203.283 and, therefore, there will be no refund to the mortgagor. If the mortgator conveys the property to a purchaser and prepays the mortgage, the mortgage insurance will be terminated for a reason stated in § 203.283, and the mortgagor will be eligible for a refund of the unearned MIP

The proposed rule primarily amended Part 203 to provide for insurance of one-to four-family residences. It would have added a new § 203.43i to address the eligibility of mortgages on Hawaiian home lands insured under section 247. In addition, § 203.43c(a) was to be revised to clarify that cooperatives would not be insured on Hawaiian home lands, and

provisions dealing with foreclosure relief for mortgagors and with the claim procedure were to be specially tailored for this program (§§ 203.350(c)).

The changes to the claim procedure included the addition of a paragraph (c) to § 203.350 to provide that a mortgage can be assigned to the Secretary and an insurance claim paid after the mortgagor has been in default for 180 days. This procedure avoids the usual requirement that payment of a claim must follow either foreclosure of the mortgage and conveyance of title to the Secretary, or assignment of the mortage to the Secretary based on the mortgagor's qualification for foreclosure relief. Under this new paragraph, the mortgagee is assured of payment of an insurance claim without having to test its authority to foreclose on a mortgage on Hawaiian home lands. Since title to Hawaiian home lands is controlled by DHHL, the requirement of § 203.351(a)(8) that a mortgagee demonstrate traditional title evidence and of § 203.353(a) that the mortgage be the first lien on the property were not to apply to claims on these mortgages, under a proposed new § 203.439(a). Section 203.439(a) of the proposed rule also provided that the sections of Part 203 that provided for repayment of distributive shares to mortgagors (discussed above) would not apply to these mortgages.

The foreclosure relief changes proposed were (1) to require that the mortgagee's face-to-face meeting with the mortgagor under § 203.604(b) take place at least 30 days before the mortgagee assigns the mortgage to the Secretary, instead of 30 days before foreclosure; and (2) to provide in a new § 203.665 that, if default is the result of circumstances beyond the control of the mortgagor and certain other conditions are met, HUD would provide forbearance relief after assignment of the mortgage to the Secretary. The eligibility for forbearance under those provisions is comparable to the eligibility for assignment with forbearanace provided to mortgagors on land that is not located on Hawaiian home land.

The changes proposed in Part 234 would have permitted mortgage insurance on condominium units located on Hawaiian home lands. The change to Part 200 would exclude mortgages on Hawaiian home lands from the direct endorsement program, under which mortgagees perform the underwriting functions. The proposed changes to the other parts were to exclude Hawaiian home lands from eligibility for the programs covered by those parts. The inapplicability of those parts to Hawaiian home lands was to be accomplished by adding to the list of cross-referenced sections that are not applicable to the part, the provisions identifying mortgages insured on Hawaiian home lands.

The final rule retains all of these features except it excludes mortgage insurance for condomimums. The forbearance provision of the proposed rule has been modified to require that the mortgagee must first consider a mortgagor's eligibility for temporary mortgage assistance payments, and only assign the mortgage to the Secretary if that type of assistance is not appropriate. The forbearance provisions also have been modified to provide that the Secretary may consider a mortgagor's application for forbearance despite failure to meet required time limits if the mortgagor demonstrates good cause. See § 203.655 in the final rule covering TMAP and forbearance, which was published on March 5, 1987 (52 FR 6908).

Response to Comments

Two public comments were received in response to the proposed rule—both from lenders. A primary concern of both commenters was whether these FHA-insured mortgages would be marketable to the Federal National Mortgage Association (FNMA) and to the Government National Mortgage Association (GNMA). In one case, the concern derived from the rule's omission of the usual requirement for recordation of the mortgage in one of the two State recording systems, and for title evidence in the form of title insurance.

We have consulted with GNMA and FNMA and are able to report that these mortgages will be acceptable. The primary purpose of GNMA's and FNMA's concern about customary recordation and title evidence is to assure that a claim for mortgage insurance benefits will be honored by FHA. (The proposed rule provided that mortgages be recorded with DHHL.) In § 203.350(c), the rule provides that a lender need not foreclose and convey the property (something impossible for a non-native Hawiian to do with respect to Hawaiian home lands), but need only assign the mortgage to HUD after 180 days of default, in order to obtain insurance benefits on a mortgage that has been recorded with the Department of Hawaiian Home Lands. It is this assurance of HUD's willingness to pay a claim on eligible mortgages that makes the mortgages acceptable to GNMA and FNMA.

Another question raised was how to value the property that is subject to the mortgage. Unlike some properties in Hawaii, the mortgage on a homestead leasehold is not on the dwelling as distinct from the land. Instead, the mortgage is on a long-term leasehold on both the land and the dwelling. Therefore, the value of the property that is subject to the mortgage must take into consideration both the dwelling and the land, but recognize that the interest is less than an unrestricted entire ownership interest in perpetuity (fee simple). Additional guidance will be provided on this issue in program instructions issued before implementation of the program.

One commenter asked that the note and mortgage to be used in the program be made available to lenders as soon as possible. They are not yet available but will be sent to interested lenders before the effective date of the rule.

One commenter stated that the default rate for DHHL's borrowers with conventional mortgages on Hawaiian home lands has been unduly high and suggested that HUD require homeownership counseling for borrowers before closing on FHA-insured mortgage loans. This suggestion will be passed along to DHHL. Since DHHL is the agency that will feel the full financial impact of defaults on these insured mortgages, it is the one with the greatest interest in assuring that homebuyers are fully aware of their responsibilities under the mortgage and are able to fulfill the commitment. However, we have added to this final rule a provision for homeownership counseling if a mortgagor goes into default and seeks help from HUD.

Findings

This final rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the final rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the

National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because it merely expands the types of mortgages eligible for HUD insurance to include leaseholds on one- to four-family residences located on Hawaiian Home Lands.

This rule was listed as sequence number 807 under the Office of Housing in the Department's Semiannual Regulatory Agenda published on October 27, 1986 (51 FR 38424, 38441), under Executive Order 12291 and the Regulatory Flexibility Act.

The programs listed in the Catalog of Federal Domestic Assistance that would be affected by this proposed rule are as follows: 14.108, Rehabilitation Mortgage Insurance; 14.117, Mortgage Insurance—Homes; 14.119, Mortgage Insurance—Homes for Disaster Victims; 14.121, Mortgage Insurance Homes in Outlying Areas; 14.123, Mortgage Insurance—Housing in Older, Declining Areas; 14.133 Mortgage Insurance—Purchase of Units in Condominiums.

Information collections contained in this rule have been approved by the Office of Management and Budget and assigned OMB control number 2502–0358.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (government agencies), Reporting and recordkeeping requirements, Minimum property standards, and Incorporation by reference.

24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Reporting and recordkeeping, Urban renewal.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 220

Home improvements, Loan programs—Housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 226

Government employees, Mortgage insurance, Single family housing.

24 CFR Part 227

Federally affected areas, Defense housing, Military personnel, Mortgage insurance, Projects, Rental housing, Single family housing.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Cooperatives, Grant programs—Housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 237

Low and moderate income housing, Mortgage insurance.

24 CFR Part 240

Mortgage insurance, Fee title purchase.

Accordingly, HUD amends 24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 234, 235, 237, and 240 as follows:

PART 200—INTRODUCTION

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

Authority: Title I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 200.163(a)(2) is revised to read as follows:

§ 200.163 Direct endorsement.

(a) * * *

(2) Single family mortgages insured under any of the programs listed in paragraph (a)(1) of this section pursuant to sections 223, 225, 238(c), 244, 247, or 248 of the National Housing Act are not eligible for processing under this section. The provision contained in 24 CFR 221.55 which permits a builder-mortgagor to sell a property to a displaced family on a deferred basis is not available in the Direct Endorsement program.

* * * * *

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

3. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 203 and 211, National Housing Act (12 U.S.C. 1709, 1715(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

4. Section 203.43c(a) is revised to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.18b, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43b, 203.43h, 203.43i, 203.44, 203.49, and 203.50 of this part do not apply to mortgages insured under section 203(n) of the National Housing Act.

* * * * *

5. Part 203 is amended by adding a new § 203.43i, to read as follows:

§ 203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act.

(a) *Eligibility.* A mortgage on a homestead lease granted by the Department of Hawaiian Home Lands covering a one- to four-family residence located on Hawaiian home lands is eligible for insurance pursuant to section 247 of the National Housing Act if the mortgagor is a native Hawaiian who will occupy it as a principal residence, and if the mortgage meets the requirements of this subpart as modified by this section. Mortgage insurance on cooperative shares under § 203.43c on homes in federally impacted areas under § 203.43e, and on rehabilitation loans under § 203.50, is not authorized under this section.

(b) *Exemptions from other regulations.* The provisions of Subparts I, J, and M of Part 200, and § 203.30, to the extent that these provisions would otherwise prohibit preferences in favor of Native Hawaiians in the leasing, sale or other disposition of Hawaiian home lands, do not apply to mortgages insured pursuant to section 247 of the National Housing Act. The first lien requirement of § 203.17(a) also does not apply to mortgages insured pursuant to section 247 of the National Housing Act.

(c) *Definitions.* "Department of Hawaiian Home Lands" (DHHL) is a Department of the State of Hawaii responsible for management of

Hawaiian home lands for the benefit of native Hawaiians.

"Hawaiian home lands" means all land given the status of Hawaiian home lands under section 204 of the Hawaiian Home Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959.

"Native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778.

(d) *Condition for issuance of commitments.* Commitments to insure mortgages under this section will only be issued where the Department of Hawaiian Home Lands:

(1) Will be a comortgagor;

(2) Guarantees or reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or

(3) Offers other security acceptable to the Secretary.

(e) *Acceptable security.* Any agreement by the Secretary to accept alternative security under paragraph (d)(3) of this section must contain provisions designed to ensure that the insurance of mortgages under this section has a neutral impact on the appropriate insurance funds. These provisions may require the Department of Hawaiian Home Lands to make an initial deposit of funds with HUD and to maintain additional funds in reserve for subsequent deposits with HUD. The initial and subsequent deposits shall be used to pay obligations incurred by HUD in connection with the insurance of mortgages under this section and any associated costs, including refunds of insurance premiums to mortgagors. If the Department of Hawaiian Home Lands agrees to make deposits in amounts acceptable to HUD, then the Secretary may agree to use a portion of the premiums received for insurance of mortgages under this section solely for payment of such obligations and associated costs.

(f) *Recordation.* The mortgagee must certify that the mortgage has been recorded with the Department of Hawaiian Home Lands.

(g) *Construction advances.* The Secretary may issue a commitment for the insurance of advances made during construction. The Secretary will insure advances made by the mortgagee during construction if the Secretary has determined that no feasible financing alternative is available and if the following conditions are satisfied:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by the Secretary, setting forth the terms and conditions under which advances will be made;

(2) The advances are made only as provided in the commitment;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement; and

(4) The mortgage bears interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(h) *Form of lease.* The form of lease must be approved by both HUD and the Department of Hawaiian Home Lands (DHHL). The form of lease must contain a provision requirung that, while the mortgage insurance remains in effect, assumption of the leasehold is restricted to those persons who have certificates issued by the DHHL certifying that they are Native Hawaiians. The lease may not be terminated by DHHL without the approval of the Secretary while the mortgage is insured or held by the Secretary.

(i) *Eligibility of mortgagor.* In addition to the eligibility requirements contained in this subpart, the mortgagor must produce the following documentation in order to establish his or her eligibility:

(1) A certificate of eligibility issued by the Department of Hawaiian Home Lands certifying that the mortgagor is a Native Hawaiian; and

(2) A homestead lease granted to the mortgagor by the Department of Hawaiian Home Lands.

(Approved by the Office of Management and Budget under control number 2502-0358)

6. Part 203 is amended to add a new undesignated center heading and a new § 203.439, to read as follows:

Mortgages on Property Located on Hawaiian Home Lands

§ 203.438 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

(a) *Exemptions.* The provisions of §§ 203.351(a)(8), 203.353(a), 203.368, and 203.420 through 203.425 do not apply to mortgages insured pursuant to section 247 of the National Housing Act.

(b) *Claim procedure.* Where the mortgage is 180 days or more in default, the mortgagee may assign the mortgage to the Secretary and file its claim for insurance benefits in accordance with the provisions of this subpart. No claim on an insured mortgage will be paid other than through assignment of the mortgage.

(c) *Notice of delinquency.* The mortgagee shall notify the Department of Hawaiian Home Lands each month of those mortgages insured pursuant to section 247 of the National Housing Act on leaseholds of Hawaiian home lands which are 90 or more days delinquent, and of the status of all mortgages which were reported as 90 or more days delinquent the previous month. This notice is in addition to the requirement under § 203.332 to report to HUD concerning all insured mortgages 90 or more days delinquent.

7. Section 203.604 is amended by revising paragraph (b), to read as follows:

§ 203.604 Contact with the mortgagor.

(a) * * *

(b) The mortgagee must have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid. If default occurs in a repayment plan arranged other than during a personal interview, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable attempt to arrange such a meeting, within 30 days after such default and at least 30 days before foreclosure is commenced, or at least 30 days before assignment is requested if the mortgage is insured on Hawaiian home land pursuant to section 247, or Indian land pursuant to section 248 of the National Housing Act.

* * * * *

PART 204—COINSURANCE

8. The authority citation for Part 204 continues to read as follows:

Authority: Secs. 244 and 211, National Housing Act (12 U.S.C. 1715z-9 and 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 204.1 [Amended]

9. Section 204.1 is amended by adding, to the list of expected provisions, immediately after "203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

10. The authority citation for Part 213 continues to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 213.751 [Amended]

11. Section 213.751(b) is amendd by adding, immediately after "203.425 Finality of determination.", the following:

203.439 Mortgages insured on Hawaiian home lands pursuant to section 247 of the National Housing Act.

* * * * *

12. Section 213.800 is revised to read as follows:

§ 213.800 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act shall apply to mortgages insured under section 213 of the National Housing Act, except § 203.665.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

13. The authority citation for Part 220 continues to read as follows:

Authority: Secs. 207, 211, 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 220.1 [Amended]

14. Section 220.1(a) is amended by adding to the list of excepted provisions, immediately after "203.43h Eligibility of mortgages on Indian lands insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

§ 220.251 [Amended]

15. Section 220.251(a) is amended by adding at the end of the list of excepted provisions, the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

16. Section 220.900 is revised to read as follows:

§ 220.900 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter concerning the responsibilities of servicers of mortgages insured under section 203 of the National Housing Act apply to mortgages covering 1- to 11-family dwellings insured under section 220 of the National Housing Act, except §§ 203.664 and 203.665.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

17. The authority citation for Part 221 continues to read as follows:

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715*l*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 221.1 [Amended]

18. Section 221.1(a) is amended by adding, to the list of excepted provisions, immediately after "§ 203.43h Eligibility of mortgages on Indian lands insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

§ 221.251 [Amended]

19. Section 221.251(a) is amended by adding, to the end of the list of excepted provisions, the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

20. Section 221.800 is revised to read as follows:

§ 221.800 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter concerning the responsibilities of servicers of mortgages insured under section 203 of the National Housing Act apply to mortgages covering one- to four-family dwelling to be insured under section 221 of the National Housing Act, except §§ 203.664 and 203.665.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

21. The authority citation for Part 222 continues to read as follows:

Authority: Secs. 211, 222, National Housing Act (12 U.S.C. 1715b, 1715m); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 222.1 [Amended]

22. Section 222.1(a) is amended by adding to the list of exempted provisions, immediately after "203.43h Eligibility of mortgages on Indian lands insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

§ 222.251 [Amended]

23. Section 222.251(a) is amended by adding to the list of excepted provisions, immediately after "203.438 Mortgages on Indian land insured pursuant to section 248 of the National Housing Act.", the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

24. Section 222.400 is revised to read as follows:

§ 222.400 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter concerning the responsibilities of servicers of mortgages insured under section 203 of the National Housing Act apply to mortgages insured under section 222 of the National Housing Act, except §§ 203.664 and 203.665.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

25. The authority citation for Part 226 continues to read as follows:

Authority: Sections 211, 807, and 809, National Housing Act (12 U.S.C. 1715b, 1748f, 1748h–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 226.1 [Amended]

26. Section 226.1(a) is amended by adding, to the list of excepted provisions, immediately after "203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

§ 226.251 [Amended]

27. Section 226.251(a) is amended by adding, at the end of the list of excepted provisions, the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

28. Section 226.300 is revised to read as follows:

§ 226.300 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter concerning the responsibilities of servicers of mortgages insured under section 203 of the National Housing Act apply to mortgages insured under section 809 of the National Housing Act, except §§ 203.664 and 203.665.

PART 227—ARMED SERVICES HOUSING—IMPACTED AREAS [SEC. 810]

29. The authority citation for Part 227 is revised to read as follows:

Authority: Secs. 211, 807, 810, National Housing Act (12 U.S.C. 1715b, 1748f, 1748h–2); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 227.501 [Amended]

30. Section 227.501(b) is amended by adding, in the list of excepted provisions, immediately after "203.43h Eligibility of mortgages on Indian lands insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

§ 227.751 [Amended]

31. Section 227.751(a) amended by adding, to the end of the list of excepted provisions, the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

32. Section 227.800 is revised to read as follows:

§ 227.800 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to Individual Mortgages insured under section 810 of the National Housing Act, except §§ 203.664 and 203.665.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

33. The authority citation for Part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(b), Department of Housing and Urban Development Act (42 U.S.C 3535(d)).

34. Section 234.63 is revised to read as follows:

§ 234.63 Location of property.

The mortgage, to be eligible for insurance, shall be on property located in a State, as defined in § 234.1, and not located on Hawaiian home lands. "Hawaiian home lands" means all land given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union" approved March 18, 1959.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

35. The authority citation for Part 235 continues to read as follows:

Authority: Secs. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 235.1 [Amended]

36. Section 235.1(a) is amended by adding to the list of excepted provisions, immediately after "203.43 Eligibility of miscellaneous type mortgages.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands pursuant to section 247 of the National Housing Act.

* * * * *

§ 235.201 [Amended]

37. Section 235.201(a) is amended by adding to the list of excepted provisions, immediately after "203.436 Claim procedure-graduated payment mortgages.", the following:

203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

PART 237—SPECIAL MORTGAGE INSURANCE FOR LOW AND MODERATE INCOME FAMILIES

38. The authority citation for Part 237 is revised to read as follows:

Authority: Secs. 203, 211, 237, National Housing Act (12 U.S.C. 1709, 1715b, 1715z-2); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. Section 237.5 is revised to read as follows:

§ 237.5 Cross-reference.

To be eligible for insurance under this subpart, a mortgage must meet all of the eligibility requirements for insurance under Part 203, Subpart A of this chapter; or under Part 220 Subpart A of this chapter; or under Part 221, Subpart A of this chapter; or under Part 234, Subpart A of this chapter, except that in addition to meeting such eligibility requirements, the mortgage must comply with the special requirements of this subpart. Mortgages and loans processed under the Direct Endorsement program set forth in § 200.163, or mortgages insured on Hawaiian home lands or Indian land pursuant to section 247 or 248 of the National Housing Act are not eligible under this subpart.

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

40. The authority citation for Part 240 is revised to read as follows:

Authority: Secs. 211 and 240, National Housing Act (12 U.S.C. 1715b, 1715z-5); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 240.1 [Amended]

41. Section 240.1 is amended by adding to the list of excepted provisions, immediately after "203.43h Eligibility of mortgages on Indian lands insured pursuant to section 248 of the National Housing Act.", the following:

203.43i Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

42. Section 240.400 is revised to read as follows:

§ 240.400 Cross-reference.

All of the provisions of Subpart C, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to loans for the purchase of the fee simple title of property which are insured under section 240 of the National Housing Act, except §§ 203.664 and 203.665.

Dated: March 5, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87–5518 Filed 3–13–87; 8:45 am]

BILLING CODE 4210–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–3167–6]

Approval and Promulgation of Implementing Plans; Illinois

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

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a revision to the Illinois State Implementation Plan (SIP) for ozone. The revision would provide an extended compliance schedule for the National Can Corporation (National Can) facility located in Rockford, Illinois. This SIP revision would allow National Can additional time to reformulate the coatings used in manufacturing cans for the general line can market. This action is taken in response to a May 6, 1985, request from the State of Illinois.

EFFECTIVE DATE: This final rulemaking becomes effective on April 15, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

A copy of today's revision to the Illinois SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On May 6, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for the National Can facility located in Rockford, Illinois. This SIP revision is in the form of an April 1, 1982, Opinion and Order of the Illinois Pollution Control Board (IPCB), PCB 81-189, and a January 24, 1985, Opinion and Order of the IPCB, PCB 84-108. These Orders grant National Can a variance from the existing Volatile Organic Compound (VOC) SIP requirements from December 31, 1982, until December 31, 1983, and from December 31, 1983, until December 31, 1985, respectively. National Can is located in Winnebago County which is an area designated attainment for ozone.

In a June 26, 1986, **Federal Register** (51 FR 23246), USEPA proposed to approve the compliance date extension. During the 30-day public comment period, USEPA received no comments.

Existing SIP

Under the existing federally approved SIP, Illinois' Can Coating VOC limitations are:

(i) Sheet basecoat and overvarnish—2.8 lbs/gal;

(ii) Exterior basecoat and overvarnish—2.8 lbs/gal;

(iii) Interior body spray coat—4.2 lbs/gal;

(iv) Exterior end coat—4.2 lbs/gal;

(v) Side seam spray coat—5.5 lbs/gal;

(vi) End sealing compound coat—3.7 lbs/gal;

National can's coating lines are subject to the above emission limitations, which are contained in SIP Rule 205(n)(1)(B) of Chapter 2: Air Pollution, of the Illinois Pollution Control Board Rules and Regulations. Final compliance with these emission limitations was required by December 31, 1982.

Compliance Date Extension Policy

USEPA's policy on approving compliance date extensions for controlling VOC emissions from certain can manufacturing processes was published in the March 10, 1982, **Federal Register** (47 FR 10293). The policy states that USEPA will approve compliance date extensions for control of VOC emissions from can coating operations in those cases where the extension will facilitate the expeditious conversion to low solvent technology. These extensions may be granted for a period of up to December 31, 1985, where an expeditious, legally enforceable compliance program has been developed. In addition, an approvable compliance date extension must be consistent with the reasonable further progress (RFP) requirements of the Clean Air Act and must not prevent the area from attaining the ozone national ambient air quality standard (NAAQS) by the area's attainment date.

USEPA believes that the National Can SIP compliance date extension provided an expeditious, legally enforceable compliance program to convert to low solvent coatings which was in accordance with the provisions contained in USEPA's policy relating to time extensions for can coating operations. USEPA considers the 3-year extension request to have been reasonable and expeditious because of the difficulty associated with the reformulation of coatings used for the general line can market. In addition, the area was, at the time of the compliance date extension, in attainment for the NAAQS for ozone, is still in attainment, and no increase in emissions has occurred. Therefore, the compliance date extension did not jeopardize maintenance of the NAAQS, and USEPA is approving the compliance date extension. It should be noted that National Can agreed that if its reformulation program failed, it would (1) begin procedures for add-on control equipment by the third quarter of the variance period, (2) have installed add-on control equipment by December 31, 1985, and (3) have achieved and demonstrated final compliance with the Illinois ozone SIP limitations control in Rule 25(n)(1)(B) on or before the same date.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 15, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Ozone, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 9, 1987.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.720 is amended by adding new paragraph (c)(73) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(73) On May 6, 1985, the Illinois Environmental Protection Agency, requested an extended compliance schedule for National Can Corporation's Rockford facility.

(i) Incorporation by Reference.

(A) Illinois Pollution Control Board, April 1, 1982, Opinion and Order of the Board, PCB 81-189 and a January 24, 1985, Opinion and Order PCB 84-108. These orders grant National Can Corporation (Rockford Plant) a variance from the existing VOC SIP requirements from December 31, 1982, until December 31, 1983, and from December 31, 1983, until December 31, 1985, respectively.

[FR Doc. 87-5438 Filed 3-13-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 260 and 270

[SWH-FRL-3166-2]

Hazardous Waste; Solid Waste Evaluation, Physical/Chemical Methods; Test Methods

AGENCY: Environmental Protection Agency.

ACTION: Final rule and notice of availability of document.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing the availability of the Third Edition of the EPA manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846. This notice provides information on how to obtain the manual; how it differs from the Second Edition; and its status with respect to the RCRA regulations. This notice also amends the sections of EPA's hazardous waste regulations that incorporate the manual by reference, to indicate that the Second Edition of SW-846 will henceforth be available from the National Technical Information Service.

DATES: Amendments are effective March 16, 1987. SW-846 is expected to be available to the public in mid-April.

ADDRESS: SW-846 can be ordered from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402. The order number is 955-001 00000-1. The cost is $110.00.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 (toll free), or (202) 382-3000. For technical information contact Denise Zabinski, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7458.

The record for this notice is under Docket Number F-86-WTMA-FFFFF.

SUPPLEMENTARY INFORMATION:

I. Background of Test Methods

The EPA manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (EPA Publication SW-846), is intended to provide a unified, up to date source of information on sampling and analysis related to compliance with the Resource Conservation and Recovery Act (RCRA) regulations. It brings together into one reference document sampling and testing methods for use in implementing the RCRA regulatory program. EPA first published the manual in May, 1980 when the Agency promulgated the first regulations under RCRA. After revising the First Edition several times, EPA published the Second Edition of the manual in 1982. Since publication, the Second Edition has been revised two times to add methods. In its present revised form, the Second Edition is incorporated by reference and is required for testing under several sections of EPA's Resource Conservation and Recovery Act (RCRA) regulations.

These include the following citations:

40 CFR 260.22(d)(1)—Use of SW-846 for petitions to exclude a waste produced at a particular facility.

40 CFR 261.24—EP (Extraction Procedure) Toxicity Test and the analytical methods used to determine the EP analyses.

40 CFR 264.314 and 265.314(d)—Use of Method 9095, the Free Liquids Test, for determining if free liquid is a component of a waste as a special requirement for bulk and containerized wastes.

40 CFR 270.62(b)(2)(C)—Use of SW-846 for chemical analysis of wastes for hazardous waste incinerator permits.

On October 1, 1984, the Agency proposed to add 58 methods to SW-846 and to make the methods in the Second Edition mandatory for all testing purposes under the hazardous waste regulations. Since the October 1984 proposal, the Agency has received many comments and suggestions on the reliability of certain methods in the Second Edition, on how to revise SW-846 to make it easier to use and on the need for additional guidance on quality control and sampling. The number and detail of the comments received caused the Agency to defer finalizing the October proposal and to prepare a third edition of SW-846.

SW-846 is a collection of methods deemed suitable for specified hazardous waste testing and monitoring purposes. However, it does not, itself, establish testing requirements. Rather, the various testing requirements are established in the appropriate sections of the hazardous waste regulations. Clearly, not all of the methods in SW-846 are suitable for all of the testing tasks set out in the regulations. For example, ground water monitoring at land-based hazardous waste facilities (Subpart F to 40 CFR Part 264) requires methods that are capable of determining whether hazardous constituents are present in ground water samples containing unknown amounts of unidentified chemicals. However, the greater number of methods in SW-846 are better suited to those monitoring requirements where the analyst is fairly sure which chemicals are present. Therefore, users of SW-846 should refer to specific regulations for guidance on selection of the most appropriate methods.

EPA is today announcing the availability of the Third Edition of the manual that incorporates methods proposed in October 1984 (49 FR 38786) and also provides more detailed guidance on quality control and sampling.

II. Regulatory Status of Third Edition

EPA is not incorporating the Third Edition into the RCRA hazardous waste regulations at this time because of the many changes that have been made in the methods. The Agency will, however, in the near future, propose to replace the existing methods with the new versions. When this change is finalized, the Third Edition of SW-846 will be incorporated into the regulations. The Agency is using this two step process to give interested parties additional time to use the Third Edition methods before requesting comments. Therefore, the Agency is today providing notice of the availability of the Third Edition for use in meeting the testing requirements of the RCRA regulatory program. It is emphasized that the methods described in the Second Edition of SW-846 must continue to be used where the Second Edition is incorporated by reference and mandated by particular regulations.

III. Availability of Manual

The Third Edition of SW-846 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, on a subscription basis. The order number is 955-001-00000-1. The subscription includes both the Third Edition of the manual and a number of future updates. The cost is $110.00 per subscription for domestic mailing ($137.00 if mailed to a foreign address).

Copies of the Second Edition of SW-846 will continue to be available through the National Technical Information Service because it continues to be incorporated by reference in several sections of the RCRA regulations. Persons desiring copies of the Second Edition should contact the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600 and request document No. PB 87-120-291. The cost is $48.95 for paper and $13.50 for microfiche.

List of Subjects in 40 CFR Parts 260 and 270

Hazardous waste, Rulemaking petitions, Criteria for identifying hazardous wastes, Lists of hazardous wastes, Ground water protection, Unsaturated zone monitoring, Special requirements for bulk and containerized wastes, Hazardous waste incinerator

permits, Interim status standards for owners and operators of hazardous waste treatment, Storage and disposal facilities, General facility standards, Ground water monitoring, Surface impoundments, Waste piles, Land treatment, Landfills, Incinerators, Thermal treatment, Chemical, Physical and biological treatment, Interim standards for owners and operators of new hazardous waste land disposal facilities, Ground water monitoring, Administrative permit programs: The Hazardous Waste Permit Program, Requirements for authorization of state hazardous waste programs, Incorporation by reference.

Dated: February 25, 1987.

Elizabeth LaPointe,

Acting Assistant Administrator for Solid Waste and Emergency Response.

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for Part 260 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930 and 6974).

2. Section 260.11 is amended by revising the fourth reference in paragraph (a) to read as follows:

§ 260.11 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW–846 [Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985)]. The second edition of SW–846 and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4600, as document no. PB 87–120–291. The cost is $48.95 for paper and $13.50 for microfiche.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

3. The authority citation for Part 270 continues to read as follows:

Authority: Secs. 1006, 2002, 3005, 3007, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6925, 6927, and 6974).

4. Section 270.6 is amended by revising the first reference in paragraph (a) to read as follows:

§ 270.6 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW–846 [Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985)]. The second edition of SW–846 and Updates I, II and III are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4600, as document no. PB 87–120–291. The cost is $48.95 for paper and $13.50 for microfiche.

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[FR Doc. 87–4974 Filed 3–13–87; 8:45 am]
BILLING CODE 6560–50–M

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48 CFR Part 1537

[FRL–3168–6]

Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document establishes a final rule regarding the Environmental Protection Agency's (EPA) internal management controls for the acquisition of consulting services. This action is necessary to conform the Environmental Protection Agency Acquisition Regulation (EPAAR) to existing EPA practices. The intended effect of this action is to delete the requirement for forwarding copies of written justifications for consulting services to the EPA Inspector General and to the EPA Budget Preparation and Control Branch, Office of the Comptroller.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: Edward Murphy, Environmental Protection Agency, Procurement and Contracts Management Division (PM–214), 401 M Street SW., Washington, DC 20460, Telephone: (202) 382–5034.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12291

OMB Bulletin No. 85–7, dated December 14, 1984, establishes the requirements for OMB review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring OMB review.

B. Public Comments

The EPA has not solicited public comments with respect to this final rule since it does not have a significant effect beyond agency internal operating procedures.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

This revision is not a "significant revision" as defined in FAR 1.501–1. It does not have a significant effect beyond the internal operating procedures of EPA. Accordingly, solicitation of agency and public views on this revision is not required. Since such solicitation is not required, the Regulatory Flexibility Act (Pub. L. 96–354) does not apply.

List of Subjects in 48 CFR Part 1537

Government procurement, Service contracting.

PART 1537—[AMENDED]

For the reasons set out in the preamble, Part 1537 of Title 48, Code of Federal Regulations, is amended as set forth below:

1. The authority citation for 48 CFR Part 1537 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

§ 1537.205 [Amended]

2. In § 1537.205, paragraph (b)(3) is removed.

Dated: March 4, 1987.

Gary M. Katz,

Acting Director, Office of Administration.

[FR Doc. 87–5560 Filed 3–13–87; 8:45 am]
BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 52, No. 50
Monday, March 16, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Proposed Suspension of Rules

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend for March 1987 only, a portion of the supply plant shipping requirements in the Southern Michigan milk order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The association claims that the action is needed to avoid inefficient handling of milk merely for the purpose of qualifying for pool participation.

DATE: Comments are due no later than March 23, 1987.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building; U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Diary Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the 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 of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the month of March 1987:

1. In § 1040.7(b)(1) the words "each month not less than 30 percent of the total quantity of" and "received at such plant from producers and from a handler described in § 1040.9(c), or diverted therefrom by the plant operator or a cooperative association (as described in § 1040.9(b)) pursuant to § 1040.13, less any Class I disposition of fluid milk products which are processed and packaged in consumer-type containers in the plant,".

As proposed, that paragraph would, for the term of the suspension, read "A supply plant from which Grade A milk is transferred to plants described in paragraph (b)(5) of this section subject to the following conditions:"

2. In § 1040.7(b)(1), paragraph (i).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, 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 allow completion of the required procedures in time for the suspension to be effective for March 1987.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Michigan Milk Producers Association (MMPA), which represents a substantial number of producers supplying the market, requested that a portion of the supply plant shipping requirements be relaxed for the month of March 1987 so that a supply plant operator would not have to ship 30 percent of its receipts of Grade A milk to distributing plants.

MMPA stated that the proposed suspension is needed to make inoperative the qualification provision which requires a unit of supply plants consisting of one or more plants to ship or divert 30 percent or more of the Grade A milk received at or diverted from the plants that make up the unit. With the suspension, they noted that any level of shipments from any or all plants in the unit would satisfy the qualification provisions of the order for the month of March 1987. The request notes that if a supply plant qualifies as a pool plant for the months of October through March, then the plant automatically qualifies as a pool plant for the months of April through September.

MMPA stated that demands of the fluid market have declined dramatically during the first three weeks of February 1987. They indicated that their organization has been forced to divert milk supplies routinely associated with the fluid market to manufacturing plants in order to accommodate milk shipments from a proprietary handler supply plant unit.

MMPA noted that a hearing was recently held to amend the Southern Michigan order. They stated that their proposal, if adopted, would make it easier for their organization to pool the milk of their members and alleviate the need to suspend the 30 percent supply plant shipping percentage in the future. Without the suspenion for the month of March 1987, the association said that it would be required to make some inefficient milk movements in order for the milk of dairy farmers associated with the market to share in the fluid milk sales of the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the month of March 1987.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1040 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: March 11, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–5597 Filed 3–13–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1097

Milk in the Memphis, TN, Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend the pool supply plant definition of the Memphis, Tennessee, Federal milk order for the months of March through December 1987. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that is making supplemental shipments of milk to meet increased fluid milk needs of distributing plants that are regulated under the Memphis order. The milk supply that Mid-Am has available to meet an increasing need for milk in fluid uses at Memphis is milk received at supply balancing plants which handle reserve milk supplies associated with distributing plants that are regulated under other Federal order markets. Mid-Am contends that the level of shipments needed at Memphis could result in the reserve plants and milk supplies becoming regulated under the individual-handler pool Memphis order. Mid-Am contends that this would result in a reduction of returns to producers and disrupt their normal association with other Federal orders. Mid-Am thus contends that the suspension would allow reserve milk supplies and supplemental shipments for fluid milk needs to continue to be regulated under the orders with which the milk is currently associated and facilitate making sufficient supplies of milk available to Memphis distributing plants for fluid use.

DATE: Comments are due on or before March 23, 1987.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FUTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the 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 tend to ensure that dairy farmers would continue to have their milk priced under the order for the market which is the primary outlet for their milk and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisons of the order regulating the handling of milk in the Memphis, Tennessee, marketing area is being considered for the months of March through December 1987: Paragraph (b) of § 1097.7.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, 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 March in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative a portion of the fluid milk plant definition that pertains to a supply plant for the months of March-December 1987. The order currently regulates a plant that ships in excess of 70,000 pounds of milk per month to a fluid milk distributing plant regulated under the order.

The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that is making supplemental shipments of milk to meet increased fluid milk needs of plants regulated under the Memphis order. Mid-Am indicates that the shipments are necessary because of an increase in fluid milk sales by Memphis plants and because of a decrease in production in those areas that normally supply the Memphis market.

Mid-Am indicates that the most feasible milk supply that it has available to meet the fluid milk needs of Memphis handlers is located in the heavy southwest Missouri production area. However, milk in such area is associated with supply plants or reserve processing plants that are regulated under either the Southern Illinois, Southwest Plains, or Texas Federal order markets. These plants are qualified for pool status under the respective orders either on the basis of shipments from such plants to distributing plants or on the basis of Mid-Am's total performance in supplying direct-shipped milk from farms to distributing plants. Mid-Am contends that shipments from such plants could result in the regulation of one or more of its plants under the Memphis order.

Mid-Am claims that since the Memphis order provides for individual-handler pooling, regulation of its supply plants under that order would result in a reduction of returns to Mid-Am's producers since the reserve milk supplies for other Federal order markets would also be regulated under the Memphis order. Mid-Am thus contends that the suspension action is necessary to permit the continued pooling of the reserve milk supplies associated with other markets and to facilitate making sufficient supplies of milk available to Memphis handlers for fluid use. Mid-Am has been relying on the southwest Missouri production area to supply Memphis handlers at least since September 1986. A shift in regulation of plants has been avoided by a suspension of the Memphis supply plant provision during October-December 1986 and by alternating the plants from which milk is shipped to Memphis order distributing plants since the suspension expired. Mid-Am anticipates that a greater and continuing reliance on such milk supplies will be necessary during March-December 1987 and that the requested suspension will be necessary during that period.

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1097 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: March 11, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–5598 Filed 3–13–87; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Commission Policy Statement on Deferred Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed policy statement.

SUMMARY: This Statement presents the proposed policy of the Nuclear Regulatory Commission (NRC) with regard to deferred nuclear power plants and the procedures that apply while in a deferred status and when reactivating these plants. The areas addressed include the regulations and guidance applicable to deferred and terminated plants, maintenance, preservation and documentation requirements, the applicability of new regulatory requirements and other general administrative considerations.

DATES: Submit comments by April 15, 1987. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Submit comments, suggestions, or recommendations to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch. Copies of comments received may be examined in the NRC Public Document Room, 1717 H Street NW., Washington, DC.

Copies of NUREG Documents may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Theodore S. Michaels, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–8251.

SUPPLEMENTARY INFORMATION: .

I. Background

In the last few years a number of nuclear power plants have been deferred or terminated. A deferred plant is one for which the licensee has ceased construction or reduced activity to a maintenance level, maintains the construction permit (CP) in effect and has not announced the termination of the plant. In most cases the licensee defers a plant with the expectation that its construction will be reactivated and it will be constructed as a nuclear power plant. For purposes of this Policy Statement, a terminated plant is one for which the licensee has announced that construction has been terminated permanently but which still has a valid CP. At the present time there are four nuclear power plants that are considered deferred. There are eight plants that are considered terminated.

The present regulations, guidance and procedures permit nuclear power plant deferral and reactivation and, indeed, such actions have occurred (e.g., Limerick 2 was a deferred plant that was recently reactivated). In the interest of providing predictability and stability to this process, to clarify its position on the applicability of new regulatory requirements, and to develop and implement a regulatory process that can deal effectively with the variety of regulatory issues when construction of deferred plants is reactivated, the Commission is issuing policy guidance in this area.

II. Discussion

This proposed Policy Statement has been structured to address the significant regulatory aspects of nuclear power plant deferral, termination and reactivation of deferred facilities.[1]

Two items of primary interest in this Policy Statement are: (1) The quality assurance requirements for plants in a deferred status, and (2) the applicability of new regulatory requirements for deferred plants which are subsequently reactivated.

A. Quality Assurance Requirements for Plants in Deferred Status

When a plant is deferred, the licensee may continue to follow the approved construction phase quality assurance program or may modify the quality assurance program to reflect anticipated deferral activities. Modified quality assurance programs focus on the maintenance, preservation and documentation activities and a cost-effective reduction in licensee and NRC resources. The policy guidance addresses these requirements.

The major areas of concern for extended construction delays are: the (1) maintenance and preservation of equipment and materials, (2) verification of status of construction, and (3) retention and protection of records. Section III.A.3 of the policy guidance outlines the requirements in these areas for deferred plants.

[1] A NUREG report, which contains relevant information regarding deferred and terminated plants entitled "Reactivation of Nuclear Power Plant Construction Projects: Plant Status, Policy Issues, and Regulatory Options," NUREG–1205 (July 1986), has been published separately.

B. Applicability of New Regulatory Requirements for Deferred Plants

Under the present regulations, new plant-specific staff positions would be applied to deferred plants upon reactivation, subject to the requirements of the backfit rule, 10 CFR 50.109. That is, if the plant falls within the time frame indicated in 10 CFR 50.109(a)(1), then the NRC staff would be required to justify any new plant-specific backfits in accordance with 10 CFR 50.109(a)(2), (1)(3), and (a)(4). The appeals procedures applicable for plant-specific backfits are applicable to deferred plants. Generic issue backfits, which apply the same new NRC staff position to more than one licensee, are reviewed and approved in conjunction with resolution of the issue. If the deferred plant falls within the generic issue concern, as determined by NRC staff analysis for approval of the generic issue resolution, then the backfit would be applied to the plant upon reactivation.

Regulations that have integral update provisions built into them will be applied to deferred plants, as they are to other plants under construction, without the use of the backfit rule. For example, the update provisions of 10 CFR 50.55a, Codes and Standards, require that certain editions of the codes and standards be used depending on the CP or Operating License (OL) issuance date Application of 10 CFR 50.55a to a deferred plant will be governed by the date specified in the regulation without the need for a backfitting justification.

The provisions of other policy statements, such as the Standardization and Severe Accident Policy Statements, that apply to plants under construction, will also have to be implemented. For example, the Severe Accident Policy Statement (NUREG–1070) refers to an integrated systematic approach to examine each nuclear power plant now operating or under construction for possible significant risk contributors that might be plant-specific and might be missed absent a systematic search. Deferred plants will have to perform this plant-specific vulnerability analysis; however, the backfit rule will be used to decide which identified plant vulnerabilities require plant modifications.

Section III.A.5 of the Policy statement identifies the need to apply the backfit rule for implementing new staff positions to deferred plants when they are reactivated.

The Commission published for comment in May 1984, and subsequently forwarded to Congress, a report entitled

"Improving Quality and the Assurance of Quality in the Design and Construction of Nuclear Power Plants," NUREG–1055. This report contains a number of lessons learned concerning significant quality failures in commercial nuclear power plants under construction and makes recommendations concerning their avoidance in the future. These lessons learned are equally applicable to deferred or terminated plants for which construction may be resumed.

III. Policy Guidance

This policy guidance outlines: (1) The NRC's regulatory provisions for deferring and preserving a deferred nuclear power plant until such time as it may be reactivated, and (2) the applicability of new regulatory staff positions to a reactivated deferred plant.

Also, because of the possibility that the plant and/or its equipment may be sold to another utility, some general guidance with regard to terminated plants is presented. The following definitions apply to this policy guidance:

Deferred Plant—A plant at which the licensee has ceased construction or reduced activity to a maintenance level, maintains the CP in effect and has not announced termination of the plant.

Terminated Plant—A plant for which the licensee has announced that construction has been permanently stopped, but which still has a valid CP.

A. Deferred Plants

Areas that should be addressed by a licensee and the NRC when a plant is deferred are as follows:

1. Notification of Plant Deferral

A licensee should inform the Director of Nuclear Reactor Regulation (NRR) when a plant is to be deferred, within 30 days of the decision to defer. Information to be made available should include the reason for deferral, the expected plant reactivation date (if known), whether a CP extension request will be submitted, and the plans for fulfilling the requirements of the CP, including the maintenance, preservation and documentation requirements as outlined in Section III.A.3 of this Policy Statement.

2. Extension of Construction Permit

Licensees must assure that their CPs do not expire. 10 CFR 2.109, "Effect of Timely Renewal Application," provides that if a request for renewal of a license is made 30 days prior to its expiration, the license will not be deemed to have expired until the application has been finally dispositioned. CP extensions will be considered in accordance with 10 CFR 50.55(b).

3. Maintenance, Preservation and Documentation of Equipment

The NRC requirements for verification of construction status, retention and protection of records, and maintenance and preservation of equipment and materials are applied through: 10 CFR 50.54(a), "Conditions of Licenses," and 10 CFR 50.55(f), "Conditions of Construction Permits," which require that a quality assurance program be implemented; 10 CFR Part 50, Appendix B, which requires that all activities performed to establish, maintain, and verify the quality of plant construction be addressed in the licensee's quality assurance program; 10 CFR Part 50, Appendices A and B, which require that certain quality records be retained for the life of the plant; 10 CFR 50.55(e), which requires reporting of deficiencies in design, construction, quality assurance, etc.; 10 CFR 50.71, which applies to the maintenance of records; and 10 CFR Part 21, which applies to reporting of defects and non-compliance. The NRC Regulatory Guides which endorse the ANSI N45.2 series of standards, "Quality Assurance Requirements for Nuclear Power Plants," are also applicable. These include Regulatory Guides 1.28, 1.37, 1.38, 1.58, 1.88 and 1.116. Of particular importance is the guidance on packaging, shipping, receiving, storing and handling of equipment, as well as on collecting, storing and maintaining quality control documentation. The maintenance, preservation and documentation requirements outlined above apply to plants under construction.

The licensee may choose to modify existing commitments during extended construction delays by developing a quality assurance plan that is commensurate with the expected activities and expected (or potential) length of delay. The licensee should discuss with the NRC the expected construction delay period and the quality assurance program to be implemented during the deferral. The program should include a description of the planned activities, organizational responsibilities and procedural controls which apply to the verification of construction status, maintenance and preservation of equipment and materials, and retention and protection of quality assurance records. The program will be reviewed and approved by the NRC in accordance with 10 CFR 50.54(a)(3), 10 CFR Part 50, Appendix B and inspection procedures, as appropriate. Implementation of the program will be periodically examined to determine licensee compliance with commitments and overall program effectiveness.

4. Conduct of Review During Deferral

When a plant is deferred, the staff will normally bring all ongoing post-CP and Operating License (OL) reviews and associated documentation to an appropriate termination point. Normally, new reviews will not be initiated. If the review has progressed sufficiently, a Safety Evaluation Report (SER) will be issued, which assembles and discusses the status of the completed work and lists all outstanding open items. Subject to availability of resources, the staff might perform specific technical reviews or complete SER supplements.

5. Applicability of New Regulatory Requirements During Deferral

With respect to applicability of new regulations, guidance and policies, deferred plants of custom or standard design will be considered in the same manner as plants still under construction. Proposed plant-specific backfits of new regulatory staff positions promulgated while a plant is deferred will be considered in accordance with the backfit rule, 10 CFR 50.109. Other modifications to previously accepted staff positions will be implemented either through rulemaking or generic issue resolution, which themselves are subject to the backfit rule. Regulations that have integral update provisions built into them will be applied to deferred plants, as they are to other plants under construction, without the use of the backfit rule.

Provisions in other policy statements which are applicable to plants under construction will also have to be implemented. Any resulting backfit recommendations will have to be supported in accordance with 10 CFR 50.109. Appeals procedures applicable to plant-specific backfits would be applicable to deferred plants. Appeals filed by a licensee during deferral will be considered and processed by the NRC while a plant is in a deferred status.

6. Information to be Submitted by Licensee when Reactivating

The licensee should submit a letter to the Director of NRR at least 120 days before plant construction is expected to resume. The letter should include the following information, to the extent that such information has not been submitted to the staff during the deferral period:

a. Proposed date for resuming construction, a schedule for completion

of the construction, and a schedule for submittal of an operating license application, including a Final Safety Analysis Report (FSAR), if one has not already been submitted.

b. The current status of the plant site and equipment.

c. A description of how any conditions established by the NRC during the deferral have been fulfilled.

d. A list of licensing issues that were outstanding at the time of the deferral and a description of the resolution or proposed resolution of these issues.

e. A listing of any new regulatory requirements applicable to the plant that have become effective since plant construction was deferred, together with a description of the licensee's proposed plans for compliance with these requirements.

f. A description of the management and organization responsible for construction of the plant.

g. A description of all substantive changes made to the plant design or site since the CP was issued (for those plants for which an OL application has not been submitted).

h. Identification of any additional required information which is not available at the time of reactivation and a commitment to submit such information at a specific later date.

i. As necessary, an amendment to the OL application (revised FSAR) and a discussion of the bases for all substantive site and design changes that have been made since the last FSAR revision was submitted (for those plants which were already under OL review at the time of deferral).

7. Staff Actions When Notified of Reactivation

The acceptability of structures, systems and components important to safety (10 CFR Part 50, Appendix A, GDC 1) upon reactivation from deferred status will be determined by the NRC based on the following:

a. Reviews of the approved preservation and maintenance program, as implemented, in order to determine whether or not any structures, systems or components require special NRC attention during reactivation.

b. Verification that design changes, modifications, and required corrective actions have been implemented and documented in accordance with established quality control requirements.

c. The results of any licensee or NRC baseline inspections which indicate that quality and performance requirements have not been significantly reduce below those originally specified in the FSAR. Structures, systems and components that fail to meet the acceptability criteria or will not meet current NRC requirements will be dealt with on a case-by-case basis.

B. Terminated Plants

1. Plant Terminations

A licensee should inform the Director of NRR when a plant is placed in a terminated status. In the event that withdrawal of a CP is sought, the permit holder should provide notice to the staff sufficiently far in advance of the expiration of the CP to permit the staff to determine appropriate terms and conditions. If necessary, a brief extension of the CP may be ordered by the staff to accommodate these determinations. Until withdrawal of the CP is authorized, a permit holder must adhere to the Commission's regulations and the terms of the CP, and should submit suitable plans for the termination of site activities, including redress, as provided for under 10 CFR 51.41, for staff approval. Also, if the plant has been completed to a point that it can function as a utilization facility, the licensee must take all necessary actions to ensure that the facility is no longer a facility for which an NRC license is required.

2. Measures that Should be Considered for Reactivation of Terminated Plants or Transfer of Ownership of Terminated Plants

Owners of terminated nuclear plants planning to maintain the option of plant reactivation or transfer of ownership to others—either totally or in part—should consider the following actions:

a. For the removal and transfer of ownership of plant components and systems important to safety, make necessary provisions to maintain, collect and transfer to the new owner appropriate performance and material documentation attesting to the quality of the components and systems that will be required of the new owner if intended for use in NRC-licensed facilities.

b. Develop and implement a preservation and maintenance program for structures, systems and components important to safety, as well as documentation, substantially in accordance with Section III.A.3 of this Policy Statement. If these provisions are implemented throughout the period of termination, a terminated plant may be reactivated under the same provisions as a deferred plant.

Such licensees must also assure that any necessary extensions of the CP are requested in a timely manner.

Dated at Washington, DC, this 11th day of March, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 87-5611 Filed 3-13-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-87-3]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before June 11, 1987.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 25169, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket

and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on March 9, 1987.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
25169	Air Transport Association.	*Description of the petition:* Petitioner proposes to amend certain applicable rules to "—clarify and expand slightly the use of foreign repair stations—". Petitioner proposes to expand the authority of foreign original equipment manufacturers to permit them to perform maintenance and preventive maintenance on aircraft and aeronautical products manufactured by them under type or production certificates, technical standard order authorizations, or FAA parts manufacturer approvals. *Regulations affected:* 14 CFR 145.71, 145.73, 121.361(b), 43.3(h), 121.379(a), 121.709(b), 145.15(c), 145.17(b), 145.23, and Part 187, Appendix A, paragraph (d). *Petitioner's reason for rule:* Petitioner states that rulemaking is required to alter or amend the practices which have existed for years under the existing regulations pertaining to foreign repair stations. Petitioner states the 37-year old scope of authorization provisions applicable to foreign repair stations are out-of-date and need to be revised. Petitioner states existing provisions of §§ 145.71 and 145.73 would not permit the return to service of U.S.-registered aircraft after maintenance performed by foreign repair stations unless the aircraft are used in operations conducted wholly or partly outside of the United States. Petitioner states current regulations provide no means for a foreign original equipment manufacturer to return products to service after repair. Petitioner states proposed rulemaking is intended to reduce burdens imposed upon the airlines by current regulations while assuring that the FAA's primary surveillance responsibility under the Federal Aviation Act is maintained.

[FR Doc. 87-5509 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-209-AD]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require structural inspections and repairs or replacement, as necessary, on high time British Aerospace Model BAC 1-11 200 and 400 series airplanes to assure continued airworthiness. Some British Aerospace Model BAC 1-11 200 and 400 series airplanes have exceeded the manufacturers' original fatigue design life goal. These older airplanes are the ones most likely to develop fatigue cracking. The manufacturer has completed a structural integrity audit to assess the continuing viability of the present structural inspection requirements in relation to the aircraft damage tolerance characteristics. Based on this audit, the manufacturer has identified certain structurally significant items which, if cracking does develop and is permitted to grow undetected, may result in the inability of the airplane structure to carry the required loads. This proposed AD defines structural inspection requirements for the identified items necessary to maintain the structural integrity of these airplanes.

DATE: Comments must be received no later than April 29, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-209-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-209-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Background

The first British Aerospace Model BAC 1-11 200 and 400 series airplanes were introduced into airline service more than 20 years ago. To support maintenance planning, the manufacturer developed the Maintenance Planning Guide (MPG). Those parts of the structure which have so far exhibited in-service fatigue or corrosion damage are already covered by existing inspections published in the MPG. Operators have been informed of the location of these structural components either by service newsletters or by alert service bulletins. The MPG is revised periodically to reflect the latest production airplane configuration and fleet maintenance experience; the latest revision is No. 176. The MPG, however, is not directly applicable to, nor may it be said to be adequate for, an airplane that has been in service for any extended period of time.

A significant number of transport category airplanes, including the Model BAC 1-11, are approaching or have reached their design life goal. It is

expected that these airplanes will continue to be operated beyond this point. The incidence of fatigue cracking on these airplanes is likely to increase as these airplanes exceed the design life goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining fail-safe design and the damage tolerance of the airplane structure, the manufacturer conducted a structural reassessment of the Model BAC 1-11 airplane, using modern damage tolerance evaluation techniques. The integrity audit accomplished by the manufacturer complies with Airworthiness Notice No. 89 of the Civil Aviation Authority (CAA) of the United Kingdom and, in addition, meets the intent of requirements published in FAA Advisory Circular (AC) 91-56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes." Furthermore, the manufacturer issued British Aerospace BAC 1-11 Service Bulletin 51-A-PM5830, which fulfills the requirement to introduce a "Supplemental Inspection Document" (SID). The CAA has classified British Aerospace BAC 1-11 Service Bulletin 51-A-PN5830 as mandatory.

The structural audit involved:

1. The identification of structural parts or components which contribute significantly to carrying flight, ground, pressure, or control loads. The failure of any of these components would affect the structural integrity necessary for the safety of the airplane. It is, therefore, necessary to establish or confirm their damage tolerance or fail-safe characteristics.

2. The calculation of residual strength.

3. The establishment of inspection programs that provide a high probability of detecting fatigue damage before residual strength falls below fail-safe or damage tolerance requirements.

The program developed by the manufacturer for the British Aerospace Model BAC 1-11 200 and 400 series airplanes ensures continuing structural airworthiness of these airplanes by specifying items to be inspected, inspection intensities, and associated intervals based on the structural audit.

Inspection is essential in maintaining the damage tolerance or fail-safe characteristics of structure. The inspection items contained in British Aerospace BAC 1-11 Service Bulletin 51-A-PM5830 nave been determined to be structurally significant by test, analysis, or service experience. These inspections, when used to supplement an existing approved maintenance program, will ensure the damage tolerance of the structure of these airplanes in the presence of aging effects, such as fatigue and corrosion, to the limit of the airplane's economic usefulness.

The Supplemental Inspection Document (SID) was developed based on the following premises:

1. That an approved continuous structural inspection program is being conducted for identification of cracks, corrosion and other damages for in-service British Aerospace Model BAC 1-11 airplanes.

2. That the SID cannot be used as a substitute for an existing approved structural program.

3. That the SID is intended to identify significant details within existing inspection areas having damage or fatigue characteristic warranting special attention.

4. MPG references have been included only for purposes of indexing the SID to general structural areas to facilitate the work to operators.

Significant Structural Items

Significant Structural Items included in the SID are those designated structural components which contribute significantly to carrying flight, ground, or pressure loads, whose fracture could affect the structural integrity of the airplane. These items require specific detailed inspections to maintain damage tolerance. The specific inspection requirements are based on analysis of minimum detectable size and growth characteristics of cracks and residual strength of the damaged structure.

Components of the structure which have exhibited in-service fatigue or corrosion damage are already covered by existing inspections published in the MPG; service newsletters or alert service bulletins have been issued for these items. Appendix B of the SID lists all these documents, with corresponding reference to the MPG.

Special Inspection Notes

The effects of corrosion have not been used in the calculation of the initial and repeat inspection periods for the significant structural items included in the SID. It is impossible to forecast the onset or the degree of severity of corrosion in airplane structures. These variables depend on the operating environment, the operator's corrosion control program, and its maintenance program in general. The routine monitoring of areas susceptible to corrosion is already covered by recommendations published in the MPG.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require revision of the operators maintenance program to provide for inspection of the structural items in accordance with the service bulletin previously mentioned.

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

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1,600 manhours to accomplish the inspections, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to the U.S. operators to implement the Supplemental Inspection Program is estimated to be $4,480,000.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, British Aerospace Model BAC 1-11 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

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

To ensure continuing structural integrity, accomplish the following, unless already accomplished:

1. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which requires accomplishment of the inspections and repairs, as necessary, of each Structural Significant Items as listed in Table 1 of British Aerospace BAC 1-11 Service Bulletin 51-A-PM5830, Supplemental Inspection Document, Revision 2, dated March 21, 1983. The revision to the maintenance program shall include procedures to notify the manufacturer when Structural Significant Items are found cracked. The inspection thresholds, repetitive intervals and inspection techniques are listed in the service bulletin.

2. Inspect each Structural Significant Item within one and one-half year after the effective date of this AD or prior to the accumulation of the number of landings listed in the landing threshold indicated in the service bulletin, whichever occurs later, and thereafter, repeat these inspections at intervals not to exceed the landings specified in the service bulletin.

3. If cracks are found, prior to further flight:

A. Replace with a serviceable part of the same part number; or

B. Repair in accordance with the Structural Repair Manual, listed in the service bulletin; or

C. Repair in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

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

The FAA has requested Federal Register approval to incorporate by reference the manufacturer's service documents identified and described in this proposed directive.

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

Issued in Seattle, Washington, on March 6, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-5510 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-15-AD]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to certain BAe Model 125-800 series airplanes, that would require inspection of the ventral fuel tank aft attachment for corrosion and cracking, and eventual replacement of the ventral fuel tank aft support fitting. This action is necessary because of reports of corrosion and cracking of this fitting. This condition, if not corrected, could result in failure of the fitting and loss of restraint of the fuel tank.

DATE: Comments must be received no later than April 29, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-15-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-15-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA that BAe Model 125-800 series airplanes have been found with the aft support fitting of the ventral fuel tank corroded and cracked. This condition, if not corrected, could result in failure of the fitting and loss of restraint of the fuel tank.

British Aerospace has issued BAe Service Bulletin 53-62-(3127), Revision 1, dated October 15, 1986, which describes inspection for corrosion and cracking and replacement of the light alloy fitting with a steel part to preclude loss of the structural support of the tank. The CAA has classified this service bulletin as mandatory.

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

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection for corrosion and cracking and eventual replacement of the ventral fuel tank aft support fitting in accordance with the aforementioned service bulletin.

It is estimated that 40 airplanes of U.S. registry would be affected by this AD, that it would take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost

impact of this AD to U.S. operators is estimated to be $25,600.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($640). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace (BAe): Applies to all BAe Model 125-800 series airplanes listed in BAe Service Bulletin 53-62-(3127), Revision 1, dated October 15, 1986, certificated in any category.

To prevent failure of the ventral fuel tank aft support fitting, accomplish the following, unless previously accomplished:

A. Within the next 45 days after the effective date of this AD, unless accomplished within the last 45 days, and thereafter at intervals not to exceed 90 days, until replaced in accordance with paragraph C., below, visually inspect the ventral fuel tank aft attachment for corrosion and cracking in accordance with BAe Service Bulletin 53-62-(3127), Revision 1, dated October 15, 1986.

B. Parts showing evidence of corrosion or found cracked must be replaced before further flight with a steel fitting in accordance with BAe Service Bulletin 53-62-(3127), Revision 1, dated October 15, 1986.

C. Within one year after the effective date of this AD, unless already accomplished, replace the ventral tank aft attachment fittings with a new steel part in accordance with paragraph B., above. This terminates the inspections required by paragraph A., above.

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

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

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

Issued in Seattle, Washington, on March 6, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-5511 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-68-AD]

Airworthiness Directives; Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of NPRM comment period.

SUMMARY: This action reopens the comment period of the subject NPRM which would require inspections and repair as necessary of the forward wing spar in the area of the main landing gear side brace fitting attachment on the affected airplanes.

DATE: Reopens comment period of Docket No. 86-CE-68-AD to April 13, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Dragset, Airplane Certification Branch, ASW-150, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101; Telephone (817) 624-5155.

SUPPLEMENTARY INFORMATION: The FAA issued an NPRM on December 15, 1986, applicable to Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A airplanes, which was published in the **Federal Register** on December 31, 1986 (51 FR 47250). The comment period closed March 2, 1987. This Notice would require inspections and repair as necessary of the forward wing spar in the area of the main landing gear side brace fitting attachment on the affected airplanes.

Prior to the closing date for comments on this NPRM, a request was received from The Commander Flying Association to extend the comment period to allow additional time to comment on the proposed rule. The FAA believes it is in the public interest to reopen the comment period in order to allow any comments deemed necessary.

This document involves only a reopening of a comment period for a proposed regulation. Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory evaluation has not been prepared for this action as the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Issued in Kansas City, Missouri, on March 3, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-5513 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by Ohio as an amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of proposed changes to Ohio bonding rules [O.A.C. 1501:13–7–03]. The amendment is proposed to extend the period of time a coal mine permittee would have to replace the bond of a surety who has become incapacitated by reason of bankruptcy, insolvency, or suspension or revocation of the surety's license from sixty to ninety days. The amendment also would allow permittees to continue mining for up to 90 days after receiving a notice of violation for mining without a bond if the permittees post ten percent of the total bond amount and one dollar per ton of coal mined during the 90 day period.

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., April 15, 1987 will not necessarily be considered in the decision on whether the proposed amemdment should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendment will be scheduled for April 6, 1987. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by March 31, 1987. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will not be held. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing, if requested, is scheduled for 1:00 p.m., in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and request for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone (614) 866–0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meeting, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the Office of State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street, NW., Washington, DC 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.** Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Submission of Revisions

By letter dated January 13, 1987, the Ohio Department of Natural Resources, Division of Reclamation submitted proposed amendments to Ohio's regulatory program at 1501:13–7–03. These amendments were enacted as Ohio emergency rules. Therefore, OSMRE is opening a comment period on the amendments.

The proposed changes to OAC section 1501:13–7–03 would extend from sixty to ninety days the period of time a coal mine permittee has to replace the performance bond of a surety that has become incapacitated due to bankruptcy, insolvency, or suspension or revocation of the surety's license. The amendment would also allow a permittee to continue to mine coal for 90 days after receiving a notice of violation for mining without a bond. The permittee would need permission from the Chief of the Division of Reclamation and would be required to post 10 percent of the total bond amount and pay to the Division one dollar for every ton of coal mined during the 90 day period.

The full text of the proposed program amendment submitted by Ohio is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.

III. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant ot section 702(d) of SMCRA, 30 U.S.C., 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 935

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

Dated: March 9, 1987.

James W. Workman,

Deputy, Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87–5549 Filed 3–13–87; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6902]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 51 FR 37445 on October 22, 1986. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Imperial Beach, San Diego County, California.

DATES: The period for comment will be thirty (30) days following the second publication of this proposed rule in a newspaper of local circulation in the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Imperial Beach, San Diego County, California, published at 51 FR 37445 on October 22, 1986, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for Part 67 continues to read as follows:

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

The proposed base (100-year) flood elevations for locations in the City of Imperial Beach, San Diego County, California, are correctly revised to read as follows:

Source of flooding	Location	*Elevation in feet national geodetic vertical datum
Tijuana River.	2,150 feet upstream from profile base line confluence with Oneonta Slough.	*6
	At Sunset Avenue approximately 6,700 feet west of 19th Street.	*11
	At Sunset Avenue approximately 2,700 feet west of 19th Street.	*15
Pacific Ocean.	At intersection of Beach Avenue and 1st Street.	*6
	200 feet west of intersection of Cortez Avenue and 1st Street.	*6
	1,050 feet south of a point 150 feet west of intersection of Encanto Avenue and 1st Street.	*10
	At center of Boulevard Avenue, 700 feet west along the street from its its intersection with 10th Street.	*6

Maps available for inspection at the Planning and Community Development Department, 825 Imperial Beach Boulevard, Imperial Beach, California.

Send comments to The Honorable William S. Russell, Mayor, City of Imperial Beach, 825 Imperial Beach Boulevard, Imperial Beach, California 92032.

Issued: March 10, 1987.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-5546 Filed 3-13-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket 87-9; FCC 87-30]

Radio Broadcasting; Radio Reading Services

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order and Notice of Inquiry.

SUMMARY: In response to a petition for rule making by the Association of Radio Reading Services, the Commission commenced an inquiry into the appropriateness of the costs charged radio reading services on a not for profit basis by noncommercial FM licensees. Not only does there appear to be no general understanding of what costs may be legitimately charged for reading service operations, but there is a great disparity among stations in the amount of their charges. Thus, an inquiry was commenced to determine whether the costs imposed on reading services are fair and, if not, how to structure a not-for-profit method of reimbursement to noncommercial FM licensees for the actual costs of broadcasting reading services. In the same document, the Commission denied petitioner's request to require noncommercial educational FM licensees to lease their subcarrier capacity to radio reading services. The Commission concluded that allowing public radio stations to use their subsidiary channels for remunerative purposes does not adversely affect reading services.

DATES: Comments must be filed on or before June 15, 1987, and reply comments on or before June 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order and Notice of Inquiry* MM Docket 87-9, adopted January 16, 1987, and released February 3, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order and Notice of Inquiry

1. The Association of Radio Reading Services (ARRS) requested that the Commission initiate a proceeding which would require noncommercial educational FM licensees to lease to radio reading services their subcarrier capacity based upon nondiscriminatory incremental cost justified rates. ARRS claimed that allowing public radio stations to use their subsidiary channels for remunerative purposes, first permitted three years ago, has had unanticipated negative effects on reading services for the visually impaired.

2. In 1983, to permit public broadcasters to generate self-supporting income, the Commission amended § 73.593 of the Rules to allow, for the first time, public radio stations to engage in remunerative activities on their subcarriers. Use of subcarriers by noncommercial FM licensees, although authorized, is not required. However, if a subcarrier is used for remunerative purposes, the public broadcaster must accommodate the radio reading service on another subchannel or ensure that alternative subchannel capacity is available for that reading service.

Furthermore, if providing a reading service, a public radio station must do so on a not-for-profit basis.

3. As a consequence of the 1983 rule amendment, petitioner asserts that some reading services have ceased operation and the plans for many new reading operations have either been cancelled or put on hold. ARRS submits that the provision in the rule, not to act to the detriment of radio reading services, does not apply to stations choosing not to use their subcarrier capacity for remunerative purposes. Additionally, petitioner argues that public stations are making unreasonable financial demands on reading services.

4. Most of those commenting dispute the need or wisdom of petitioner's proposal to require public stations to carry reading services on request. They submit that radio reading services actually have increased in the past several years. Commenters are unanimous, however, in requesting clarification of the appropriate costs to be charged reading services.

5. The Commission concluded that allowing public radio stations to use their subsidiary channels for remunerative purposes does not adversely affect reading services. In fact, the data indicates that the most commonly transmitted subcarrier services by public radio stations are reading services for the visually impaired. Further, the technical difficulties and high costs of providing radio reading services on subsidairy channels are responsible to a large extent for any failure of radio reading services to expand. In view of the significant number of reading services provided by public radio subcarrier operations and the more than adequate explanation for any failure to thrive or commence operation, the Commission did not believe it had been demonstrated that § 73.593 ineffectually protects reading services.

6. By not allowing licensees to pursue remunerative aims without providing for the operation of reading services, the Commission has ensured that reading services will be protected and the needs of the print-handicapped met. The Commission also stated that the needs of public broadcasters to raise revenues from non-government sources also must be recognized in light of continuing governmental and other budgetary constraints. In view of the great disparity among public stations in the amount of the charges imposed on reading services, however, an inquiry into the matter of costs was commenced. Commenters are invited to address various questions to help the Commission determine the costs of actually operating radio services for the visually impaired. In particular, they should provide itemized statements of charges assessed by stations for radio reading operations. In this manner, the Commission can assure that public broadcasters are fairly reimbursed for the expenses of providing reading services, but that they are not financially profiting from this endeavor.

Comments

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 15, 1987, and reply comments on or before June 29, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Ex Parte Language

Nonrestricted rule making. This is a nonrestricted notice and comment rule making proceeding. *See* § 1.1231, of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Ordering Clauses

9. Accordingly, the Commission adopts this Memorandum Opinion and Order and Notice of Inquiry pursuant to the authority contained in sections 4 (i) and (j), 303(r) and 403 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 73

Television broadcasting, Radio broadcasting.

William J. Tricarico,

Secretary.

[FR Doc. 87-5515 Filed 3-13-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-6; FCC 87-27]

Broadcast Services; The Use of Multiple Transmitters by AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This action initiates an investigation into the possibility of authorizing AM stations to use multiple transmitters, specifically synchronous transmitters, for enhancement or extension of their signal coverage. The purpose of this *Notice of Inquiry* (*Inquiry*) is to establish a broad and detailed record on which to evaluate potential implementation techniques and licensing procedures for synchronous operation.

DATES: Comments are due on or before May 4, 1987, and reply comments on or before June 3, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's *Inquiry* adopted January 15, 1987, and released March 3, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

1. This action is an inquiry into the use of multiple transmitters as an alternative means of improving the signal coverage of AM broadcast stations, specifically with synchronous transmitters. Conventional methods to enhance and extend AM service, *e.g.*, increased power and antenna system redesign, do not always provide stations with sufficient economic flexibility to improve their service in areas most needing it. Synchronous transmitters could offer a more viable means for improving signal coverage, with comparatively negligible or no increased interference to adjacent and co-channel stations.

2. The Commission adopted this *Inquiry* in order establish a thorough record on which to base future decisions concerning AM synchronous broadcasting. Issues and questions specifically raised in this *Inquiry* are:

- Should the Commission be concerned with setting technical standards for the operation of a synchronous group of transmitters as it affects intra-system interference and other system impairments, and if so, which standards?
- What interference protection criteria should be applied between synchronous networks and individual stations not in the synchronous network?

• What level of distortion can be anticipated as a result of using frequency or phase synchronization techniques, and which synchronization technique is more advantageous?

• Would the utility of nighttime synchronous transmitter operations be diminished significantly because of skywave interference?

• What treatment should synchronous transmitters be afforded under the multiple ownership rules?

3. The Commission seeks comments on these and on all relevant issues.

Comment Information

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before May 4, 1987, and reply comments on or before June 3, 1987. All relevant and timely comment will be considered by the Commission before final action is taken in this proceeding.

Authority

Authority for issuance of this *Inquiry* is contained in sections 4, 303, and 403 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-5517 Filed 3-13-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-7; FCC 87-28]

Radio and Television Broadcasting; Proposed Amendment of the Broadcast Multiple Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend two provisions of its broadcast multiple ownership rules. First, it proposes to relax a portion of the "duopoly" rule, which prohibits overlap of the 1 mV/m contours of commonly owned commercial AM or FM stations in the same broadcast service, to allow a greater degree of overlap between commonly owned radio stations. Second, the Commission proposes relaxing a section of the "one-to-a-market" rule, which prohibits the common ownership of commercial radio and television stations in the same market, to allow the common ownership of certain radio-television combinations. Although these rules were adopted to promote diversity of viewpoint and economic competition on a local level, the Commission now questions whether the scope of these rules should be modified in view of the growth of competition and diversity of viewpoint that has been occurring in local markets since these rules were promulgated.

DATES: Comments must be filed on or before April 15, 1987, and reply comments on or before May 15, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in MM Docket No. 87-7, adopted January 15, 1987, and released February 20, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. This is one of several proceedings initiated in response to the Mass Media Bureau's *Report on the Status of the AM Broadcast Rules*. In this proceeding, the Commission proposes to modify two rules restricting the ownership of broadcast stations on a local level. First, the *Notice of Proposed Rule Making* ("*Notice*") proposes relaxation of the radio "duopoly" rule, which currently prohibits overlap of the 1 mV/m contours of commonly owned commercial AM or FM stations in the same broadcast service. Second, the *Notice* proposes modification of a portion of the "one-to-a-market" rule, which currently prohibits the common ownership of commercial radio and television stations in the same market. The rule accomplishes this goal by prohibiting the licensee of a commercial AM or FM station from acquiring a television station if the 2 mV/m groundwave contour of the AM station or the 1 mV/m contour of the FM station encompasses the entire community of license of the proposed television station. Similarly, it prohibits the licensee of a commercial television station from acquiring an AM or FM station if the Grade A contour of the television station encompasses the entire community of license of the AM or FM station.

2. Both the "duopoly" and "one-to-a-market" rules reflect a balancing of factors that inevitably compete. On the one hand, they are intended to promote the dual goals of diversity of program service viewpoint and economic competition by encouraging diversity in the ownership of broadcast stations. On the other hand, in developing these rules, the Commission has also recognized the demonstrable benefits resulting from the group ownership of stations, such as promoting diversity of program service and aiding in the development of new broadcast services. Although the need to promote diversity of ownership may have outweighed the benefits of group ownership over twenty years ago, the Commission believes that the balance of factors underlying these rules has shifted and may necessitate a relaxation in the scope of these rules.

3. The Commission bases this view upon three reaons. First, the substantial growth in the number of media outlets throughout local markets since the current "duopoly" and "one-to-a-market" rules were adopted has greatly increased competition and viewpoint diversity and has made it less likely that the common ownership of radio/television or radio/radio combinations would raise the same concerns as it would have twenty years ago. Second, relaxing these rules may produce significant public interest benefits. For example, there are considerable cost savings inherent in the joint operation of broadcast stations in the same market which in turn could be invested into improved programming and technical facilities. In addition, the increased ownership of radio and television stations in the same market could result in the activation of many vacant commerical UHF and VHF television channels, which could provide new broadcast service to the public, especially in rural and small markets. Third, the *Notice* questions whether maximizing diversity of ownership in otherwise competitive markets necessarily promotes programming diversity. Indeed, combinations of radio and/or television stations in the same market may have greater resources than a separately owned station and may enhance diversity more than a separately owned station.

4. For these reasons, the *Notice* proposes the following changes in the scope of these rules. With respect to the "one-to-a-market" rule, the Commission proposes to permit, without a special

showing, the ownership of combinations of commercial AM–UHF television stations, AM–VHF television stations, or AM–FM–UHF television stations. Comment is also requested on whether FM–UHF, FM–VHF, or AM–FM–VHF combinations should also be permitted. Comment is solicited on whether these aforementioned combinations should be permitted in all television markets or only in larger markets. For example, the *Notice* suggests that the differences in the top fifty television markets and those below may justify using that as a level. In the alternative, the number of commercial stations in a particular market regardless of market size may provide a benchmark. In all other markets, the Commission proposes to consider the ownership of radio-television combinations on a case-by-case basis. Commenters are requested to address what standards, if any, should be established for this case-by-case analysis.

The *Notice* also proposes to relax the "duopoly" rule from its current standard to prohibit overlap of the city-grade signals of commonly owned radio stations in the same service, which is the 5 mV/m groundwave contour for AM stations and the 3.16 mV/m contour for FM stations. This proposed rule change would have the effect of prohibiting the common ownership of two AM or two FM stations in the same community of license but would permit such combinations within the same market. The Commission believes that this is a more reasonable approach in light of current market conditions. Moreover, use of these signal levels would appear to be more equitable than the present 1 mV/m contours which discriminate against AM stations due to the fact that the 1 mV/m signal of an AM station is not eqivalent in quality to the 1 mV/m signal of an FM station. Commenters are invited to suggest any other overlap standards that may be appropriate.

6. This is a nonrestricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

7. Pursuant to the requirements of the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission notes that adoption of these proposals would enable broadcasters, including small entities, to acquire additional radio and/or television stations in the same market and to take advantage of the cost savings inherent in the joint operation of broadcast stations on a local level. In addition, these proposals could lessen the need for filing waiver or other requests that the common ownership of radio/radio or radio/television combinations in the same market would serve the public interest, thereby reducing burdens on applicants and the Commission. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

8. The Secretary shall cause a copy of this *Notice* to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

9. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified requirement or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 15, 1987, and reply comments on or before May 15, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–5516 Filed 3–13–87; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222 and 227

[Docket No. 70227–7027]

Sea Turtle Conservation; Shrimp Trawl Requirements

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

ACTION: Proposed rule; notice of a change of location for a public hearing and additional public hearings.

SUMMARY: A schedule of public hearing locations was included in the proposed rule document containing management measures for shrimp trawlers which was published March 2, 1987, 52 FR 6179. One of the hearing locations is being changed and additional hearings are being held.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, (813) 893–3366 or David Cottingham, (202) 377–5181.

In FR Doc. 87–4329 appearing on page 6182 in the issue of March 2, 1987, under the "Public Hearing Schedule," the Kenner, LA, March 18 hearing is being changed to Chalmette, LA, March 18, 7 p.m., Chalmette Civic Auditorium (St. Bernard Cultural Center), 8245 W. Judge Perez Drive.

Additional public hearings will be at the following locations:

Port Arthur, TX, March 27, 2 p.m., Port Arthur Civic Center, 3401 Cultural Center Drive.

Tampa, FL, March 30, 2 p.m., Ramada Inn, 5303 West Kennedy Blvd.

Dated: March 11, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–5626 Filed 3–13–87; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 52, No. 50
Monday, March 16, 1987

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 COMMERCE

International Trade Administration

[A-549-601]

Postponement of Final Antidumping Duty Determination; Malleable Cast Iron Pipe Fittings From Thailand

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation that the final antidumping duty determination be postponed for not less than 105, and not greater than 135, days from publication of our antidumping duty preliminary determination, as provided for in section 735d(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and that we have postponed our final determination as to whether sales of malleable cast iron pipe fittings from Thailand have occurred at less than fair value until not later than June 28, 1987. In addition, we are rescheduling the public hearing in this investigation.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: James Riggs or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4929 or 377-5288.

Case History

On August 29, 1986, we received an antidumping duty petition filed by the Cast Iron Pipe Fittings Committee on malleable cast iron pipe fittings from Thailand. In compliance with the filing requirements of § 353.36 of our regulation (19 CFR 353.36), the petition alleged that imports of malleable cast iron pipe fittings from Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation, and on September 18, 1986, we initiated such an investigation (51 FR 34111, September 25, 1986). The preliminary affirmative determination in this antidumping investigation was made on February 5, 1987 (52 FR 4637, February 13, 1987).

On February 17, 1987, counsel for respondent requested that the Department extend the period for the final determination on this investigation to not less than 105 days, and not more than 135 days from the publication date of our preliminary antidumping duty determination in accordance with section 735(a)(2)(A) of the Act.

The respondent is qualified to make such a request since it accounts for the majority of exports of the merchandise under investigation. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue its final determination in this case not later than June 28, 1987.

The public hearing in this case is being postponed until 10:00 a.m. on April 27, 1987, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by April 17, 1987. Oral presentations in these hearings will be limited to issues raised in the briefs. Posthearing briefs are due no later than 10 days after transcripts of these hearings are made available. All written views should be filed in accordance with 19 CFR 46, no later than 30 days before the final determination is due, at the above address in at least 10 copies.

This notice is published pursuant to section 745(d) of the Act.

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration.

March 9, 1987.

[FR Doc. 87-5620 Filed 3-13-87; 8:45 am]
BILLING CODE 3510-DS-M

[A-570-601]

Postponement of Final Antidumping Duty Determination; Tapered Roller Bearings from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On February 17, 1987, we received a request from a respondent in the antidumping duty investigation of tapered roller bearings from the People's Republic of China (PRC) that the final determination be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Pursuant to this request, we are postponing our final antidumping duty determination as to whether sales of tapered roller bearings from the PRC have been made at less than fair value until not later than May 20, 1987.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp or Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 377-1769 or (202) 377-2613.

SUPPLEMENTARY INFORMATION: On September 19, 1986, we published a notice in the **Federal Register** that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of tapered roller bearings from the PRC are being, or are likely to be, sold at less than fair value (51 FR 33283). We issued our preliminary affirmative determination on February 2, 1987 (52 FR 3833, February 6, 1987). This notice stated that we would issue a final determination on or before April 20, 1987. On February 17, 1987, a respondent requested that we

extend the period for the final determination until May 20, 1987, in accordance with section 735(a)(2)(A) of the Act. This respondent accounts for a significant proportion of exports of the subject merchandise to the United States, and thus is qualified to make this request. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, we grant the request and postpone our final determination until not later than May 20, 1987.

The public hearing is also being postponed until 2:00 p.m. on April 27, 1987, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted in at least ten (10) copies to the Deputy Assistant Secretary by April 20, 1987.

This notice is published pursuant to section 735(d) of the Act.

March 10, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-5622 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-603]

Postponement of Preliminary Antidumping Duty Determination; Certain Stainless Steel Hollow Products from Sweden

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioners in this investigation to postpone the preliminary determination as permitted by section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Based on this request, we are postponing our preliminary determination as to whether sales of certain stainless steel hollow products from Sweden have occurred at less than fair value until not later than May 15, 1987.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, (202) 377-1769, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On November 17, 1986 (51 FR 41514), we announced the initiation of an antidumping duty investigation to determine whether certain stainless steel hollow products from Sweden are being, or are likely to be, sold in the United States at less than fair value. The notice stated that we would issue a preliminary determination by March 30, 1987.

As detailed in that notice, the petition alleged that imports of certain stainless steel hollow products from Sweden are being, or are likely to be sold in the United States at less than fair value. On March 5, 1987, counsel for petitioners, the Specialty Tubing Group and the United Steelworkers of America, requested that the Department extend the period for the preliminary determination until not later than 210 days after the date of receipt of the petition in accordance with section 733(c)(1) of the Act. Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than May 15, 1987.

This notice is published pursuant to section 733(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 10, 1987.

[FR Doc. 87-5621 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-05-M

Export Trade Certificate of Review

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: 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 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the certificate should be issued. An original and five (5) copies should be submitted not later than April 6, 1987 to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should specifically reference the application number. A summary of the application follows:

Applicant: Crann Corporation, 13375 SW. Henry Street, Beaverton, Oregon 97075, Telephone: (800) 547-1447

Application No.: 87-00005

Date Deemed Submitted: March 2, 1987

Controlling Entity: Taylor Lumber & Treating, Inc., Beaverton, Oregon

Member (in addition to applicant): Taylor Lumber & Treating, Inc., Beaverton, Oregon

Summary of the Application

A. Export Trade

The Applicant is an Oregon corporation organized as an export trading company. Crann intends to export lumber and lumber products ("Products") on a worldwide basis.

In the conduct of its export activities, Crann will provide the following export trade services: Consulting; international market research; advertising and sales promotion; marketing; insurance; product research and design; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders to and for exporters and foreign purchasers; warehousing; foreign exchange; financing; and taking title to goods for ultimate exportation. These services are "Related Services" when related to the sale of lumber and lumber products in the Export Markets.

B. 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).

C. Export Trade Activities and Methods of Operation

Crann seeks certification to:

1. Enter into an agreement with its Member(s), whereby Crann agrees to act as its exclusive Export Intermediary for the export of Products and Related Services. These agreements may include the following provisions:

a. The Member(s) may agree not to sell directly or indirectly through any other Export Intermediary, and/or

b. Crann will have the exclusive right to choose whether to respond to bids, invitations or requests for bids, or other sales opportunities, on a joint or individual basis.

2. Enter into exclusive agreements with other Export Intermediaries, whereby:

a. The Export Intermediary agrees not to represent competitors of Crann in the sale of Products and Related Services in any Export Market, and/or

b. The Export Intermediary agrees not to buy Products and Related Services from Crann competitors for resale in any Export Market.

3. Enter into exclusive agreements with foreign customers of the Products and Related Services, whereby the customer agrees not to purchase the Products and Related Services from Crann competitors.

4. Maintain the exclusive right to specify the following for agreements outlined in paragraphs 1, 2, and 3 above:

a. The price at which Products and Related Services will be sold in the Export Markets, and/or

b. The terms for any export sale, including the quantities, territories, and customers, regardless of whether a joint or individual bidding process is used.

5. Meet with its Member(s) to negotiate and agree on the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in any Export Market. During the course of these negotiations, the following may be exchanged:

a. Information that is already generally available to the trade or public (not to include information about the domestic costs, inventories, prices, sales, orders, or business plans, strategies, or methods of any U.S. supplier of the same or similar goods),

b. Information that is specific to a particular Export Market, including, but not limited to, reports and forecasts of sales, prices, terms, customer needs, selling strategies, and product specifications by geographic area and by individual customer within the Export Market,

c. Information on expenses specific to exporting to a particular Export Market (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export sales documentations and service, and export sales financing),

d. Information on U.S. and foreign legislation and regulations affecting sales to a particular Export Market, and

e. Information on Crann activities in the Export Markets, including, but not limited to, customer complaints and quality problems, visits by customers located in the Export Markets, reports by foreign sales representatives, and matters concerning the contract(s) between Crann and its Member(s).

Dated: March 10, 1987.

George Muller,

Deputy Director, Office of Export Trading Company Affairs.

[FR Doc. 87-5541 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-DR-M

Foreign Buyer Program; Support for Domestic Trade Shows

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Implementation of the 1988 Foreign Buyer Program.

SUMMARY: This notice sets forth objectives, circumstances and application review criteria associated with the Department's program to support domestic U.S. trade shows.

DATE: These administrative procedures are effective March 16, 1987.

ADDRESS: Export Promotion Services/ Foreign Buyer Program, U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, U.S. Department of Commerce, Room 2118, 14th and Constitution Avenue, NW., Washington, DC 20230 (202/377-0872).

FOR FURTHER INFORMATION CONTACT: Mike Frisby, Director, Marketing Development Division, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Room 2118, Washington, DC 20230 (202/377-0872).

SUPPLEMENTARY INFORMATION: The International Trade Administration of the U.S. Department of Commerce is accepting applications for the 1988 Foreign Buyer Program.

The Foreign Buyer Program was established to select and promote leading trade shows in the United States in high export potential industries. The Foreign Buyer Program has been created to provide practical, hands-on assistance to U.S. companies interested in exporting. The assistance provided includes export counseling, marketing analysis, and overseas promotion to potential foreign buyers, end-users, agents and distributors. Shows selected for the Foreign Buyer Program will provide a venue for U.S. companies interested in expanding their sales into international markets.

The U.S. Department of Commerce implemented the Foreign Buyer Program in May 1985 in keeping with the Department's mission to foster, promote and develop U.S. commerce. As part of its mission, the Department has for many years assisted U.S. firms participating in domestic trade shows to meet with potential foreign buyers, agents and distributors.

Under the Foreign Buyer Program, the Department will select and promote domestic trade shows in high-export potential industries in order to bring foreign buyers together with U.S. firms. Selection of a trade show is one-time, i.e., a trade show organizer seeking selection for a recurring event, must submit a new application for selection for each occurrence of the event.

The Department will select up to 18 events during calendar year 1988. The Department will select those events which in its judgment most clearly and best meet the Department's objectives as well as satisfying the general selection criteria. For this reason, failure to select an event should not be viewed as a finding that the event will not be successful in promoting U.S. exports.

Department of Commerce Support of Foreign Buyer Program Events

The support provided for selected events may differ depending on the specific needs identified and agreed upon by the Department and the show organizer. Services may include, but are not limited to special overseas marketing efforts by staff of the U.S. & Foreign Commercial Service. Such marketing activities include contacting key foreign government and private sales prospects and providing publicity in appropriate Departmental periodicals.

Specific Department Actions

For selected shows the Department of Commerce will: (a) Designate a Program Manager as central contact to work with the show organizer on all aspects of promotion abroad and foreign buyer assistance at the show. The Program Manager will work with the show organizers' contact to develop a international marketing plan and overall promotional timetable.

(b) Prepare and distribute an information letter and form ITA–4014P to CEOs (if available) of exhibiting U.S. companies to determine their international business objectives in meeting with foreign buyers (Form 4014P has been approved by the Office of Management and Budget under control number 0625–0151).

(c) Contact U.S. companies which will be exhibiting at the event and encourage them to meet with foreign buyers attending the show. The Department will print an Export Interest Directory, containing pertinent information on those companies that express such interest. The Export Interest Directory will list U.S. company names, products or services they wish to export, international marketing objectives (agent/distributor/ direct sales etc.) and geographic areas of interest to the company. This document will be distributed to all U.S. Embassies and Consulates prior to the event.

(d) Advise and work closely with all interested U.S. Embassies and Consulates to assure maximum trade show promotion and exposure for those companies listed in the Export Interest Directory.

(e) Promote industry trade show participation through announcements in key domestic and international publications (e.g., regional, posts and embassy commercial newsletters, *Business America*, and *Commercial News USA).*

(f) Provide show organizer with specifications of a DOC-designed International Business Center (IBC), including furniture requirements, DOC office, conference rooms, storage area, etc.

(g) Provide show organizer with specifications for a multi-language brochure; U.S. Embassy/Consulate address labels, shipping instructions and quantities required for overseas shipment.

(h) Review with the show organizer potential support by appropriate trade associations, state development agencies, banks, transportation companies, chambers of commerce, and other organizations.

(i) Provide a final show report to the show organizer not later than 90 days after the show.

(j) Request US&FCS District Domestic Offices in the U.S. to provide export counseling or specific marketing information to those U.S. participants which have indicated a need for such counseling both prior to and during the show.

Services Provided at Trade Show Site

(a) Two (2) Program Managers will provide primary management of the International Business Center (IBC) and assist with on-site registration (if appropriate) of foreign buyers and post-organized groups, facilitate matching foreign buyers with exhibiting U.S. companies at trade show, and inform U.S. companies about US&FCS products and services and other ITA programs. At least one Trade Specialist from the US&FCS District Offices will be available throughout the show to provide additional export counseling.

(b) Provide export counseling or specific geographic marketing information to exhibitors in a designated area in the International Business Center, and assist foreign buyers to meet their purchasing/representation objectives during the show.

(c) Participate, as appropriate, in special export service seminars specifically aimed at new-to- market/ new-to-export firms exhibiting at trade show.

(d) Encourage local bank and financial institutions to have a representative available to provide export finance counseling.

Specific Responsibilities of the Show Organizer

(a) Designate an official authorized to work with the US&FCS Program Manager on all aspects of the show promotion.

(b) Provide the Program Manager with a contact during the show to assist with foreign visitor information and product referral.

(c) Provide the Program Manager with a current list of exhibitors, with names and addresses. The name of the contact should, if possible, be the decision maker of the exhibiting firm on international matters. The exhibitor list should be on gummed mailing labels.

(d) Produce and distribute a multilingual promotional brochure in the quantities specified by the Program Manager for overseas distribution. Draft of the brochure must be approved by the Program Manager prior to printing. These brochures must be printed not less than six months prior to the show.

(e) Provide all U.S. exhibitors information about the IBC and US&FCS services prior to the show.

(f) Provide to the Program Manager names and addressees of foreign attendees at most recent show. Provide a list of pre-registered foreign attendees at the current show, including names, addresses, and business interests. Both lists are to be provided by country and on a mutually agreed upon date.

(g) Provide to the Project Manager a Convention Center floor layout indicating the location and dimensions of the International Business Center.

(h) Establish a registration system to assure US&FCS Program Managers access to all Foreign attendees at time of registration and on a daily basis during the show, provide number of registered foreign attendees.

(i) Establish an International Business Center (IBC) at the show in a prominent location, adjacent to the main registration area. Show organizer agrees to construct the IBC (minimum of 1500 sq. ft.) according to DOC-designed specifications which should include: (a) A separate registration area for foreign visitors, (b) appropriate furniture and office equipment, telephone, telex, etc.; (c) interpreters, (d) registration staff and support; (e) DOC office and a minimum of 2 conference rooms, storage area, refreshments and lounge. The IBC must be given high visibility in show catalog/ program daily newsletters, floor plans, and by strategically placed signs at the exhibition entrance, registration area and on the exhibition floor. DOC design specifications do not allow for pipe and drape at the IBC. A hard panel system will be required.

(j) On an agreed date following the show, provide the Program Manager with a registration printout of the names and addresses of the foreign attendees, by country.

(k) Upon notification of acceptance into the Foreign Buyer Program, remit the appropriate user fee. For calendar year 1988 the fee is $3,500.

(l) The show organizer will allow for a one page advertisement in the show catalog highlighting the Foreign Buyer Program and the International Business Center. The copy will be supplied by the Department.

(m) Provide for interpreters at the International Business Center, as appropriate.

Selection. Selection indicates that the Department has found the event to be a leading international trade show worthy of participation by U.S. exporting firms and promotion in overseas markets by U.S. Embassies and Consulates. Selection does not constitute a guarantee by the U.S. Government of success of the show or of the undertakings or obligations of the show organizer. Selection is not an endorsement of the show organizer except as to its Foreign Buyer activities. Each successful applicant will be given copies of an official U.S. Department of Commerce logo and/or logo of the U.S. and Foreign Commercial Service for use in its advertising promotional materials.

Exclusions. Trade shows which will not be considered are those which are either first time events or are horizontal, that is, not industry specific. Annual trade shows will not be selected more than twice in any three year period (e.g., shows selected for calendar years 1986 and 1987 are not eligible for inclusion in the calendar year 1988 Foreign Buyer Program, but will be considered in subsequent years at which time the cycle will begin anew).

General Selection Criteria. Subject to Departmental budget and resource constraints, selection will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

(a) *Export Potential:* The products and services to be promoted at the trade show should be from U.S. industries which have high export potential as determined by U.S. Department of Commerce sources.

(b) *International Interest:* Trade shows will be selected which meet the needs of a significant number of overseas markets covered by the U.S. and Foreign Commercial Service, correspond to marketing opportunities as identified by these posts, and which warrant the attention and promotional effort by those overseas posts. Previous foreign attendance at the show may be used as an indicator.

(c) *Scope:* The event must offer a broad spectrum of U.S. products and/or services. Trade shows with a majority of American firms exhibiting will be given preference.

(d) *Stature:* The trade show must be clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally and as a showplace for the latest technology or techniques in that industry.

(e) *Exhibitor Interest:* There must be a clearly demonstrated interest on the part of U.S. exhibitors to receive international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand sales into additional foreign markets.

(f) *Logistics:* The trade show site, facilities, transportation services and availability of accommodations must be in keeping with the stature of an international-class trade show.

(g) *Cooperation:* Successful applicants will be required to enter into a Memorandum of Understanding (MOU) which sets forth the specific actions to be performed by the show producer/owner and the USDOC. There must be a willingness on the part of the trade show organizer to cooperate with the US&FCS to further ITA export expansion goals, adhere to target dates set out in the (MOU) and all other program requirements covered by the MOU and this announcement.

When, Where and How To Apply for Selection in the 1988 Foreign Buyer Program

Collection of the information required in an application is authorized by law (15 U.S.C. 1512 *et seq.*). The Office of Management and Budget has approved the information collection requirement contained in this notice under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) (OMB Control Number 0625–0130, approved for use through 08/31/88). A trade show will not be considered for the 1988 Foreign Buyer Program unless a completed application has been received by the Marketing Development Division no later than April 21, 1987.

Except to the extent required by laws, no information of a proprietary nature reported on this application will be disclosed without the prior written consent of the relevant firm.

Please type the information requested below on company letterhead and mail two (2) complete sets of your application to: Office of Marketing Programs, U.S. and Foreign Commercial Service, International Trade Administration, Room 2118, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

Answer to the questions listed below constitutes the formal application:

(1) Name of show.

(2) Site of show.

(3) Dates of show. Indicate if show is held annually, biennially, or other.

(4) Name, address, and phone number of applicant.

(5) Name, address, and phone number of applicant contact.

(6) Name, address, and phone number of show sponsor (trade association, national or state government, etc.)

(7) Basic history or description of show. Applicant must demonstrate that subject is a leading international trade show for the industry. Include copies of previous show promotion materials.

(8) Resume of applicant's show experience.

(9) Planned number of U.S. exhibitors. A majority of show exhibitors must be of U.S.A. origin.

(10) Specify gross area of show (sq. ft. or sq. mtrs.). Net area for exhibit space (show U.S. and foreign separately.)

(11) Admission fees for show visitors and indicate if there is a reduced fee for international visitors.

(12) Description of technical program and cost to attend (if applicable).

(13) Product categories to be displayed.

(14) Audience profile or potential foreign customers (target countries, industries, profession or technical level).

(15) Submit 2 sets of all show promotional literature, including show catalog, for previous show.

Applicant must type the following and submit with the appropriate signature:

"The above information is correct and the applicant will abide by the terms set forth in the Notice of Implementation of the Foreign Buyer Program for 1988.

Applications will be processed by the Marketing Development Division, Export Promotion Services and final selection of events will be made by May 21, 1987.

Fee: The Department will charge a fee of $3,500 for shows selected and promoted during Calendar Year 1988.

Mike Frisby,

Director, Marketing Development Division, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 87–5508 Filed 3–13–87; 8:45 am]

BILLING CODE 3510–25–M

Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held April 1, 1987, 1:00 p.m., the Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Exeuctive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1)

and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

For further information contact Betty Ferrell at 202–377–2583.

Dated: March 11, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87–5625 Filed 3–13–87; 8:45 am]

BILLING CODE 3510–DT–M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held March 21, 1987, 9:30 a.m. in the Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Hardware Subcommittee was formed to study computer hardware with the goal of making recommendations to the Department of Commerce relating up to the appropriate parameters for controlling exports for reasons of national security.

Open Session:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Proposed changes from the public for hardware export controls.

Executive Session:

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377–4127. For further information or copies of the minutes, call Betty Ferrell at 202/377–2583.

Dated: March 11, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87–5623 Filed 3–13–87; 8:45 am]

BILLING CODE 3510–DT–M

Software Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

A closed meeting of the Software Subcommittee of the Computer Systems Technical Advisory Committee will be held April 1, 1987, 9:00 a.m. in the Herbert C. Hoover Building, Room 1851, 14th Street & Constitution Avenue, NW., Washington, DC. The Software committee was formed to study computer software with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377–4127. For further information or copies of the minutes, call Bettly Ferrell at 202/377–2583.

Dated: March 11, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87–5624 Filed 3–13–87; 8:45 am]

BILLING CODE 3510–DT–M

National Bureau of Standards

[Docket No. 60456–7010]

Approval of Federal Information Processing Standards Publication 128, Computer Graphics Metafile (CGM)

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 128.

SUMMARY: On May 15, 1986, notice was published in the **Federal Register** (51 FR 17788) that a Federal Information Processing Standard for Computer Graphics Metafile was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

The approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

ADDRESS: Interested parties may purchase copies of this new standard including the technical specifications

portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Skall, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 975–3264.

Dated: March 10, 1987.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 128 Announcing the Standard for Computer Graphics Metafile (CGM)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, P.L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. Name of Standard

Computer Graphics Metafile (CGM) (FIPS PUB 128).

2. Category of Standard

Software Standard, Graphics.

3. Explanation

This publication announces the adoption of the American National Standard for Computer Graphics Metafile, ANSI X3.122–1986, as a Federal Information Processing Standard (FIPS). ANSI X3.122–1986 is a graphics data interface standard which specifies a file format suitable for the description, storage, and communication of graphical (pictorial) information in a device independent manner. The purpose of the standard is to facilitate the transfer of graphical information between different graphical software systems, diffrerent graphical devices, and different computer graphics installations.

4. Approving Authority

Secretary of Commerce.

5. Maintenance Agency

Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. Cross Index

American National Standard X3.122–1986, Computer Graphics Metafile (CGM).

7. Related Documents

a. Federal Information Processing Standards Publication (FIPS PUB) 120, Graphical Kernal System (GKS).

b. Federal Information Resources Management Regulation 201–8.1, Federal ADP and Telecommunications Standards.

c. American National Standard Graphical Kernal Systems, GKS, ANSI/ASC X3.124–1985.

d. ISO 646–1983, Information Processing—7-Bit Coded Character Set for Information Interchange.

e. ISO 2022–1982, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Code Extension Techniques.

f. ISO 2375–1980, Information Processing—Character Set Registration.

g. ISO 7942–1985, Information Processing Systems—Computer Graphics—Functional Specification of the Graphical Kernal System (GKS).

h. ISO 6429–1983, Information Processing Systems—ISO 7-Bit and 8-Bit Coded Character Sets—Additional Control Functions for Character-Imaging Devices.

i. ISO 8632–1986, Information Processing Systems—Computer Graphics Metafile for the Storage and Transfer of Picture Description Information (Part 1: Functional Specifications; Part 2: Character and Coding; Part 3: Binding and Coding; Part 4: Clear Text Encoding).

8. Objectives

The primary objectives of this standard are:

—To allow the portability of graphics data among different graphics installations and devices. This encourages a uniform interface for noninteractive picture description.

—To promote the exchange of graphic information enabling installations to share data and reduce time spent recomputing in efforts to regenerate graphics data.

—To promote the use of a standard set of elements using standard terminology, which aids graphics programmers in using graphics methods.

9. Applicability

a. This standard is intended for use in computer graphics applications that are either developed or acquired for government use. Although this standard was not developed specifically for the Printing/Graphics Arts industry, it may be used in these applications whenever desirable.

b. The use of this standard is strongly recommended when one or more of the following situations exist:

—A graphics metafile is maintained at a central facility for a decentralized system that employs graphics devices of different makes and models that must utilize the data.

—A graphics metafile is required to preserve picture data when conversion or migration from one graphics system to another is necessary and the two systems are not necessarily compatible.

—A graphics metafile is intended for information interchange between a source system and a target system that are not necessarily compatible.

c. Non-standard features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard features can be very useful, it should be recognized that the use of these or any other non-standard elements may make the interchange of graphics picture data and future conversion more difficult and costly.

10. Specifications

American National Standard ANSI X3.122–1986, Computer Graphics Metafile, defines the scope of the specifications, the syntax and semantics of the CGM elements and requirements for a conforming implementation. All of these specifications apply to Federal government implementation of this standard.

11. Implementation

The implementation of this standard involves two areas of consideration: Acquisition of CGM implementations and interpretations of the standard.

11.1 Acquisition of CGM Implementations

This publication is effective August 10, 1987. Implementations acquired for Federal use after this date should implement the standard. Conformance to this standard should be considered whether computer graphics metafile systems are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce metafile systems conforming to the standard. The transition period begins on the effective date and continues for twelve (12) months thereafter. The provisions of this publication apply to orders placed after

the date of this publication; however, a metafile package not conforming to this standard may be acquired for interim use during the transition period.

11.2 Interpretation of FIPS CGM

Resolution of questions regarding this standard will be provided by NBS. Questions concerning the content and specifications should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: CGM Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

12. Waivers

Under certain exceptional circumstances the head of the agency is authorized to waive the application of the provisions of the FIPS PUB. Exceptional circumstances which would warrant a waiver area:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 128 (FIPSPUB128), and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

[FR Doc. 87-5540 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-CN-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Partially Closed Meeting

On March 9, 1987, notice was given in the **Federal Register** page 7188, that the Travel and Tourism Advisory Board would meet on March 30, 1987 in Honolulu, Hawaii. Notice is hereby given that as an addendum to that meeting, the Board will hold a closed session to allow discussion of information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

The Assistant Secretary for Administration, with the concurrence of its General Counsel, formally determined on March 11, 1987, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(9)(B). (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5321, U.S. Department of Commerce, telephone: 202-377-3743).

Minutes of the open portion of the meeting will be available 30 days thereafter on written request addressed to the United States Travel and Tourism Administration, Room 1865, Washington, D.C. 20230.

For further information, contact the Committee Control Officer, Karen M. Cardran, Office of the Under Secretary, United States Travel and Tourism Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: 202-377-0140.

Donna Tuttle,

Under Secretary for Travel and Tourism.

[FR Doc. 87-5759 Filed 3-13-87; 11:24 am]

BILLING CODE 3510-11-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

March 10, 1987.

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 March 16, 1987. For further information contact Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On May 24, 1985, a notice was published in the **Federal Register** (50 FR 21923) which announced import restraint limits for man-made fiber textile products in Categories 646 and 648, among others, produced or manufactured in Sri Lanka and exported during the twelve-nonth period which began on June 1, 1985 and extended through May 31, 1986.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka, the limits for Categories 646 and 648 are being reduced from 78,877 dozen to 78,611 dozen (Category 646) and 185,092 dozen to 174,980 dozen (Category 648), for the period June 1, 1985 to May 31, 1986 to reflect unused carryforward.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to adjust the limits for Categories 646 and 648 at the designated limits.

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), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule

3 of the Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 10, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on May 24, 1985 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1985 and extends through May 31, 1986.

Effective on March 16, 1987, the directive of May 24, 1985 is hereby further amended to adjust limits for man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of May 10, 1983, as amended:[1]

Category	Twelve-month adjusted limit
646	78,611 dozen.
648	174,980 dozen.

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,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-5542 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Bilateral Consultations With the Government of Jamaica on Category 341/641

March 10, 1987.

On January 30, 1987, the Government of the United States requested consultations with the Government of Jamaica with respect to exports of cotton and man-made fiber textile products in Category 341/641 (women's, girls' and infants' non-knit blouses and shirts), produced or manufactured in Jamaica. This request was made under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 27, 1986 between the Governments of the United States and Jamaica.

During consultations held on February 6, 1987 between the two governments, agreement was reached on a specific limit and a guaranteed access level for Category 341/641. The agreed limit for this category will be published in the **Federal Register** after the exchange of diplomatic notes has taken place.

A summary market statement for this category follows this notice.

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 (1987).

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested call (202) 377-3740.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Jamaica—Market Statement

Category 341/641—Women's, Girls', and Infants' Cotton and Man-Made Fiber Woven Blouses

January 1987.

Summary and Conclusions

U.S. imports of Category 341/641 from Jamaica were 277,497 dozen during the year ending November 1986, more than two and one half times the 107,823 dozen imported a year earlier. During the first eleven months of 1986, imports of Category 341/641 from Jamaica reached 260,392 dozen, more than twice the amount imported during calendar year 1985.

The market for Category 341/641 has been disrupted by imports. The sharp and substantial increase in imports from Jamaica has contributed to this disruption.

U.S. Production and Market Share

U.S. production of women's, girls' and infants' cotton and man-made fiber woven blouses fell from 27,807 thousand dozen in 1983 to 23,692 thousand dozen in 1985, a 15 percent decline. The U.S. manufacturers' share of this market fell from 65 percent in 1982 to 53 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 341/641 grew from 14,981 thousand dozen in 1983 to 20,749 thousand dozen in 1985, a 39 percent increase. During the first eleven months of 1986, imports of Category 341/641 reached 23,065 thousand dozen, 20 percent above the level imported during the same period of 1985 and 11 percent above the amount imported during calendar year 1985. The ratio of imports to domestic production increased from 54 percent in 1983 to 68 percent in 1985.

Duty Paid Value and U.S. Producers' Price

Approximately 71 percent of Category 341/641 imports from Jamaica during the first eleven months of 1986 entered under two TSUSA numbers: 384.4609—(formerly 384.4614) women's cotton woven blouses, not ornamented; 384.9115—women's man-made fiber woven blouses, not ornamented. These garments entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable garments.

[FR Doc. 87-5543 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-DR-M

Officials Authorized To Issue Export Visas and Certifications for Certain Textile Products Exported from Jamaica

March 11, 1987.

The Government of Jamaica has notified the United States Government under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 27, 1986 that the following officials are authorized to issue export visas and certifications for cotton, wool, and made-made fiber textile products from Jamaica.

Emerson Young
Cara Murray
Michael Laing
Henry Lloyd Gray
Adrene Collings
Albert Nathan Hall
Joy Hall
Vanette Rose
Milton Harper
Merle Vernon

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-5617 Filed 3-13-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the

[1] The bilateral agreement provides, in part, that: (1) specific limits and sublimits may be exceeded by certain designated percentages of the square yard equivalent total, provided the amount of the increase is compensated for by a decrease in equivalent square yards in one or more other specific limits; (2) specific limits may be increased for carryover or carryforward; (3) administrative adjustments or arrangements may be made to resolve minor problems arising in the implementation of the agreement.

following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission;

(2) Title of Information Collection and Form Number, if applicable;

(3) Abstract statement of the need for and the uses to be made of the information collected;

(4) Type of Respondent;

(5) An estimate of the number of responses;

(6) An estimate of the total number of hours needed to provide the information;

(7) To whom comments regarding the information collection are to be forwarded;

(8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Department of Defense Security Agreement; DD Form 441, (0704–0194)

The Defense Investigative Service (DIS) is responsible for administering the Industrial Security Program on behalf of DoD components and other federal "user" agencies.

The Department of Defense Security Agreement (DD Form 441) is used by DIS to establish the initial contractual legal obligation between government and industry and is the basis for all subsequent security requirements imposed upon industry. These requirements are essential in order to preserve and maintain the security of the United States by preventing the loss and compromise of classified information pertaining to the national defense.

Respondents: (Participating cleared DoD contractors) 12,500.

Burden Hours: 318.5

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia, 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Dale L. Hartig, DIS, Chief, Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700, telephone (202) 475–1062.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

March 10, 1987.

[FR Doc. 87–5550 Filed 3–13–87; 8:45 am]

BILILNG CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission;

(2) Title of Information Collection and Form Number, if applicable;

(3) Abstract statement of the need for and the uses to be made of the information collected;

(4) Type of Respondent;

(5) An estimate of the number of responses;

(6) An estimate of the total number of hours needed to provide the information;

(7) To whom comments regarding the information collection are to be forwarded;

(8) The point of contact from whom a copy of the information proposal may be obtained.

New Personnel Security Clearance Change Notifications; DISCO Form 562

The Defense Investigative Service (DIS) administers the defense industrial security program on behalf of all DoD components and other user agencies. In accomplishment of this mission, defense contractors are required to keep the DIS apprised of status changes of cleared personnel, i.e., employment termination, transfer, change in name, etc.

DISCO Form 562 is used by participating defense contractors to report these changes.

Participating cleared defense contractors

Responses 187,500

Burden Hours 37,700

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Managment and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Dale L. Hartig, DIS, Chief, Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700, telephone (202) 475–1062.

March 10, 1987.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87–5551 Filed 3–13–87; 8:45 am]

BILLING CODE 3810-01-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board, DOD.

Date of meeting: 16 April 1987.

Time: 0900–1515.

Place: Walter Reed Army Institute of Research, Washington, DC.

Proposed agenda: Influenza status and background for 1987–1988 influenza vaccine recommendation; letter questions on Korean Hemorrhagic Fever and Ceftriaxone; potential for disease transmission by *Aedes albopictus;* Exercise Cobra Gold.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310–2300, (202)695–9115.

Dated: March 2, 1987.

Robert A. Wells,

Col, USA, MSC, Executive Secretary.

[FR Doc. 87–5526 Filed 3–13–87; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 17 April 1987.

Time: 0830–1600.

Place: Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: Reports by the Preventive Medicine consultants of the Army, Navy, Air Force and Coast Guard; status, U.S. Army Research & Development command; Acquired Immunodeficiency Disease Syndrome; Health Care Medical Systems update; status, Malaria program; comments on Bradley Ad Hoc meeting; report, Armed Forces Global Epidemiology Working Group; review of board recommendations.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310–2300, (202) 695–9115.

Dated: March 2, 1987.

Robert A. Wells,

Col, USA, MSC Executive Secretary.

[FR Doc. 87–5527 Filed 3–13–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on B–1B Defensive Avionics Review Subgroup; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on B–1B Defensive Avionics Review Subgroup will meet in closed session on March 30–31, 1987 at Edwards Air Force Base, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate the status of the Air Force B–1B Defensive Avionics Program.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 11, 1987.

[FR Doc. 87–5603 Filed 3–13–87; 8:45 am]

BILLING CODE 3810–0–M

Defense Science Board Task Force on Strategic Air Defense R&D; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Air Defense R&D will meet in closed session on April 6–7, 1987 at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will investigate the feasibility of defense against cruise missiles and their delivery platforms.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 11, 1987.

[FR Doc. 87–5604 Filed 3–13–87; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers; Department of the Army

Environmental Statements; Recreation River and Greenbelt Area; Des Moines, IA

AGENCY: U.S. Army, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

To prepare a Draft Environmental Impact Statement (DEIS) for the Des Moines Recreational River and Greenbelt authorized by Public Law 99–88, on and along the Des Moines River from U.S. Highway 20 in Fort Dodge, Iowa, downstream to State Highway 92 in the vicinity of the Red Rock Dam.

SUMMARY:

1. *Description of Proposed Action.* Public Law 99–88 authorized the development of a recreation and greenbelt area on and along the Des Moines River from U.S. Highway 20 in Fort Dodge, Iowa, downstream to State Highway 92 in the vicinity of the Red Rock Dam. An Advisory Committee has been established for consultation with the Department of the Army according to H.R. 2577, dated July 29, 1985. Within the Greenbelt boundaries, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to proceed with planning, design, engineering, and construction of recreational facilities, streambank stabilization structures, operation and maintenance of existing structures, environmental enhancement for recreational purposes, and the prohibition or limitation of the killing, wounding, or caputuring at any time of any wild bird or animal in designated areas.

A General Design Memorandum (GDM) is under preparation and will cover the administration, comprehensive plan, plan for initial development (PID) and coordination, and will identify projects potentially eligible for Federal participation. The comprehensive plan portion of the report will address the entire Greenbelt. The PID will be divided into two sections. One section will contain plans for federally cost-shared projects. All other development will be listed in the Non-Federal section. Completion of the GDM and EIS Is scheduled for October 1987, as authorized in Pub. L. 99–662. Because of current budgetary constraints, there is no construction schedule proposed at this time.

The primary focus of the EIS will be to assess existing conditions and resources of the entire Greenbelt and to address potential impacts associated with the five types of project measures to be presented in the GDM: recreational facilities, streambank stabilization structures, operation and maintenance of existing structures, environmental enhancement for recreation purposes, and the prohibition and limitation on taking wildlife. It is anticipated that as budgetary resources become available and detailed engineering and design plans are developed for specific recommended actions, supplemental statements or environmental assessments will be prepared to address site-specific impacts of these actions, incorporating discussions from the broader statement by reference.

2. *Alternatives to the Proposed Action.* The two major types of alternatives identified and discussed in the EIS will be administrative and structural alternatives. Administrative alternatives include the No Action alternative, non-Federal implementation, joint Federal and non-Federal sponsorship, and 100 percent Federal implementation. Structural alternatives such as site changes and design modifications for actions proposed with some degree of Federal

involvement will be discussed in general terms in the EIS.

3. *Public Involvement.* Various Federal and non-Federal agencies and the general public have been involved in the Greenbelt project through representation on the Advisory Committee and availability of the Plan for Engineering and Design completed in March 1986. Since authorization of the Greenbelt in August 1985, numerous meetings of the Advisory Committee and its subcommittees, as well as several public workshops, have functioned as scoping meetings to identify significant resources and concerns. The Rock Island District will continue to coordinate with all interested parties to assure that the EIS process considers all pertinent concerns. Following release of the draft GDM and EIS in May 1987, public meetings will be held as part of the coordination effort. The Rock Island District will notify agencies, special interest groups, and the general public of meetings by public notice.

4. *Estimated Related Date.* The DEIS is scheduled to be released in May 1987. Questions or comments concerning the proposed EIS should be directed to:

Neil A. Smart, Colonel, Corps of Engineers, District Engineer, U.S. Army Engineer District, Rock Island, Clock Tower Building—P.O. Box 2004, Rock Island, IL 61204–2004.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87–5629 Filed 3–13–87; 8:45 am]

BILLING CODE 3710–HV–M

Tulsa, OK District; Notice of Intent and Request for Additional Proposals

AGENCY: U.S. Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of intent to tentatively select the Grand River Dam Authority as the financial sponsor and preference customer of the proposed Fort Gibson Dam Units 5 and 6 Hydroelectic Power Project in Oklahoma and a request for additional proposals.

SUMMARY: The Grand River in eastern Oklahoma has been extensively developed by construction of Grand Lake, Lake Hudson and Fort Gibson Lake. This system of projects provides flood control, hydroelectric power, and recreation opportunities. It also provides incidental water supply, and aids navigation downstream on the Arkansas River. The Grand Lake and Lake Hudson, located upstream of Fort Gibson Lake, are under the jurisdiction of the Grand River Dam Authority (GRDA), which is an agency of the State of Oklahoma. Fort Gibson Lake was constructed and is operated by the U.S. Army Corps of Engineers (Corps). The Corps is responsible for the flood control operation in all three lakes under terms of the Flood Control Act of 1944. Hydroelectric power generated at Grand Lake and Lake Hudson is marketed by GRDA. The hydroelectric power generated at Fort Gibson Lake is marketed by the Southwestern Power Administration (SWPA).

The existing Fort Gibson Dam and Lake, completed in 1953, was authorized to provide flood control and hydroelectric power. The existing powerhouse was constructed with four generating units. These units each have an installed capacity of 11,250 kilowatts (kW), for a total installed capacity of 45,000 kW. The units normally produce at an overload capacity of 50,000 kW. The four units generate an average of 206,400,000 kWh of energy annually based on a system operation of Grand Lake, Lake Hudson and Fort Gibson Lake. At the time of construction, provisions were included to add two additional units.

The proposed addition of two hydroelectric power generating units (units 5 and 6) is generally described in the Corps' Tulsa District document entitled "Fort Gibson Lake, Oklahoma, Powerhouse Extension" dated July 1982 and authorized for construction by Pub. L. No. 99–662. The proposed units will have an approximate installed capacity of 11,250 kW each for a total 22,500 kW (no additional capacity will be available at overload). The two units will generate an average of about 38,900,000 kWh of energy annually. The total installed capacity at Fort Gibson with all six units would be about 67,500 kW which would generate on the average about 245,300,000 kWh of energy. The estimated cost of the two additional units is $26.1 million (based on October 1985 price levels) which includes an allowance for inflation during the construction period. The annual operation, maintenance, major replacement, and administrative costs are estimated at $290,000 for the two additional units and $1,230,000 for all six units.

GRDA has proposed to provide financing to the Federal government for the construction of Units 5 and 6 at Fort Gibson Dam during the period of construction, to pay their own debt service, and to pay one third of the total annual operation, maintenance, and major replacement assigned to hydroelectric power at Fort Gibson Dam. The project would be designed, constructed, and Federally-owned and operated by the Corps. The power and energy would be marketed by SWPA.

Jointly, the Corps and SWPA have tentatively selected GRDA to provide the financing for the proposed Units 5 and 6 at Fort Gibson Dam based on a proposal submitted by that agency. Subsequent proposals received prior to April 5, 1987 will be considered in the final selection.

GRDA has proposed that they schedule and receive the power and energy produced at all six units at Fort Gibson Dam and return to SWPA two thirds of the average annual energy produced at Fort Gibson Dam at a rate of 50,000 kW on SWPA's demand from the system of GRDA. The proposal would be for a 50 year period after Units 5 and 6 are declared in commercial operation. SWPA has determined that GRDA qualifies for preference, in accordance with Section 5 of the Flood Control Act of 1944, and has tentatively selected that agency to schedule and receive the power and energy produced at Fort Gibson Dam in accordance with the aforesaid terms. Subsequent proposals for that scheduling and receiving of power and energy received prior to April 15, 1987 will be considered in the final selection. Questions and/or comments are invited.

For further information about the proposed project financing, contact: Weldon Gamel, Chief, Engineering Division, Tulsa District, Corps of Engineers, P.O. Box 61, Tulsa, OK 74121–0061.

For further information about the proposed marketing of power and energy at the project contact: Francis Gajan, Director of Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101.

Colonel Frank M. Patete,

District Engineer, Tulsa District, U.S. Army Corps of Engineers.

[FR Doc. 87–5530 Filed 3–13–87; 8:45 am]

BILLING CODE 3710–39–M

Notice of Intent To Prepare a Draft Environmental Impact Statement for a Proposed Flood Damage Reduction Project on the Third River, NJ

A Notice was published for the Third River, New Jersey on page 2578 in the **Federal Register** issue of Friday January

23, 1987. The heading of the document is corrected to read as set forth above.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87-5630 Filed 3-13-87; 8:45 am]

BILLING CODE 3710-06-M

Department of the Army

Agency Information Collection Activities Under OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

Vessel Operation Report (ENG Form 3925 and 3925b) (OMB No. 0702-0008) The Corps of Engineers uses ENG Forms 3925 and 3925b as the basic instrument to collect waterborne statistics. The data collected details the movement of freight and passengers on U.S. navigable waterways and harbors. The ENG Form 3925b is an operational form used in lieu of ENG Form 3925 by inland waterway operators for reporting shallow draft barge and tow boat operations on a monthly basis. PL 99-662, 1986 Water Resources Development Act mandates a revision of ENG Form 3925 to include shipper's name and IRS number.

Businesses or other for profit, small businessness or organizations.

Responses: 162,000.

Burden Hours: 63,666.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, DAIM-ADI, Room 1C638, The Pentagon, Washington, DC 20310-0700, telephone (202) 694-0754.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 11, 1987.

[FR Doc. 87-5609 Filed 3-13-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 15, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: March 9, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: Revision
Title: Institutional Release of Unexpended Balances for the Supplemental Educational Opportunity Grant, College Work Study, and National Direct Student Loan Programs/Federal Expenditures for Eligible Student Residents Under the Compact of Free Association
Agency Form Number: E40-4P
Frequency: Annually
Affected Public: State or local governments; business or other for profit; non-profit institutions
Reporting Burden:
Responses: 2,300
Burden Hours: 1,150
Recordkeeping Burden:
Recordkeepers: 2,300
Burden Hours: 115

Abstract: This form will be used by institutions of higher education to report anticipated 1986-87 unspent funds for the Campus-Based Programs. The unspent funds reported will be distributed by the Department as supplemental 1987-88 awards to qualifying institutions with unmet needs.

Type of Review: Extension
Title: Application form for the Endowment Challenge Grant Program
Agency Form Number: ED 2460
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 1,000
Burden Hours: 4,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will be used by institutions of higher education to apply for grants under the Endowment Challenge Grant Program, Title III of the Higher Education Act, as amended. Data collected from the institutions will be used by the

Department to make grant awards for the purpose of establishing or increasing endowment funds.

[FR Doc. 87-5582 Filed 3-13-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP87-41-000]

Alabama-Tennessee Natural Gas Corp.; Proposed Change in FERC Gas Tariff

March 9, 1987.

Take notice that on February 27, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing a new FERC Gas Tariff, First Revised Volume No. 1.

Alabama-Tennessee proposes that the new designated tariff become effective on April 1, 1987. It is stated in the filing that the increased rates are required to provide additional revenues sufficient to enable Alabama-Tennessee to recover its jurisdictional cost of service based on the twelve months ended October 31, 1986, as adjusted for known and measureable changes through July 31, 1987.

Alabama-Tennessee states that copies of this filing have been served upon its customers and the state commissions of Alabama, Mississippi, and Tennessee.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 16, 1987. 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. 87-5586 Filed 3-13-87; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA87-9-20-000 and 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 10, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on March 4, 1987 tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

Substitute Second Revised Sheet No. 214
Second Substitute Fourth Revised Sheet No. 214
Twelfth Revised Sheet No. 211

Algonquin Gas states that the above-mentioned tariff sheets are being filed to reflect in its rates under Rate Schedules SS-III and STB corresponding changes in the underlaying rates of its supplier Texas Eastern Transmission Corporation ("Texas Eastern") as set forth in Texas Eastern's February 13, 1987 filing.

Algonquin Gas requests that the Commission accept Substitute Second Revised Sheet No. 214 to be effective November 1, 1986 and Twelfth Revised Sheet No. 211 to be effective February 13, 1987 coinciding with the proposed effective dates of Texas Eastern's underlying changes. The proposed effective date of Second Substitute Fourth Revised Sheet No. 214 is February 1, 1987 corresponding to an effective date previously approved.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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, 385.214). All such motions or protests should be filed on or before March 17, 1987. 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. 87-5587 Filed 3-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-82-005]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 6, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 27, 1987 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Second Revised Eighty-third Revised Sheet No. 14

By Commission order issued July 31, 1986 approving the October 29, 1985 Certificate Application in Docket No. CP86-82, Texas Eastern was granted authorization to render a new firm transportation service pursuant to Rate Schedule FTS-II and to construct and operate appurtenant pipeline facilities. On September 5, 1986, Texas Eastern filed appropriate tariff sheets, to be effective November 1, 1986, setting forth the initial estimated demand rates under Rate Schedule FTS-II as authorized by the July 31, 1986 Commission order. Such rates were approved by Commission order dated October 29, 1986 in Docket No. CP86-82-002 and 003. Texas Eastern commenced service under Rate Schedule FTS-II as of December 4, 1986—this date is the in-service date under Rate Schedule FTS-II in accordance with section 3.4 of said Rate Schedule.

In accordance with Article IV of the above referenced Certificate Application and Ordering Paragraph (F)(4) of the July 31, 1986 Commission order in Docket No. CP86-82-000; Texas Eastern is required, in the event the actual costs of facilities incurred in connection with providing service pursuant to Rate Schedule FTS-II vary from the estimates set forth in the October 29, 1985 Certificate Application, to file within ninety days from the date of commencement of service revised tariff sheets which set forth rates for Rate Schedule FTS-II based upon actual costs.

In the event the tariff sheet filed on February 13, 1987 currently pending approval by the Commission are not approved or are revised in anyway affecting this instant filing, Texas Eastern will refile the above listed tariff sheet to reflect the final determination on Texas Eastern's February 13, 1987 filing.

The proposed effective date of the above tariff sheet is March 1, 1987.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 1987. 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. 87-5588 Filed 3-13-87; 9:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-429-030]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 10, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 4, 1987 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed in Appendix A attached to the filing.

Commission orders issued August 15, 1985 in Docket Nos. CP84-429-000 and 001 and August 1, 1986 in Docket Nos. CP84-429-015 and 016 approved Texas Eastern's May 2, 1985 Joint Offer of Settlement (Settlement) and March 18, 1986 Petition to Amend, respectively. These approvals authorized Texas Eastern to *inter alia* construct and operate appurtenant pipeline facilities and increase the Maximum Daily Quantity and Annual Contract Quantity of those Texas Eastern Rate Schedules DCQ, GS and SGS customers participating in Docket No. CP84-419 *et al.* (Contract Adjustment Program) and provide service under Rate Schedule CTS, all as more fully described in the foregoing documents.

On December 3, 1986, Texas Eastern filed appropriate tariff sheets implementing as of December 4, 1986 for the affected participants in the 1986 Contract Adjustment Program, initial Contract Adjustment-Demand rates applicable to Rate Schedules DCQ, GS, SGS and CTS. Such rates were approved by Commission order issued December 29, 1986 in Docket No. CP84-429-025.

In accordance with Article VI of the May 2, 1985 Settlement as approved by the August 15, 1985 Commission order in Docket No. CP84-429-000 and 001, Texas Eastern is required, in the event the actual costs of facilities incurred to render increased firm sales under Rate Schedules DCQ, GS and SGS and new transportation service under Rate Schedule CTS vary from the estimates set forth in the May 2, 1985 Settlement, to file within ninety (90) days from the date of commencement of service amended rates reflecting such actual costs.

Texas Eastern by the filing of the tariff sheets listed in Appendix A, proposes to implement as of December 4, 1986 for the affected participants in Docket No. CP84-429 *et al.*, Contract Adjustment-Demand rates applicable to Rate Schedules DCQ, GS, SGS and CTS at the 1986 program levels.

In the event the tariff sheets currently pending Commission approval as filed on February 13, 1987 and February 27, 1987 reflecting rates based on actual costs for Texas Eastern's Rate Schedules SS-II and SS-III, and FTS-II, respectively, are not approved or are revised in anyway affecting this instant filing, Texas Eastern will refile the tariff sheets listed in Appendix A to reflect the final determination on Texas Eastern's February 13, 1987 and February 27, 1987 filings.

The proposed effective dates of the tariff sheets listed in Appendix A are to become effective as indicated therein.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 17, 1987. 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. 87-5589 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-268-000, et al.]

Electric Rate and Corporate Regulation Filings; Sierra Pacific Power Co. et al.

Take notice that the following filings have been made with the Commission:

1. Sierra Pacific Power Company

[Docket No. ER87-268-000]

March 6, 1987.

Take notice that on February 25, 1987, Sierra Pacific Power Company ("Sierra") tendered for filing as changes in rates pursuant to 18 CFR 35 et seq. (1) revisions to the "Agreement executed by the United States of America Department of Energy acting by and through the Bonneville Power Administration and Sierra Pacific Power Company (for transfer to Harney Electric Cooperative" (hereafter, "Harney Agreement"); and (2) "Agreement executed by the United States of America Department of Energy acting by and through the Bonneville Power Administration and Sierra Pacific Power Company (for transfer to Wells Rural Electric Cooperative" (hereafter, Wells Agreement").

Both the Wells Agreement and the Harney Agreement principally concern transportation service by Sierra on behalf of the Bonneville Power Administration ("BPA"). Both agreements also provide for related interconnection services.

Sierra proposes January 24, 1985 as the effective date for the rates, terms and conditions of the Wells Agreement. The table below summarizes the changes and proposed effective dates relating to the Harney Agreement:

Change	Effective date
(1) Transmission Rate changed from $2.64/kw-mo to $3.16/kw-mo.	Jun 1, 1980.
(2) Transmission loss rate established at 6.5%.	Jun 1, 1980.
(3) Transmission rate changed from $3.16/kw-mo to $2.53/kw-mo.	Apr 1, 1982.
(4) Temporary change of transmission demand limits for winter months (Revision 2, Ex. C).	Oct 1, 1984—Mar 31, 1985.
(5) Transmission rate changed from $2.53/kw-mo. to $3.79/kw-mo. (Revision 2, Ex. C).	Jul 1, 1985.
(6) Temporary emergency transmission service and restatement of transmission rates on a weekly basis.	Feb 16-22, 1986.

Sierra requests waiver of the Commission's notice requirements in connection with the effective dates for the rate changes proposed in this filing.

Comment date: March 20, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. The Connecticut Light and Power Co.

[Docket No. ER87-273-000]

March 6, 1987.

Take notice that on February 27, 1987, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to an Interconnection Agreement dated March 1, 1987 between (1) CL&P and (2) Bozrah Light and Power Company ("Bozrah").

CL&P states that the Interconnection Agreement provides for the terms and conditions pursuant to which CL&P will maintain the interconnection of its transmission system with Bozrah's Stockhouse Road Substation for the purpose of the NU Companies delivering and Bozrah receiving the purchase of electricity from Green Mountain Power Corporation (GMP).

Bozrah shall reimburse CL&P for CL&P's costs with respect to any local facilities required to provide service to Bozrah. Such reimbursement shall include allowance for CL&P's costs of capital, operation and maintenance expenses, administrative and general expenses, income taxes and depreciation related to such local facilities. Currently, there are no charges to be rendered under this provision since no such facilities exist.

The purchase price for the metering equipment is based on the undepreciated dollar value currently carried on CL&P's books for such equipment.

CL&P requests that the Commission waive its standard notice period and permit the Interconnection Agreement to become effective on March 1, 1987 or on such later dates service has commenced from GMP to Bozrah under the agreement filed in Docket No. ER87-207-000.

CL&P states that copies of this rate schedule have been mailed to Bozrah, Gilman, CT.

CL&P further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: March 23 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Appalachian Power Co.

[Docket No. ER87-281-000]

March 9, 1987.

Take notice that American Electric Power Service Corporation (AEP) on March 3, 1987, tendered for filing on behalf of its affiliate Appalachian Power Company (Appalachian), Ohio Power Company (Ohio Power), and Wheeling Electric Company (Wheeling), sometimes collectively referred to as the AEP Parties, Modification No. 19 dated February 18, 1987, to the Operating Agreement dated June 1, 1971 (1971 Agreement), among Ohio Power, Wheeling, Appalachian, Monongahela Power Company (Monongahela), and West Penn Power Company (West Penn). Monongahela and West Penn are members of the Allegheny Power System (APS) and are sometimes collectively referred to as the APS Parties. The Commission has previously designated the 1971 Agreement as Appalachian's Rate Schedule FERC No. 55, Ohio Power's Rate Schedule FERC No. 73, Wheeling's Rate Schedule FERC No. 5, Monongahela's Rate Schedule FERC No. 31, and West Penn's Rate Schedule FERC No. 28.

Modification No. 19 increases the AEP Parties' Emergency and Non-Displacement transmission demand rates to 5.75 mills per kilowatt per hour and increases APCO's multi-party Economy Energy minimum to 6.75 mills per kilowatt per hour. The APS Parties at this time are not revising their rates when they are the supplying party. AEP requests an effective date of March 9, 1987.

Copies of the filing were served upon the APS Parties, the Virginia State Corporation Commission, Public Service Commission of Ohio, and Public Service Commission of West Virginia.

Comment date: March 23, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Co.

[Docket No. ER87-282-000]

March 9, 1987.

Take notice that New England Power Company (NEP) on March 3, 1987 filed three executed amendments to the Service Agreement for transmission service between NEP and the Boston Edison Company (BECO). NEP states that the purpose of these amendments is to accommodate BECO's purchase from the Down East Peat, L.P. project to be located in Deblois, Maine.

NEP requests waiver of the Commission's notice requirements so that the amendments can be accepted and become effective upon commercial operation of the project, which is anticipated for October 31, 1988. As good cause for the request for waiver, NEP states that Commission acceptance of the transmission arrangements is necessary for the project developers to secure financing of the project.

Comment date: March 23, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Pacific Power & Light Co., an assumed business name of PacifiCorp.

[Docket No. ER87-283-000]

March 9, 1987.

Take Notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on March 3, 1987, tendered for filing, in accordance with Section 35.30 of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Montana and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Montana (Bonneville's Docket No. 5-A4-8601). The Revised Appendix 1 calculates the ASC for the state of Montana applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 9, 1986, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Montana Public Service Commission, and Bonneville Direct Service Industrial Customers.

Comment date: March 23, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Co.

[Docket No. ER87-284-000]

March 9, 1987.

Take notice that Portland General Electric Company (PGE) on March 2, 1987, tendered for filing a Sales Agreement with the City of Santa Clara, which provides for sale during a one-month period of June 1986 of up to 28,800 MWh of firm energy deliverable at rates not in excess of 40 MW per hour, and a Notice of Cancellation of the Sales Agreement. PGE states that this Sales Agreement has expired by its own terms.

The contract rate, 16 mills/kWh, is based upon its incremental cost of production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the cost of transmission.

PGE states that the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when they are not required for its system loads.

PGE requests an effective date of June 1, 1986 and, therefore, requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon the City of Santa Clara and the Oregon Public Utility Commissioner.

Comment date: March 23, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Co.

[Docket No. ER87-285-000]

March 9, 1987.

Take notice that Portland General Electric Company (PGE) on March 2, 1987, tendered for filing a Sales Agreement with the City of Santa Clara, which provides for sale during a one-month period in July 1986 of up to 29,760 MWh of firm energy deliverable at rates not in excess of 40 MW per hour, and a Notice of Cancellation of the Sales Agreement. PGE states that this Sales Agreement has expired by its own terms.

The contract rate, 18 mills/kWh, is based upon its incremental cost of production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the cost of transmission.

PGE states that the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when they are not required for its system loads.

PGE requests an effective date of July 1, 1986 and, therefore, requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon the City of Santa Clara and the Oregon Public Utility Commissioner.

Comment date: March 23, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Portland General Electric Co.

[Docket No. ER87-287-000]

March 9, 1987.

Take notice that on March 2, 1987, Portland General Electric Company (PGE) tendered for filing a Notice of Cancellation of the Loop Flow Agreement between the Western Systems Coordinating Council (WSCC) and its participating members and PGE, FERC Rate Schedule No. 42.

PGE requests termination of said Agreement as of August 31, 1985, pursuant to its terms and also requests waiver of the notice requirements of 18 CFR 35.15.

Copies of this filing have been served upon the Public Utility Commissioner of Oregon and all of WSCC's particpating members.

Comment date: March 23, 1987, 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. 87-5585 Filed 3-13-87; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CI87-334-000]

Application for Abandonment of Service; Tersh Baker d/b/a Baker Petroleum Co.

March 9, 1987.

Take notice that the Applicant herein filed on February 27, 1987, an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service as described herein, all as more fully described in the application which is on file with the Commission and open to public inspection.

Tersh Baker d/b/a Baker Petroleum Company (Baker), P.O. Box 2864, Corpus Christi, Texas 78403-2864, filed an application in Docket No. CI87-334-000, requesting expedited consideration of his application for authorization to permanently abandon a sale of gas to Natural Gas Pipeline Company of America (Natural) from certain acreage in the Shaeffer Ranch Area, Jim Wells County, Texas. An application for small producer certificate was filed by Baker in Docket No. CS87-46-000 and the notice period expires March 19, 1987.

In support of his application Baker states that he acquired his interest in the subject acreage by assignment dated August 18, 1986, effective September 5, 1986. Sales of gas to Natural from wells on the subject acreage ceased in May 1977 and May 1982 and the wells were shut in by Baker's predecessor-in-interest, Champlin Petroleum Company (Champlin).[1] Natural's contract with Champlin dated November 1, 1978, was terminated as to the subject acreage by agreement dated February 1, 1987. Baker intends to restore gas production from the subject wells and sell such gas on the open market.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 25, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be consdiered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5591 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-30-001]

Colorado Interstate Gas Co.; Compliance Filing

March 9, 1987.

Take notice that on March 2, 1987, Colorado Interstate Gas Company (CIG) tendered for filing the following replacement tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1-A, pursuant to Ordering Paragraph (D) of the Commission's order issued February 13, 1987 (and the extension of time granted by Notice issued February 27, 1987) in Docket No. RP87-30-000:

Original Sheet No. 5
Original Sheet No. 9
Original Sheet No. 18
Original Sheet No. 19

CIG has served copies of this filing on all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825

[1] The acreage assigned to Baker will be deleted from Champlin's certificate in Docket No. CI80-308, and its related FERC Gas Rate Schedule No. 157 will be partially canceled to reflect the assignment dated August 18, 1986, pursuant to Champlin's filing in Docket No. CI87-218-000 for which the notice period expired on February 19, 1987.

North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 17, 1987. 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. 87-5595 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-22-002]

Fina Oil and Chemical Co. et al.; Application

Take notice that on February 26, 1987, Fina Oil and Chemical Company (FOCC), Petrofina Delaware, Incorporated (PDI), Fina Oil & Gas, Inc. (FOGI), and Fina Exploration, Inc. (FEI) (any or all of whom may be referred to herein as "Fina"), filed an application pursuant to section 7 of the Natural Gas Act (NGA), 15 U.S.C. 717-717z (1982) and Part 157 of the Commission's Regulations, 18 CFR Part 157 (1986), to amend the blanket certificate of public convenience and necessity issued initially by the Commission in Docket No. CI186-22-000 on November 1, 1985,[1] and then extended by an order in Docket No. CI86-22-001 on March 31, 1986.[2] Fina requests, on its behalf and on behalf of its working interest co-owners in the same reserves, that the Commission further modify Ordering Paragraph (A) of the November 1, 1985 order, as amended March 31, 1986, by substituting March 31, 1990 for March 31, 1987 therein as the termination date and by eliminating the price floor conditions prescribed in subparagraphs (1) and (2) or Ordering Paragraph (A) to include all gas not just gas priced above NGPA 109 rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5594 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-14-002]

Lawrenceburg Gas Transmission Compliance Filing

March 10, 1987.

Take notice that on March 4, 1987, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing Substitute Fortieth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. Lawrenceburg states that its substitute sheet is filed in compliance with the Commission order issued January 30, 1987 in Docket No. TA87-14-000, 001, which directed Lawrenceburg to refile its previously approved February 1, 1987 purchased gas cost adjustment in order to be consistent with the calculation methodology approved by order issued January 29, 1987 in Docket No. RP87-29-000. The effective date for the tariff sheet is February 1, 1987.

Concurrently, Lawrenceburg has filed a Petition For Waiver of Filing Fee citing severe financial hardship and submitting its Income Statement as evidence. In addition, Lawrenceburg states it has already paid $4,000 in filing fees in connection with this filing.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 17, 1987. 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. 87-5596 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-47-000]

Phillips Gas Pipeline Co.; Tariff Filing

March 9, 1987.

Take notice that on March 2, 1987, Phillips Gas Pipeline Company (PGPL) tendered for filing its FERC Gas Tariff, Original Volume No. 1 covering both firm and interruptible transportation service. Included in the tariff are Rate Schedules FT-1 and IT-1 for firm and interruptible service, respectively, through PGPL's Southern Oklahoma Gathering System (SOGS) pipeline. PGPL submits that the rates for both firm and interruptible service are designed to comply with § 284.7 of the Commission's regulations. PGPL states that the SOGS pipeline is of such size and nature that its cost and operations do not warrant differences in rates due to time or distance. Further, PGPL states that the transportation service proposed herein is believed to be mainly for industrial gas users whose gas requirements will not tend to fluctuate greatly; therefore, pronounced winter peaks and summer off-peaks are not anticipated. PGPL's proposed rates have been calculated using the Atlantic Seaboard method of cost classification. Maximum and minimum rates have been calculated for the transportation commodity charge applicable to both Rate Schedules FT-1 and IT-1.

PGPL requests that the Commission allow the proposed transportation rates to become effective on less than a thirty-day notice period. PGPL previously had no rates on file with the Commission applicable to any services and states that it will be unable to utilize or make available NGPA section 311 transportation transactions until the filed rates are allowed to be placed into effect.

PGPL has served copies of this filing on its existing affiliated industrial end-use customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825

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[1] The November 1, 1985 Order Permitting and Approving Limited-Term Abandonments and Granting Certificates was issued in *Amoco Production Co., et al.*, Docket No. CI86-19-000, *et al.*, 33 F.E.R.C. (CCH) ¶ 61,173 (1985).

[2] The March 31, 1986 Order Granting Extension of Limited-Term Abandonments and Blanket Sales Certificates was issued in *Marathon Oil Co., et al.*, Docket No. CI85-651-001, *et al.*, 34 F.E.R.C. (CCH) ¶ 61,417 (1986).

North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 16, 1987. 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. 87-5593 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI86-278-002 and CI86-296-002]

Producer-Suppliers of Transcontinental Gas Pipe Line Corp. and Transco Gas Supply Co.; Application for Extension of Blanket Limited-Term Abandonment Authorization and Blanket Limited-Term Certificate of Public Convenience and Necessity

March 9, 1987.

Take notice that on February 17, 1987, Transcontinental Gas Pipe Line Corporation and Transco Gas Supply Company (herein together referred to as Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket Nos. CI86-278-002 and CI86-296-002 an application pursuant to section 7 of the Natural Gas Act for an order extending the authorizations previously granted by the Commission on September 29, 1986.

The Commission's September 29, 1986, order authorized: (1) The blanket limited-term abandonment by Applicant's producer-suppliers of certain sales for resale of natural gas in interstate commerce, (2) a blanket limited-term certificate of public convenience and necessity with pregranted abandonment authorizing the sale for resale of such gas in interstate commerce, and (3) the waiver of certain Commission regulations, including those in Parts 154 and 271 of the Commission's Regulations, until such time as Applicant's filings for permanent authorization in Docket Nos. CI86-293-000 and CI86-297-000 is granted, or until March 31, 1987, whichever occurs first.

Applicant now requests that the authorizations granted in the Commission's September 29, 1986, order be extended until the earlier of such time as the applications filed by Applicant in Docket Nos. CI86-293-000 and CI86-297-000 are granted, or March 31, 1990.

Applicant states that the extension of authorizations requested herein would apply to any or all gas that is currently committed to Applicant under contracts with producer-suppliers and subject to the Commission's Natural Gas Act jurisdiction, and is necessary: (1) To contribute toward a solution of Applicant's current surplus deliverability problem, (2) help alleviate Applicant's potential take-or-pay exposure to the benefit of Applicant's sales customers, (3) permit Applicant to implement the terms of settlement agreements entered into with producer-suppliers who have granted Applicant concessions from contractual price and take-or-pay provisions, and (4) aid in Applicant's efforts to negotiate such settlements with other producers.

Commission approval for extension of the authority granted by the September 29, 1986, order would constitute issuance to Applicant's producer-suppliers of the requisite blanket limited-term full or partial abandonment and blanket limited-term sales certificate authority, with pregranted abandonment, under section 7 of the NGA and other authorizations, if any, necessary to permit the marketing beyond March 31, 1987, of gas supplies released by Applicant which are subject to the Commission's NGA jurisdiction. Applicant states it will file with the Commission, within 45 days after the end of each calendar quarter during the authorized period, reports consistent with those required by the Commission in its September 29, 1986, order in these proceedings, and in its order issued January 21, 1987, in *ANR Pipeline Company, et al.*, Docket Nos. CI86-637-000, *et al.*, 38 FERC ¶61,046 (1987) (hereinafter referred to as ANR). Information necessary to file such reports shall be provided to Applicant by eligible producer-suppliers as a condition of eligibility for the authorizations obtained hereby. Any or all gas that is currently committed to Applicant under contract with producer-suppliers and subject to the Commission's NGA jurisdiction would be covered by the extension of limited-term abandonment and sales authorizations sought herein, to the extent such gas is released by Applicant—i.e., this application contemplates the possible release and sale of all jurisdictional gas, including NGPA sections 102, 104, 106, 108 and 109 gas.

The authorizations sought herein are essentially identical to those granted by the Commission in *ANR*, wherein the Commission has granted authorizations for limited terms of up to three years on behalf of the producer-suppliers of the various pipelines involved in those proceedings.

Applicant states that granting the extension of authorizations requested herein will significantly contribute toward a solution of Applicant's current surplus deliverability problems, maintain or improve cash flow to producer-suppliers on Applicant's system, maintain pipeline throughput, and alleviate potential take-or-pay exposure to Applicant to the benefit of Applicant's sales customers. Failure to grant the extension of authorizations requested herein will result in discontinuation of the benefits which have accrued to Applicant and to its producer-suppliers and its customers under existing authority, the most severe results possibly including the shutting in at times of much of the gas supply dedicated to Applicant, and potentially enormous take-or-pay obligations which would burden both Applicant and its customers. The extension of authorizations requested herein is consistent with the authorizations granted by the Commission in *ANR*, and Applicant is willing to accept a certificate issued on the same term and conditions as those imposed in *ANR*.

Applicant further requests that the Commisson expedite consideration of its application to avoid service disruptions in the spot market. Immediate action is necessary to furnish time to facilitate post-March 31, 1987, marketing arrangements. Applicant also requests a waiver of any and all otherwise applicable orders, rules, regulations and reporting requirements, now effective or hereafter promulgated or issued by the Commission, to the extent such orders, rules, regulations or reporting requirements are or may be inconsistent with the extension of authorizations requested by its application.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211,385.214). All protests filed with the Commission will be considerd by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5590 Filed 3-13-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-314-000]

Transwestern Pipeline Co.; Application on Behalf of Certain Producer-Suppliers To Abandon the Purchase and Sale of Natural Gas and To Amend Producer Rate Schedules on an Interim Basis

March 9, 1987.

Take notice on February 17, 1987, Transwestern Pipeline Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in the above-referenced docket, pursuant to section 7(b) of the Natural Gas Act, an application on behalf of its producer-suppliers for permanent abandonment of certain sales, identified in Exhibit Z-1 to the application, and for the abandonment by Applicant of the purchase of such gas from its producer-suppliers.

Applicant states that its application is in conformity with the Commission's policies as stated in § 2.77 of the Commission's rules in that the sales to be abandoned by such producer-suppliers are sales of gas under expired contracts and are supplies in excess of Applicant's system requirements or are sales under existing contracts where the reserves have been depleted. Applicant has been nominating a small quantity of such gas due to its surplus supply situation. In addition, Applicant states it has received a request from a small producer, Gas Lift Sales & Service, Inc., (Gas Lift) to terminate its contract and release the gas due to the fact that the well involved periodically has insufficient pressure to produce into Applicant's line. Applicant proposes no abandonment of facilities and states that its facilities will be utilized to transport gas released hereunder. Applicant states that the proposed abandonment will be in the public interest inasmuch as most of the gas it proposes to release is not market-responsive gas. Applicant also requests expedited consideration in accordance with 18 CFR 2.77.

In the event abandonment is not granted *and* while its application is pending, Applicant requests that the Commission approve revisions to its producer-suppliers' existing rate schedules by adding market-out, quality, pressure, and take-or-pay reduction provisions thereto, effective (in many cases, retroactively) as of the expiration date of each of its producer-suppliers' contracts, and as to small producers, revise any NGA obligation which Applicant may have to conform to the new provisions as set forth above. Applicant also requests waiver of the 30 day notice requirement of § 154.22 of the Commission's Regulations in order to make the revisions effective upon such date.

Due to a severe erosion in Applicant's sales for resale as a result of Order Nos. 380, *et seq.*, and Opinion Nos. 238 and 238-A, Applicant states it has a large volume of gas available to it as system supply that is in excess of the current demand on its system. At a time in which Applicant is claiming force majeure with its supplier to excuse performance under its existing contracts, Applicant finds it difficult to continue purchases under expired gas purchase contracts. These expired contracts have not been extended or evergreened and Applicant states it is under no contractual obligation to purchase the gas supplies underlying them.

Although Applicant states it has discontinued purchases of non-certificated Natural Gas Policy Act (NGPA) gas under expired contracts, it has been unable in many instances to negotiate long-term rollover agreements for the certificated, NGA gas, and the producer has not yet filed for abandonment. Since Applicant states it cannot continue to take this certificated gas without a contract, Applicant is filing the instant request for abandonment of all its certificated contracts which have expired as of January 31, 1987, and which Applicant has been unable to rollover.

Applicant has attempted, in some instances for several years, to negotiate long-term rollover contracts with market response pricing and take provisions, but agreement for continued sales of the gas could not be reached. Applicant states that several producers holding contracts which provided for high prices and takes have informed Applicant that they intend to continue to enforce the terms of their expired contracts against Applicant, relying on their certificate for sale and Natural Gas Act authority. Applicant states it does not agree with this position but, during negotiations, Applicant continued to purchase a small quantity of gas tendered by such producer-suppliers.

Applicant states that this request for abandonment involves 112 gas purchase contracts, with deliverability of roughly 43.5 MMcf/d, covering a variety of vintages of natural gas which remain subject to the Commission's NGA jurisdiction. The average price of the gas to be abandoned is $1.90/MMBtu. In contrast, Applicant states that its current market-out price is $1.40/MMBtu. All of the contracts have been certificated pursuant to section 7(c) of the NGA. Some of the sales are made under FERC Gas Rate Schedules and the remainder are covered by small producer certificates. All of these contracts have expired, or will expire within a few months, and are, or will be, no longer in force and effect for any purpose. Without abandonment authority, however, Applicant states that the producer-suppliers cannot sell the gas to other markets.

Applicant also seeks abandonment authority on behalf of six producer-suppliers under three existing contracts (included in Exhibit Z-1) whose certificated gas reserves are depleted. In some instances, no gas has flowed for a period exceeding several years. Applicant states that these producer-suppliers have advised Applicant that they concur with this filing. Applicant states that abandonment authority is hereby sought for the following six producer-suppliers:

Producer	Contract date (expiration date)	Contract No.	Location
Earl T. Smith & Assoc	07-21-80 (07-21-95)	4246	Hemphill Co., TX.
Paul Arthur Strief Trust	07-21-80 (07-21-80)	4246	Hemphill Co., TX.
Brock Oil & Gas Corp	07-21-80 (07-21-95)	4246	Hemphill Co., TX.
Total Petroleum Inc	07-21-80 (07-21-95)	4246	Hemphill Co., TX.
O'Neill Properties, Ltd	08-19-60 (10-01-87)	98	Eddy Co., NM.
TXO Production Co	11-01-76 (01-31-87)	3202	Eddy Co., NM.

In addition, Applicant states it has one small producer supplier (also included in Exhibit Z-1) in New Mexico, Gas Lift, whose well has periodically been unable to produce gas at pressures sufficient to enter Applicant's pipeline, and who has requested that its rollover contract with Applicant be terminated. Applicant and Gas Lift have executed an agreement, in which such contract is terminated and Gas Lift waives all claims it may have against Applicant under the contract. Accordingly, with

the consent and on behalf of Gas Lift, Applicant requests that abandonment authority be granted for the following:

Producer	Contract date (expiration date)	Contract No.	Location
Gas Lift	10-01-80 (08-15-96)	4559	Eddy Co., NM.

The deliverability under this contract is less than 1 MMcf/d and the price is greater than $2.50/MMBtu.

Applicant states that the authorization requested herein is required by the public convenience and necessity. Due to the fact that a large portion of the gas is not market-responsive gas, and all of it is subject to the alternate maximum lawful price under Order No. 451, abandonment would be consistent with the Commission's stated policy to insure that natural gas markets are sufficiently competitive so that natural gas service can be provided consumers at the lowest reasonable cost consistent with reliable, long-term service. Abandonment of the gas will allow producer-suppliers to seek other purchasers for such gas since Applicant states it is unable to take such surplus gas. Producer-suppliers will further benefit from the proposed abandonment in that it will allow them to produce at maximum rates of flow and to further develop their reserves. Since Applicant states it is open on an interim basis under Order No. 436, producer-suppliers have a variety of markets to which they can transport their gas. Applicant states it has also committed to provide open-access transportation services under Order No. 436 in the settlement of its rate case in Docket No. RP85–175, approved by order of the Commission dated January 28, 1987.

Applicant submits that the proposed abandonment is appropriate under the circumstances enumerated above and is consistent with the Commission's policies on abandonment in cases of a pipeline's substantially reduced takes from producers and in cases of expired contracts. Applicant further states that this abandonment application is also consistent with Order No. 451 in which the Commission found that blanket abandonment would serve the public interest because increasing the flow of gas is in the interest of the national gas market.

Because Applicant's customers are taking sales service at such low levels, Applicant states that the proposed abandonment will have no significant adverse impact on its customers since no service or facilities are proposed to be abandoned. Applicant has advised its producer-suppliers that its facilities will be available for the transportation of the producer-suppliers' gas and anticipates that it will receive requests for such services.

Applicant states that inasmuch as it does not propose herein to abandon service to any of its customers nor to abandon any facilities, Applicant originally believed no authorization other than the producer abandonments requested herein was necessary. In view, however, of the recent opinion issued by the D.C. Circuit Court in Cause No. 85–1389, *Panhandle Eastern Pipe Line Company* v. *F.E.R.C.* (which reversed the Commission's decision in *Mississippi River Transmission Corporation*, 30 FERC ¶ 61,155 (1985) [1], Applicant hereby requests authorization to cease purchases of gas from producer-suppliers.

Because of the uncertainties created by the *Panhandle Eastern* decision, *supra*, Applicant states that if the Commission determines that Applicant has any obligation under the NGA to either take or to pay for gas at levels specified in the expired contracts, Applicant requests that the Commission accept for filing an amendment to each rate schedule or, in the case of a small producer, revise any NGA obligation which Applicant may have, to conform to new quantity, pressure, quality, and pricing provisions, as set forth in Exhibit Z–2 to the application. Applicant submits that the high take-or-pay and minimum take levels and the non-market responsive pricing provisions in the original contracts and rate schedules (if such are determined to be currently effective) are no longer in the public interest and should be revised during the pendency of this application, so that Applicant is not forced to take or to pay for gas which it cannot market and for which there is no contract. For this reason, Applicant requests that the amendment included in Exhibit Z–2 to its application be accepted for filing, effective (in many cases, retroactively) as of the date of termination of the underlying contract. The amendment would explicitly set forth that Applicant's only obligation to each of the subject producer-suppliers after expiration of the contract was and is to pay for gas which is actually taken at a market-responsive price. Applicant states that acceptance of this amendment as requested would be equitable to both Applicant and the producer-suppliers and would permit the continued purchase and sale of gas at economic rates until such time as abandonment can be ordered. Accordingly, pursuant to § 154.51 of the Commission's Regulations, Applicant requests waiver of any Commission regulation, including waiver of § 154.22, as necessary to permit these proposed amendments to be effective (in many cases, retroactively) as proposed, instead of thirty days from the date of filing. In the event abandonment is not granted, Applicant requests that such amendments continue in effect according to the terms thereof.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–5592 Filed 3–13–87; 8:45 am]

BILLING CODE 6717-01-M

[1] The D.C. Circuit Court issued its opinion on October 17, 1986. The Fifth Circuit has also issued an opinion, on December 4, 1986, in *Valero Interstate Transmission Co.* v. *F.E.R.C.*, Cause No. 85–4958, in which a similar Commission decision (*Transcontinental Gas Pipe Line Corporation*, 33 FERC ¶ 61,130 (1985)) was reversed and remanded.

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License, Rescission of Order of Revocation; Inter-Hemisphere Services Co., Inc.; et al.

Notice is hereby given that the Orders of Revocation pertaining to the licenses of the following ocean freight forwarders have been rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984

(46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/address
1522	Inter-Hemisphere Services Co., Inc., 482 Manor Road (Side Entrance), Staten Island, NY 10314.
1957	Universal Freight Forwarders, Ltd., 1516 2nd Avenue, #410, Seattle, WA 98101.
2673	Frederick J. Bohlander, 10366 Longmont, Houston, TX 77042.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87-5579 Filed 3-13-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License, Revocations; Delta Freight Forwarders, Inc.; et al.

Notice is hereby given that the following ocean freight forwarders licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2074.
Name: Delta Freight Forwarders, Inc.
Address: 2160 N.W. 66th Avenue, Miami, FL 33152.
Date Revoked: February 28, 1987.
Reason: Failed to maintain a valid surety bond.

License Number: 1418.
Name: Hope A. Barrios.
Address: 59 E. Van Buren, #1714, Chicago, IL 60605.
Date Revoked: March 1, 1987.
Reason: Surrendered license voluntarily.

License Number: 1345.
Name: Sentry Air Freight Corp., dba Sentry Ocean Services.
Address: 2970 N.W. 75th Avenue, Miami, FL 33122.
Dated Revoked: March 1, 1987.
Reason: Failed to maintain a valid surety bond.

License Number: 2406.
Name: Seacoast Shipping, Inc.
Address: P.O. Box 3514, Norfolk, VA 23514.
Date Revoked: March 3, 1987.
Reason: Surrendered license voluntarily.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87-5580 Filed 3-13-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Leslie Lopez Roman dba Liz Freight Forwarder 1022 W. Arrow Highway, Apt. 4 Upland, CA 91786

Mobile Exhibition & Marketing Services, Inc. dba Mobile Exhibition Freight Services, 7818 Kempwood, Houston, TX 77055, Officers: Richard Bartram, Chairman, Sandra Bartram, President, Anthony Glenn Byrne, Vice President

Mary Joyce Swoboda dba Cargo Crafters, 7211 N. Loop East, Houston, TX 77028

Berendi, Inc, 7700 N.W. 54th Street, Suite 113, Miami, Fl 33166, Officers: Agustin G. Mendoza, President, Ana M. Mendoza, Treasurer, Carolyn Cardona, Secretary

Trans Am-Asia Corporation, 3030 West 6th Street, Suite 211, Los Angeles, CA 90020, Officers: Qua Tran, Director, Maurice Hui Bon Hoa, President, Paul Mak, Vice President.

Dated: March 10, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-5578 Filed 3-13-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Cherry Bancorporation, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than April 3, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cherry Bancorporation, Inc.*, Cherry, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Cherry, Cherry, Illinois.

Board of Governors of the Federal Reserve System, March 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-5506 Filed 3-13-87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 31, 1987.

A. Federal Reserve Bank of St. Louis Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Louis H. Schlafly*, Kenneth W. Stumpf, Horace C. Volkert, William E. Mixon, III, Harold A. Dashner, and Gerald L. Giffhorn, all of Columbia, Illinois; to acquire 25.14 percent of the voting shares of Columbia Bancshares, Inc., Columbia, Illinois, and thereby indirectly acquire Columbia National Bank, Columbia, Illinois.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Collier H. Pate,* Oklahoma City, Oklahoma; to acquire 86.4 percent of the voting shares of Republic Bancshares, Inc., and thereby indirectly acquire Republic Bank, Oklahoma City, Oklahoma, and Republic Bank of Tecumseh, Tecumseh, Oklahoma.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Robert W. Carrau,* Danville, California; to acquire 56.7 percent of the voting shares of Nevada National Bancorporation, Reno, Nevada, and thereby indirectly acquire Nevada National Bank, Reno, Nevada.

Board of Governors of the Federal Reserve System, March 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-5505 Filed 3-13-87; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 1987.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp,* Portland, Oregon; to acquire 100 percent of the voting shares of Old National Bancorporation, Spokane, Washington, and thereby indirectly acquire Old National Bank of Washington, Spokane, Washington, and First National Bank of Spokane, Spokane, Washington.

In connection with this application, Applicant also proposes to acquire Bancshares Mortgage Company, and thereby engage in mortgage banking and servicing and credit related insurance pursuant to § 225.25(b)(1) and (b)(8) of the Board's Regulation Y; Old National Financial Services, Inc., and thereby engage in consumer finance and credit related insurance sales pursuant to § 225.25(b)(1) and (b)(8)(i)(A) of the Board's Regulation Y; Old National Leasing Company, and thereby engage in leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y; Union Securities Co., and thereby engage in credit related insurance sales pursuant to § 225.25(b)(8) of the Board's Regulation Y; Old National Life Insurance Company, and thereby engage in underwriting, as reinsurer, credit related insurance pursuant to § 225.25(b)(8) of the Board's Regulation Y; Compass Group, Inc, and thereby engage in investment advising pursuant to § 225.25(b)(4) of the Board's Regulation Y. All of these companies are located in Spokane, Washington. Applicant also proposes to acquire Escrow Cascade Escrow Company and Investment & Securities Co., both located in Spokane, Washington. Both companies are inactive at this time.

Board of Governors of the Federal Reserve System, March 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-5507 Filed 3-13-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol and Drug Abuse Demonstration Grants

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Issuance of program announcement for alcohol and drug abuse demonstration grants.

SUMMARY: The Office for Substance Abuse Prevention of the Alcohol, Drug Abuse, and Mental Health Administration, announces the availability of a program announcement for Alcohol and Drug Abuse Demonstration Grants. Funds are available to demonstrate effective community-based models for the prevention, treatment, and rehabilitation of drug and alcohol abuse among high risk youth who are defined by the legislation which established this program. Funds are also available to demonstrate preventive interventions for youth at early stages of involvement with drug use. Three different types of demonstration projects will be funded: (1) Comprehensive prevention, or prevention, treatment and rehabilitation demonstration projects for high risk youth; (2) targeted primary prevention demonstration projects for high risk youth; and (3) demonstration projects for early intervention with youth who have begun to use drugs and alcohol. An estimated total of $20 million will be available for funding the first two years of the comprehensive and targeted demonstration projects for high risk youth. Approximately $4 million will be available for funding the first year of early intervention demonstration projects. Applicants may request support for up to three years. Applications for funding in Fiscal Year 1987 must be received by May 15, 1987.

For a copy of the announcement, application kit, and special application instructions contact: OSAP Grant Announcement, P.O. Box 2345, Rockville, Maryland 20852 (301) 468-2600 (8:30 a.m.-5:30 p.m. ET, M-F)

FOR FURTHER INFORMATION CONTACT:

Comprehensive Projects

Bernard McColgan, Acting Deputy Director, Division of Demonstration Projects (301) 443-0353

Targeted Primary Prevention and Early Intervention Projects

Paul DuCommun or William Somers, Division of Demonstration Programs (301) 443–0377

Mailing Address for the Above Individuals

Office for Substance Abuse Prevention, Alcohol, Drug Abuse, and Mental Health Administration, Room 9A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Donald Ian Macdonald, M.D.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87–5519 Filed 3–13–87; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

General Hospital and Personal Use Devices Panel

Date, time, and place. April 6 and 7, 9 a.m., Rm. 503A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, April 6, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data, 1 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4 p.m.; open public hearing, April 7, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data, 1 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4 p.m.; Andrea A. Wargo, Center for Devices and Radiological Health (HFZ–420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 23, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss safety and effectiveness data for a closed loop infusion device and for an implantable infusion pump.

Closed presentation of data. Trade secret and/or confidential commercial information will be presented to the committee regarding materials, computer software, and manufacturing information for the closed loop infusion device; and materials, design, and manufacturing information for the implantable infusion pump. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information on materials, computer software, and manufacturing information regarding the closed loop infusion device; and materials, design, and manufacturing information regarding the implantable infusion pump. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of

personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA,s regulations (21 CFR Part 14) on advisory committees.

Dated: March 10, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-5524 Filed 3-13-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0014]

General Electric Co.; Filing of Food Additive Petition

AGENCY: The Food and Drug Administration.

ACTION: Notice.

SUMMARY: Food and Drug Administration (FDA) is announcing that General Electric Co. has filed a petition proposing that the food additive regulations be amended to provide for a change of a specification for poly(tetramethylene terephthalate) copolymers used as articles or components of articles intended to contact food.

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: 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 7B3983) has been filed by General Electric Co., Plastics Group, Pittsfield, MA 01201, proposing that § 177.1660 *Poly (tetramethylene terephthalate)* (21 CFR 177.1660) be amended in paragraph (c)(1) to lower the inherent viscosity specification from the current 0.8 to 0.6.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 6, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-5521 Filed 3-13-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0013]

Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glutaraldehyde as a chemical for controlling microorganisms in cane-sugar and beet-sugar mills.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. Sw., Washington, DC 20204, 202-426-9463.

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 7A3981) has been filed by Union Carbide Corp., P.O. Box 670, Bound Brook, NJ 08805, proposing that § 173.320 *Chemicals for controlling micro-organisms in cane-sugar and beet-sugar mills* (21 CFR 173.320) be amended to provide for the safe use of glutaraldehyde as a chemical for controlling microorganisms in cane-sugar and beet-sugar mills.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 6, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-5520 Filed 3-13-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87P-0017]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Carnation Co. to market test canned skinless and boneless chunk salmon packed in water. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug,

and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Carnation Co., Los Angeles, CA 90036.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in three ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the drained weight of the salmon is retained on a ½-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs), are removed; and (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as a packing medium and to aid in dispersion of salt. The test product meets all requirements of § 161.170 with the exception of these deviations. The permit provides for the temporary marketing of 110,000 cases of test product containing twenty-four 6½-ounce cans each. The test product will be distributed throughout the United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than June 15, 1987.

Dated: March 6, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-5523 Filed 3-13-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0009]

FD&C Blue No. 2; Availability of the Commissioner's Decision Following a Formal Evidentiary Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the Commissioner's decision on a petition seeking permanent listing of FD&C Blue No. 2 as a color additive for general use in food and ingested drugs. The Commissioner has determined that FD&C Blue No. 2 has been shown safe for such uses, thereby upholding the initial decision of the Administrative Law Judge granting permanent listing of the color additive pursuant to a final rule published in the **Federal Register** of February 4, 1983 (48 FR 5252), codified at 21 CFR 74.102. The Commissioner's decision largely adopts the initial decision of the Administrative Law Judge in finding that a statistically significant increased number of brain gliomas in male rats in a long-term feeding study of FD&C Blue No. 2 was not compound related. The Commissioner's decision concludes that the results of the rat study, a long-term feeding study in mice, and several short-term tests demonstrate the safety of FD&C Blue No. 2 to a reasonable certainty. The Commissioner's decision is available to the public on request.

ADDRESS: A copy of the decision is available for public examination at, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Division of Compliance Policy (HFC-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

SUPPLEMENTARY INFORMATION: This notice is issued in accordance with 21 CFR 12.130(e).

Dated: March 6, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[Fr Doc. 87-5522 Filed 3-13-87; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Project Grants for Outpatient Medical Facility Improvement; Availability

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of grant availability.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications for outpatient medical facility improvement grants under the authority of section 1610(b) of the Public Health Service (PHS) Act (42 U.S.C. 300r(b) are being accepted. The grants will be available to private nonprofit entities which are already receiving support for either a migrant health center under section 329 of the Act or for a community health center under section 330 of the Act. Applicants should be advised that the Administration is requesting a rescission of the funding appropriated for this program. This notice regarding applications does not reflect any change in this policy. However, should the rescission not be approved by Congress, this solicitation of applications will assure that grants can be awarded in a timely fashion consistent with the needs of the programs and deteriorating physical plants can be upgraded as soon as possible to alleviate potentially hazardous fire and safety code violations.

DATE: Potential applicants should submit a letter of intent to apply for a section 1610(b) grant by the close of business March 26, 1987, to the Grants Management Officer Bureau of Resources Devolopment (BRD) at the address below. To receive consideration, applications for section 1610(b) outpatient medical facility improvement grants must be received by the close of business May 15, 1987, by the Grants Management Officer at the address below. Applications shall be considered as meeting the deadline date if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: Requests for technical and programmatic information should be directed to Mr. Gayle Dolecek, Office of Health Facilities Bureau of Resources Development, Room 11A-10, 5600 Fishers Lane Rockville, Maryland 20857, 301/443-0271. Requests for applications, completed application kits (SF 424, approved under OMB Clearance Number 0348-0006) and other information related to grants management should be directed to Mr. Donald C. Parks, Grants Management Officer, Bureau of Resources Development, Room 9-03, 5600 Fisher Lane, Rockville, Maryland 20857, 301/443-2630.

SUPPLEMENTARY INFORMATION: Section 1610(b) authorizes the Secretary of Health and Human Services to make grants to public and nonprofit entities for construction, renovation, expansion,

repair, equipping or modernization of outpatient medical facilities. These facilities must be located apart from hospitals and provide services to medically underserved populations. The section also authorizes grants for the conversion of existing facilities into outpatient medical facilities or facilities for long-term care for such populations. The Fiscal Year 1987 Continuing Resolution (Pub. L. 99–500) appropriated $5 million for grants under section 1610(b) "to private nonprofit entities which are receiving support" for migrant health center (MHC) and community health center (CHC) programs funded under section 329 or 330 of the PHS Act, respectively. In accordance with the legislative history of the Continuing Resolution, first priority will be given to projects for the modernization, repair or replacement of facilities which fail to meet fire, building, or life safety codes or which are in noncompliance or imminent noncompliance with existing licensure, certification or accreditation standards. Second priority will be given to applications from centers which have facilities that are inadequate to allow efficient delivery of health service (H. Rept. 99–960, p.11, Octoer 2, 1986 and S. Rept. 99–408, p. 47, August 15, 1985).

Eligible Applicants

Applications for funding under section 1610(b) will be accepted only from private nonprofit entities supported under section 329 or 330 or the PHS Act for projects for construction or modernization of outpatient medical facilities.

Letter of Intent

Eligible entities interested in applying for grant assistance should submit a letter of intent to apply for funding by the date and time set forth in the DATE section above. This letter will be used as a measure of the need for grant funds, and should state whether the fund will be used for modernization and repair or replacement of existing facilities. Upon receipt of the letter of intent, the Grants Management Officer will send an application package to the applicant.

Application

An application for a grant under section 1610(b) must be submitted to the address and by the date and time set forth in the DATE section above, and must include:

(1) An assurance that at all times after such application is approved the facility or portion thereof to be modernized or renovated will be made available to all persons residing or employed in the area served by the facility, in accordance with 42 CFR Part 124, Subpart G; and

(2) An assurance that there will be made available in the facility or portion thereof to be modernized or renovated, a reasonable volume of services to persons unable to pay for care, in accordance with 42 CFR Part 124, Subpart F.

Application Evaluation Criteria

Proposed projects will be evaluated on the extent of need for the project, the appropriateness of the project design and construction, and the degree to which the proposed improvement meets one or both of the following priorities: (1) To eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations; or to avoid noncompliance with State or voluntary licensure, certification or accreditation standards; or (2) to improve the facility to allow efficient delivery of health services. The program also will take into consideration the performance of the applicant under previously awarded section 329 or 330 grants. The amount of funding will be based on the reasonable costs of the project and the ability of the applicant to obtain resources other than section 1610(b) grants. Projects supported under section 329 or 330 are located in medically underserved areas which are determined by the Secretary to be urban or rural poverty areas under section 1610(b). As such, grants awarded under this notice may cover up to 100% of project costs.

Other Award Information

Grants awarded under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications within the States for assistance under certain Federal programs. The application packages to be made available by HRSA will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for the review. Applicants should promptly contact their State Single Point of Contact (SPOC) and follow their instructions prior to the submission of an application. The SPOC has 60 days after the application deadline date to submit its review comments.

Dated: February 25, 1987.

David N. Sundwall,

Administrator, HRSA.

[FR Doc. 87–5525 Filed 3–13–87; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–920–07–4111–13; NDM 55384]

Proposed Reinstatement of Terminated Oil and Gas Lease; North Dakota

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease NDM 55384, Billings County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this notice.

Dated: March 5, 1987.

Karen L. Skauge,

Chief, Leasing Unit.

[FR Doc. 87–5532 Filed 3–13–87; 8:45 am]

BILLING CODE 4310–DN–M

Lease of Public Land Near Russian Mission, AL

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, FLPMA section 302 Lease.

SUMMARY: The following described tract of land has been examined and through land use planning, identified as suitable for lease pursuant to section 302 of the Federal Land Policy and Management Act.

Seward Meridian, Alaska

T. 20 N., R. 67 W.
Section 01, metes and bounds within unsurveyed lands, totalling approximately 0.50 acre.

This Notice of Realty Action proposes a two-year lease of lands under the jurisdiction of the Bureau of Land Management for use as a fuel storage site. The proposal will authorize construction of an earthen dike which would permit safer containment and storage of fuel holding tanks required for operation of Kako Mine.

This proposal is a non-competitive offering at Fair Market Value to the proponent. Detailed information concerning this proposal is available for review at the Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, or call Bob Rinehart at (907) 267-1210.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments at the above address. Any adverse comments will be evaluated by the Anchorage District Manager who may cancel or modify this proposal and issue a final determination. In the absence of any adverse action by the Anchorage District Manager, this will become the final determination of the Department of the Interior.

Laun J. Buoy,

Acting District Manager.

[FR Doc. 87-5572 Filed 3-13-87; 8:45 am]

BILLING CODE 4310-JA-M

[ES-030-07-4212-14; ES-00157-005; ES-35-471]

Realty Action; Sale of Public Land in St. Genevieve County, MO—Modified—Competitive Sale

SUMMARY: The following public land has been examined and determined to be suitable for sale under section 203(a)(1) of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown below. The sale also includes conveyance of the mineral estate under the authority of section 209(b)(1)(l) of FLPMA.

Fifth Principal Meridian, Missouri

T. 39N., R. 7E., Fractional SW¼ Section 18 containing approximately 17.55 acres.

Appraised Fair Market Value: $15,800.

Date of Sale: July 22, 1987 at 3:00 PM.

Place of Sale: Milwaukee District Office, Bureau of Land Management, P.O. Box 0631, Milwaukee, Wisconsin 53201-0631.

Minimum Bid and Requirements: The minimum bid is the appraised fair market value of $15,800. Potential purchasers are required to submit 20 percent of their bid as down payment. *An additional $50.00* nonrefundable filing fee for the mineral estate *MUST* accompany the bid deposit. The bid and deposit must be enclosed in a sealed envelope clearly marked "Public Sale ES-35471" on the left hand side of the envelope. The successful high bidder will be allowed 180 days to submit the remainder of the bid price. If the remainder of the bid price has not been received from the successful bidder within the specified time period, the bid deposit will be forfeited. If for any reason the land remains unsold after the specified sale date, the land will remain available for sale over the counter until sold.

Example: If your bid is $15,800 you must submit 20 percent ($3,160) plus $50.00 for a total of $3,210.00. If your bid is $16,000 you must submit 20 percent ($3,200) plus $50.00 for a total of $3,250.00

Bidder Qualifications: Purchasers must be citizens of the United States 18 years of age or over; a corporation; State; State instrumentality or political subdivision; or other legal entity, subject to the laws of any State or the United States.

The conveyance document will contain a reservation to the Missouri State Highway Commission under the authority of Title 23 U.S.C. 107(d); Title 43 CFR 2234.1-3 and 2234.2-4 for a highway right-of-way containing 0.37 acres. There are no known mineral values in the land, therefore, the mineral estate is also being transferred.

The lands are being offered for sale subject to a preference consideration to allow Mr. L.R. Noce, adjacent landowner, to meet the high bid. The sale will be conducted by modified competitive bidding procedures (sealed bid envelope). An apparent high bidder will be declared. The apparent high bidder and the designated bidder (L.R. Noce) will be notified.

Publication of this notice will segregate the land from all appropriation, including the mining laws, for 270 days, or until issuance of patent, whichever occurs first. For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Milwaukee, Wisconsin.

FOR FURTHER INFORMATION: Detailed information concerning this sale is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin 53203; or by calling Paulette Francis at (414) 291-4415.

Bert Rodgers,

District Manager.

[FR Doc. 87-5533 Filed 3-13-87; 8:45 am]

BILLING CODE 4310-GJ-M

[WY-940-07-4520-12]

Filing of Plats of Survey; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of Plats of Survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., March 5, 1987.

Sixth Principal Meridian

T. 38 N., R. 85 W.

The plat showing a subdivision of original lot 3, Sec. 6, T. 38 N., R. 85 W., Sixth Principal Meridian, Wyoming, was accepted February 20, 1987.

T. 39 N., R. 85 W.

The plat showing a subdivision of original lot 4, Sec. 31, T. 39 N., R. 85 W., Sixth Principal Meridian, Wyoming, was accepted February 20, 1987.

T. 49 N., R. 91 W.

The plat showing a subdivision of original lot 1, Sec. 23, T. 49 N., R. 91 W., Sixth Principal Meridian, Wyoming, was accepted February 20, 1987.

These supplemental plats were prepared to meet certain administrative needs of this Bureau.

T. 48 N., R. 70 W.

The plat representing the dependent resurvey of the Twelfth Standard Parallel North, through R. 70 W., the east and west boundaries, and the subdivisional lines, T. 48 N., R. 70 W., Sixth Principal Meridian, Wyoming, Group No. 441, was accepted February 20, 1987.

T. 48 N., R. 71 W.

The plat representing the dependent resurvey of the Twelfth Standard Parallel North, through R. 71 W., the south and west boundaries, and the subdivisional lines, T. 48 N., R. 71 W., Sixth Principal Meridian, Wyoming, Group No. 441, was accepted February 20, 1987.

T. 28 N., R. 92 W.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines, T. 28 N., R. 92 W., Sixth Principal Meridian, Wyoming, Group No. 426, was accepted February 20, 1987.

T. 33 N., R. 110 W.

The plat representing the dependent resurvey of a portion of the north boundary and the subdivisional lines, and the subdivision of section 2, T. 33 N., R. 110 W., Sixth Principal Meridian, Wyoming, Group No. 485, was accepted February 20, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 37 N., R. 110 W.

The plat representing the dependent resurvey of the portion of the west boundary and a portion of the subdivisional lines, and the subdivision of section 9, T. 37 N., R. 110 W., Sixth Principal Meridian, Wyoming, Group No. 476, was accepted February 20, 1987.

T. 38 N., R. 110 W.

The plat representing the dependent resurvey of the portions of the south, east and west boundaries and a portion of the subdivisional lines, and the subdivision of certain sections, T. 38 N., R. 110 W., Sixth Principal Meridian, Wyoming, Group No. 427, was accepted February 20, 1987.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: March 5, 1987.

Richard L. Oakes,

Chief, Branch of Cadastral Survey.

[FR Doc. 87-5628 Filed 3-13-87; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-715902

Applicant: Oliver Ryder, San Diego, CA.

The applicant requests a permit to import blood and tissue samples taken from Sumatran rhinoceroses (*Didermocerus sumatrensis*) in Malaysia, Indonesia and Great Britain. Samples will be taken from up to 40 individuals removed from the wild in Indonesia and Malaysia. Samples are to be imported for the purpose of scientific research to enhance the propagation of the species. The applicant will attempt to clarify the genetic relationships of the fragmented populations of Sumatran rhinoceroses. Information obtained from this research will be used in captive breeding programs.

PRT-715828

Applicant: George Kelley-Kines Taylor, Corpus Christi, TX.

The applicant requests a permit to import a trophy from a bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by M. J. D'Alton, Bredasdorp, Republic of South Africa. The herd is maintained for the purpose of sport hunting. The applicant contends that permssion to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

PRT-716223

Applicant: Nicholas S. Toth, Littlerock, CA.

The applicant requests a permit to export and reimport one male captive-bred jaguar (*Panthera onca*) for, as yet unspecified, education.

PRT-715605

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in foreign commerce one female black rhinocerus (*Diceros bicornis*) from the Asa Zoo, Hiroshima, Japan, for shipment to the Taipei Municipal Zoological Gardens, Taipei, Taiwan. The animal was born in captivity at the Asa Zoo. The applicant contends that this animal will be used in unspecified education activities which will enhance the survival of the species. Taiwan is not a party to the Convention on International Trade in Endangered Species.

PRT-716224

Applicant: Mark Itson (DBA Mark Stenens), Las Vegas, NV.

The applicant requests a permit to purchase in interstate commerce from Jan Giacinto, Tarzana, California, one female Bengal tiger (*Pantera tigris*) and one male leopard (*Panthera pardus*), and export same to West Germany, then reimport back to the U.S. The applicant contends that the animals will be used for propagation and as yet unspecified education.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-5558 Filed 3-13-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Gulf of Mexico Outer Continental Shelf; Availability of Proposed Notice of Sale, Western Gulf of Mexico, Oil and Gas Lease Sale 112

The proposed Notice of Sale for Sale 112, Western Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, or by telephone (504) 736-2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is scheduled for August 1987.

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, has provided the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice includes a request for comments on minimum bid levels for Sale 112, as the decision on minimum bids has been deferred until the final Notice of Sale. This will enable the Department of the Interior to review the results of Central Gulf of Mexico Sale 100 (scheduled for April 22, 1987), comments currently solicited in the proposed Notice for Sale 112, and other comments already received in response to recent inquiries regarding incentives for leasing and exploration. The proposed Notice provdes more detail on this request.

Comments should be submitted to the Minerals Management Service, 18th and C Streets, NW., Room 4230 (MS-645), Washington, DC 20240, within 60 days of this Notice.

This Notice of Availability is hereby published pursuant to 30 CFR 256.29, as amended (51 FR 37177 on October 20, 1986), as a matter of information to the public.

Dated: March 10, 1987.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 87-5547 Filed 3-13-87; 8:45 am]

BILILNG CODE 4310-MR-M

Development Operations Coordination Document; ODECO Oil & Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3790, Block 136, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Lousiana.

DATE: The subject DOCD was deemed submitted on March 4, 1987.

ADDRESSES: 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, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

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: March 4, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–5531 Filed 3–13–87; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Sleeping Bear Dunes National Lakeshore; Implementation of Wilderness Management

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service issues this notice of wilderness management implementation on North Manitou and South Manitou Islands at Sleeping Bear Dunes National Lakeshore effective on the date of publication of this notice in the **Federal Register.** As outlined in the 1979 General Management Plan, proposed in the 1981 Wilderness Recommendation, and authorized by Congress in the Act of Oct. 22, 1982, 96 Stat. 1724, 16 U.S.C. 460x–15., the areas identified on North Manitou and South Manitou Islands shall be administered so as to maintain their wilderness character and potential for inclusion in the National Wilderness Preservation System.

Therefore, in accordance with the Sleeping Bear Dunes Act and the Wilderness Act and subject to existing private rights, the use of mechanized equipment, motor vehicles, motor boats, and the landing of aircraft in the potential wilderness areas are prohibited (except as necessary to meet minimum National Park Service administrative requirements and/or emergency situations).

Maps showing the potential wilderness areas of the islands are available at park headquarters in Empire, Michigan.

FOR FURTHER IMFORMATION CONTACT: Richard R. Peterson, Superintendent, Sleeping Bear Dunes National Lakeshore, P.O. Box 277, Empire, Michigan 49630, 616–326–5134.

SUPPLEMENTARY INFORMATION: Sleeping Bear Dunes National Lakeshore completed its current General Management Plan in 1979 after extensive public hearings and comments. Following the guidance of the General Management Plan, the National Park Service finalized its Wilderness Recommendations in 1981. This final recommendation involved approximately 31,000 acres divided into five (5) wilderness units. As described in the Wilderness Recommendation, unit 1 contains 14,726 acres of North Manitou Island (excluding 26 acres), and unit 2 contains 5,311 acres of South Manitou Island (excluding 145 acres).

In 1982, the Wilderness Recommendation was provided to the House Subcommittee on Public Lands and National Parks. The subcommittee was considering an amendment to the Sleeping Bear Dunes National Lakeshore Act. The Wilderness Recommendation was accepted by the subcommittee and incorporated in the Act of Oct. 22, 1982, 96 Stat. 1724, 16 U.S.C. 460x–15 which directs the Department of the Interior to maintain the "existing wilderness character and potential" of the areas "for inclusion in the National Wilderness Preservation System."

In 1984 the last major landowners on North Manitou and South Manitou Islands sold their properties to the National Park Service. The Service has been phasing out private uses in the island wilderness areas while developing the minimum facilities necessary for administration and management within the designated exclusion areas. There now exists only one seasonal residential retention on each island for which private access need be maintained in the wilderness zones. These private rights will be respected and access will be allowed to and from the dock for mail and supply purposes. The National Park Service will continue to monitor the remaining three wilderness zones on the mainland, will manage them to preserve wilderness character, and will incrementally implement wilderness management technique when private uses are reduced to a practical level for such application.

The National Park Service has been implementating Wilderness Management techniques on North Manitou and South Manitou Islands since 1982 and is now in a position to enforce the provisions of the Wilderness Act applicable to wilderness management as codified in 16 U.S.C. 1131 *et seq.* and 36 CFR 1–6, and 36 CFR 7.80. The authority for imposing the closures and public use restrictions is 36 CFR 1.5.

The purpose of this notice is to provide formal public notification of the effective date of the enforcement of Wilderness Management restrictions on North Manitou and South Manitou Islands (wilderness units 1 & 2). Public notice has also been provided in the local press.

Dated: March 11, 1987.

Denis P. Galvin,

Acting Director.

[FR Doc. 87–5584 Filed 3–13–87; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: March 27, 1987, 7:00 p.m. Inclement weather reschedule date, April 10, 1987.[1]

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764–0159, 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of the final draft river management plan, and Council-sponsored hazardous material handling for first responders training.

The meeting will be open to the public.

Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: March 2, 1987.

Maureen Finnerty,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 87-5583 Filed 3-13-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

International Agreement for Joint Project for Improvement of the Quality of the Waters of the New River at Calexico, CA and Mexicali, Baja CA

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Based on an environmental assessment, the U.S. Section finds that the proposed action that the Government of the United States enter into an agreement with the Government of Mexico for a joint project for improvement of the quality of the waters of New River at Calexico, California-Mexicali, Baja California is not a major Federal action that would have a significant adverse affect on the quality of the human environment. Therefore, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500 through 1508); and the U.S. Section's Operational Procedures for Implementing Section 102 of the National Environmental Policy Act (NEPA), published in the **Federal Register** September 2, 1981 (46 FR 44083); the U.S. Section hereby gives notice that an environmental impact statement is not being prepared for the Government of the United States to enter into an agreement with the Government of Mexico, through the International Boundary and Water Commission, for a joint project for improvement of the quality of the waters of New River in the Calexico-Mexicali area.

FOR FURTHER INFORMATION CONTACT: Mr. M.R. Ybarra, U.S. Section Secretary; International Boundary and Water Commission, United States and Mexico, United States Section; The Commons, C-310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 534-6698, FTS 570-6698.

SUPPLEMENTARY INFORMATION:

Proposed Action

It is proposed that the Government of the United States enter into an agreement with the Government of Mexico, through the International Boundary and Water Commission, to provide for a joint project for improvement of the quality of the waters of New River. The agreement provides for construction, operation, and maintenance of the joint project in Mexico in such manner to reduce discharges of untreated sewage into the New River crossing the boundary into the United States at Calexico, California.

Alternatives Considered

Four alternatives were considered:

The Proposed Action Alternative provides for the Government of the United States and Mexico to enter into an agreement for Mexico to (1) construct a new pumping plant of adequate capacity to handle the sewage load of Mexicali, (2) acquire three standby pumps for two existing pumping plants, and (3) acquire mobile sewer line cleaning equipment. Mexico would also proceed concurrently with rehabilitation of collector lines in Mexicali as well as a regular maintenance program for the Mexicali sanitation works.

Other recommendations of the Proposed Action Alternative include sharing equally by the two governments the cost of these features and that Mexico will pay any additional cost over the estimate for the new pumping plant, timely implementation of the recommended features, and finally Commission supervision over construction, operation and maintenance of the project.

Two alternatives, construction of a separate line for collection of industrial waste discharges and installation of booster pumps in existing pressure lines, were considered but were eliminated from further consideration either due to excessive cost or impracticality.

The No Action Alternative will result in no anticipated change in existing conditions. In the event Mexico constructs, operates, and maintains the proposed project features at its own cost and without the proposed agreement, there will be no firm means to assure that this construction, operation, and maintenance will reduce pollution in U.S. territory. The risk is great that sewage will continue to cross the boundary and potential significant pollution of the New River and other health hazards will continue without a firm basis for obtaining immediate and effective corrective actions.

On the basis of the Draft Environmental Assessment, the U.S. Section determines that an environmental impact statement is not required for the Government of the United States to enter into an agreement with the Government of Mexico to provide for a joint project for improvement of the quality of the waters of New River in the Calexico-Mexicali area and hereby supplies notice of a finding of no significant impact.

An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this Notice.

The Draft Finding of No Significant Impact (FONSI) and Draft Environmental Assessment (EA) have been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the Draft FONSI and Draft EA are available to fill single copy requests at the above address.

Dated: February 27, 1987.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 87-5528 Filed 3-13-87; 8:45 am]

BILLING CODE 4710-03-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Voluntary Foreign Aid Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a business meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on PVOS as Effective Development Agents, which will be held on Thursday, March 26, in Room 1107, Department of State. To enter the building use C Street (Diplomatic Entrance) between 21st and 23rd Streets, NW., Washington, DC

Registration

The meeting is free and open to the public. The meeting will be a planning meeting for Members to discuss an overview of the topic and utilize the information available to set their agenda for the 1987–1988 cycle of meetings. Those non-ACVFA members wishing to attend must advise the ACVFA office at (703) 235–1623, or write the Advisory Committee NLT March 20th. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 250, SA–8, Agency for International Development, Washington, D.C. 20523. This notification is required by the State Department for security reasons.

Thursday, March 26, 1986

9:00 A.M.—Opening Remarks, E. Morgan Williams, Chairman
Welcoming New Members
Setting Meeting Goals
10:30 A.M.—Report from Agenda Planning Task Force
11:00 A.M.—PVO Effectiveness: What is being done and why. A brief overview by Tom Dichter, Technoserve.
11:30 A.M.—PVO Effectiveness: Some questions to provoke agenda formation
12:30 P.M.—Lunch
1:30 P.M.—Panel Discussion: AID practitioners
3:00 P.M.—The Committee's agenda for 1987–1988—Discussion
4:00 P.M.—Coffee Break
4:15 P.M.—Discussion Continues
5:30 P.M.—Adjournment

Any interested person may attend, request to appear before, or file statement with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty five copies.

Dated: March 5, 1987.

Walter G. Bollinger,

Acting Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 87–5534 Filed 3–13–87; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 464]

Railroad Cost of Capital—1985

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: On March 16, 1987, the Commission will serve a decision to update its estimate of the railroad industry's cost of capital for 1985. The composite cost of capital rate for 1985 is found to be 13.6 percent, based on a current cost of debt of 11.1 percent, a cost of preferred equity capital of 10.3 percent, a cost of common equity capital of 14.7 percent, and a 28.8 percent debt/2.3 percent preferred equity/68.9 percent common equity capital structure mix. The cost of capital finding made in this proceeding will enable the Commission to make its annual determination of railroad revenue adequacy for 1985. The decision also found that the present procedure for determining the cost of capital should be maintained. In future cost of capital proceedings public comment will continue to be requested.

ADDRESSES: To purchase copies of the full decision contact: TS Infosystems, Inc., Room 2229, 12th St. & Constitution Avenue, NW., Washington, DC 20423; (202) 289–4357—DC Metropolitan Area; (800) 424–5403—Toll free for outside DC area.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr. (202) 275–7489.

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision should be utilized to evalute the adequacy of railroad revenues for 1985, under the standards and procedures promulgated in Ex Parte No. 393 (Sub-No. 1), *Standards for Railroad Revenue Adequacy*, served December 31, 1986. This finding may also be utilized in proceedings involving the prescription of maximum reasonable rate levels.

Dated: February 26, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre, joined by Commissioner Sterrett, commented with a separate expression. Commissioner Sterrett dissented with a separate expression. Vice Chairman Lamboley dissented and will submit a separate expression at a later date.

Noreta R. McGee,

Secretary.

[FR Doc. 87–5552 Filed 3–13–87; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 466]

Railroad Cost of Capital—1986

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 1986 cost of capital.

SUMMARY: The Commission is instituting a proceeding to determine the railroad industry's cost of capital rate for 1986. The decision solicits comments on: (1) The railroads' 1986 (i.e., current) cost of debt capital; (2) the railroads' 1986 (i.e., current) cost of preferred stock equity capital; (3) the railroads' 1986 cost of common stock equity capital; (4) the 1986 capital structure mix of the railroad industry on a market value basis. The decision specifically seeks comments on a number of subsidiary issues, including the appropriateness of approaches other than the discounted cash flow methodology for determining the cost of equity capita.

DATE: Notices of intent to participate due March 26, 1987. Statements of railroads due April 30, 1987. Statements of other interested parties due May 15, 1987. Rebuttal statement by railroads due June 1, 1987.

ADDRESSES: Send an original and 15 copies of comments and an original and one copy of the notice of intent to participate to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20412.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr. (202) 275–7489.

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 Building, Washington, DC 20423; or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not significantly affect either the quality of the human environment or energy conservation. Nor will it have a significant economic impact of a significant economic impact of a substantial number of small entities.

Authority: 49 U.S.C. 1070(a).

Decided: February 26, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons. Commissioner Simmons dissented with a separate expression. Vice Chairman Lamboley dissented and will submit a separate expression at a later date.

Noreta R. McGee,

Secretary

[FR Doc. 87-5553 Filed 3-13-87; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures; Petition Grant

AGENCY: Interstate Commerce Commission.

ACTION: Notice of granting of petition.

SUMMARY: The Commission is granting the petition of the Association of American Railroads for the calculation of the lease rental portion of the equipment rents component of the all inclusive index of railroad costs. That index is the basis for the quarterly rail cost adjustment factor. The lease rental portion shall be calculated using the Producer Price Index for Industrial Commodities Less Fuels and Related Products and Power developed by the Bureau of Labor Statistics.

DATES: This amendment is effective on April 15, 1987.

FOR FURTHER INFORMATION CONTACT:

Robert C. Hasek, (202) 275-0938

or

William T. Bono, (202) 275-7354.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the final decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone 289-4357 (DC metropolitan area) or toli free (800) 424-5403.

This action will not significantly affect the quality of the human environment or the conservation of energy resources. This action will not have a significant economic impact on a substantial number of small entities because only Class I railroads and their trade association, the Association of American Railroads are directly involved in the furnishing of data and the calculation of the index.

Authority: 49 U.S.C. 10321, 10707a; 5 U.S.C. 553.

Decided: February 25, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons dissented with a separate expression. Vice Chairman Lamboley would have solicited public comment before adopting this change to the existing rule.

Noreta R. McGee,

Secretary.

[FR Doc. 87-5554 Filed 3-13-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-102 (Sub-No. 13)]

Missouri-Kansas-Texas Railroad Co.; Abandonment in St. Charles, Warren, Montgomery, Callaway, Boone, Howard, Cooper and Pettis Counties, MO; Findings

The Commission has found that the public convenience and necessity permit Missouri-Kansas-Texas Railroad Company (MKT), to abandon its 199.92-mile line of railroad between Machens (milepost 26.92) and Sedalia, MO (milepost 226.84).

A Certificate of Interim Trail Use or Abandonment will be issued authorizing MKT to discontinue service (if an Interim Trail Use Agreement is reached) or abandon (if an Interim Trail Use Agreement is not reached), unless within 10 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 notification must 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.

Noreta R. McGee,

Secretary.

[FR Doc. 87-5555 Filed 3-13-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meetings

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (26 U.S.C. 656) will meet on March 31 and April 1, 1987 in Room C-2313, Francis Perkins Building, Department of Labor, Washington, DC. The meeting is open to the public and will start at 10:30 a.m.

The agenda will include a review of the Draft Proposed Standards on Hazard Communication and Respiratory Protection, a discussion by OSHA Training Institute staff of the Construction Outreach Program, and discussion of Subpart A on Steel Erection. Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and brief outline of the content of the presentation.

Oral presentation will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Tom Hall, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-4220, Washington, DC 20210, telephone (202) 523-8615.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, DC, the 11th day of March 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 87-5627 Filed 3-13-87; 8:45 am]

BILLING CODE 4510-26-M

Employment and Training Administration

[TA-W-16,061 et al.]

Great Western Sugar Co.; Negative Determination on Remand

In the matter of Loveland, Colorado, TA-W-16,061; Denver, Colorado, TA-W-16,062; Fort Morgan, Colorado, TA-W-16,105;

Sterling, Colorado, TA–W–16,129; Goodland, Kansas, TA–W–16,150; Greeley, Colorado, TA–W–16,194; Bayard, Nebraska, TA–W–16,215; Ovid, Colorado, TA–W–16,216; Billings, Montana, TA–W–16,424.

Pursuant to the U.S. Court of International Trade remand, dated February 13, 1987 in *Western Conference of Teamsters* v. *Secretary of Labor*, (USCIT No. 86–04–00436) concerning the denial of certification for workers at Great Western Sugar Company at the instant locations in Colorado, Kansas, Nebraska and Montana, the Department makes the following further determination on remand.

The Court upon reading and filing the Secretary's motion to remand and plaintiff's response, ordered that this action be remanded to the Department of Labor for further investigation and redetermination with respect to the effect of increased imports of raw cane sugar in the above mentioned investigations.

Findings in the record show that during the period applicable to the petitions, Great Western Sugar was involved solely in the production of refined sugar from beets. The findings did not substantiate that increased imports of refined sugar contributed importantly to worker separations. U.S. imports of refined sugar were negligible in 1982, 1983, 1984 and in the first three months of 1985 compared to the same period in 1984. U.S. imports of refined sugar were less that one percent in relation to domestic production in recent years.

The Department's survey of Great Western's customers, which are primarily food manufacturers and soft drink producers, showed that the predominant portion of the respondents did not import refined sugar or high fructose corn syrup (HFCS) during the time period applicable to the petitions. The respondents accounted for a significant proportion of Great Western's 1984 sales and over 100 percent of Great Western's sales decline in 1985 compared to 1984.

On remand, the Department surveyed the same Great Western Sugar Company's customers for raw cane sugar as it had earlier surveyed for refined sugar to determine if an imported article (raw sugar) is directly competitive with a domestic article (refined sugar) at a later stage of processing. The survey showed that most of the respondents did not import raw cane sugar.

The few customers who imported raw cane sugar (food manufacturing and bottling companies) did this via the futures market and/or engaged in tolling with sugar refineries in order to guarantee a supply of raw materials for their finished product(s). These customers do not use raw sugar (foreign or domestic) as a substitute for refined sugar and reported that they would have continued to purchase refined sugar from Great Western had Great Western remained in operation. The Department found that they would have continued to purchase refind sugar from Great Western had Great Western remained in operation. The Department found that the customers' purchases of imported raw sugar, in general, ran in tandem with their purchases of refined sugar from Great Western. The survey also showed that domestic purchases of a substitute product (HFCS) was a factor in the decline in purchases of refined sugar from Great Western by the bottling company which imported raw sugar.

Virtually all raw sugar entering the U.S. is raw cane sugar. Because raw cane sugar requires further processing before it can be marketed as refined sugar, it is not like or directly competitive with refined sugar for establishing import levels. On initial reconsideration, the Department learned that the subject facilities of Great Western could not convert raw cane sugar into refined sugar without extensive capitalization. Further, none of the facilities, which were sugar beet refineries, had the capability in the time period applicable to the petition to convert raw cane sugar into refined sugar. Therefore, raw cane sugar imports would not have an absolute adverse effect on sales and/or production of refined sugar and on worker separations at the above mentioned facilities of Great Western Sugar.

Conclusion

After reconsideration on remand, I reaffirm the original denial of eligibility to apply for adjustment assistance for former workers of Great Western Sugar Company in Loveland, Denver, Fort Morgan, Sterling, Greeley and Ovid, Colorado; Goodland Kansas; Bayard, Nebraska and Billings, Montana.

Signed at Washington, DC, this 12th day of March 1987.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87–5781 Filed 3–13–87; 11:54 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87–24)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Advanced Propulsion Technology.

DATE AND TIME: April 7, 1987, 8:30 a.m. to 5 p.m.

ADDRESS: Room 647, National Aeronautics and Space Administration Headquarters, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John Facey, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–2857.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc teams were formed to address specific topics. The ad hoc team on Advanced Propulsion Technology, chaired by Dr. Eugene Covert, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the team members and other participants).

Type of Meeting: Open.

Agenda: April 7, 1987.

8:30 a.m.—Review Materials and Structures Sub-Group Report.

10 a.m.—Review Internal Fluid Mechanics Sub-Group Report.

11:30 a.m.—Review Instrumentation and Controls Sub-Group Report.

1 p.m.—Review Conclusions and Formulate Recommendations.

2:30 p.m.—Complete Executive Final Report.

3:30 p.m.—Discuss and Prepare Presentation for AAC.

5 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

March 9, 1987.

[FR Doc. 87-5556 Filed 3-13-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice (87-25)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on Rotorcraft Noise and Vibration Research.

DATE AND TIME: April 7, 1987, 8 a.m. to 5 p.m.; April 8, 1987, 8 a.m. to 3 p.m.

ADDRESS: Boeing Company Offices, Management Information Conference Room, 20th Floor, 1700 N. Moore Street, Rosslyn, VA 22209.

FURTHER INFORMATION CONTACT: Mr. John Burks, Code RJ, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2807.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc teams were formed to address specific topics. The ad hoc team on Rotorcraft Noise and Vibration Research, chaired by Mr. Al Schoen, is comprised of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the team members and other participants).

Type of Meeting: Open.

Agenda: April 7, 1987.

8 a.m.—Discussion of Results of Survey and Formulation of Recommendations.

5 p.m.—Adjourn.

April 8, 1987.

8 a.m.—Continued Discussion of Results of Survey and Formulation of Recommendations.

2 p.m.—Review of Preliminary Results of Assessment.

3 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

March 9, 1987.

[FR Doc. 87-5557 Filed 3-3-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Point Beach Nuclear Plant; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-24 and DPR-27, issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant Unit Nos. 1 and 2 located in Manitowoc County, Wisconsin.

Identification of Proposed Action

The amendments would consist of changes to the operating licenses authorizing extensions to the expiration dates for the Unit 1 Facility Operating License No. DPR-24 from July 19, 2007 to October 5, 2010 and for the Unit 2 Facility Operating License No. DPR-27 from July 25, 2008 to March 8, 2013.

The amendments to the licenses are responsive to the licensee's application dated June 28, 1985. The NRC staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Change in Expiration Dates of Facility Operating License Nos. DPR-24 and DPR-27, Wisconsin Electric Power Company, Point Beach Nuclear Plan Unit Nos. 1 and 2, Docket Nos. 50-266 and 50-301," dated March 10, 1987.

Summary of Environmental Assessment

The NRC staff has reviewed the potential environmental impact of the proposed change in the expiration dates of the Operating Licenses for Point Beach Unit Nos. 1 and 2. This evaluation considered the previous environmental studies, including the "Final Environmental Statement Relating to Operation of Point Beach Nuclear Plant Units 1 and 2" dated May 1972, and more recent NRC policy.

Radiological Impacts

Although the population in the vicinity of Point Beach Unit Nos. 1 and 2 has increased slightly, and also would be likely to increase slightly for the period of the extension, the site requirements of 10 CFR Part 100 are now and would still be met with regard to Exclusion Area Boundary, Low Population Zone, and nearest population center distances. The net annualized environmental impacts attributable to the uranium fuel cycle, which form the basis for Table S-3 of 10 CFR Part 51, remain essentially unchanged from those considered upon initial licensing. The environmental impacts attributable to transportation of fuel and waste to and from the Point Beach Nuclear Plant, with respect to normal conditions of transport and possible accidents in transport would continue to be as described in the FES. In addition, the proposed additional years of reactor operation would not increase the annual public risk from reactor operation.

With regard to normal plant operation, the licensee complies with the NRC guidance and requirements for keeping radiation exposures "as low as is reasonably achievable" (ALARA) for occupational exposures and for radioactivity in effluents. Technical Specifications are in place to ensure continued compliance with these requirements during any additional years of facility operation.

Non-Radiological Impacts

The NRC review identified no anticipated additional degradation of the habitat surrounding the Point Beach Nuclear Plant with regard to indigenous plant and animal species for the additional years of facility operation. In addition, the Wisconsin Pollutant Discharge Elimination System permit provides additional environmental protection from non-radiological effluent discharges for the period of the license extensions. The staff also performed an assessment of impact on historic properties in accordance with revisions to 36 CFR Part 800 (Historic Preservation Act) effective October 1, 1986. No significant impact on any historic properties was identified with the license extension.

The staff also verified that the original cost/benefit analysis provided in the Final Environmental Statement and discussions with respect to commitment of resources and alternatives are still valid.

Finding of no Significant Impact

The staff has reviewed the proposed change to the expiration dates of the Point Beach Units 1 and 2 Facility Operating Licenses relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental

assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendments will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to this action, see (1) the application for amendments dated June 28, 1985, (2) the Final Environmental Statement Relating to Operation of Point Beach Nuclear Plant Units 1 and 2, issued May 1972, and (3) the Environmental Assessment dated March 10, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Bethesda, Maryland, this 10th day of March, 1987.

For The Nuclear Regulatory Commission.

George E. Lear,

Director, PWR Project Directorate #1, Division of PWR Licensing–A.

[FR Doc. 87–5612 Filed 3–13–87; 8:45 am]

BILLING CODE 7590–01–M

Portland General Electric Company, et al. Trojan Nuclear Plant

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision concerning a Petition submitted to the Commission by John Arum, on behalf of Forelaws on Board, Elaine Kelley, and Lloyd K. Marbet. The Petition requested that the Commission immediately suspend the operating license for the Trojan Nuclear Plant based upon the allegation that certain structures at the facility are not adequately designed to withstand a seismic event. The Petition also requested that the Commission institute a proceeding to suspend the operating license of the Trojan Nuclear Plant, and to hold public hearings on such a proceeding.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the request in its entirety. The reasons for this decision are explained in the "Director's Decision Under 10 CFR 2.206", DD–87–04, which is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC, and at the Local Public Docment Room for the Trojan Nuclear Plant located at the Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon 97205.

A copy of the Decison will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute the final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time period.

Dated: at Bethesda, Maryland, this 6th day of March 1987.

For The Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–5613 Filed 3–13–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 27–39 SC; ASLBP No. 78–374–01 OT]

U.S. Ecology, Inc.; (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site); Hearing

(Postponement)

March 10, 1987.

Before Administrative Judges: B. Paul Cotter, Jr., Chairman, Dr. Jerry R. Kline, Dr. Emmeth A. Luebke.

Please take notice that the evidentiary hearing previously scheduled to be held in this proceeding on March 24 through March 27, 1987, at the U.S. Court of Appeals in the Dirkson Building, Chicago, Illinois, and on March 30 through April 3, 1987, at the National Labor Relations Board, Chicago, Illinois, is indefinitely postponed.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 87–5614 Filed 3–13–87; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Application for Survivor Death Benefits
(2) Form(s) submitted: AA–21, AA–11a, G–31 and G–273a
(3) Type of request: Revision of a currently approved collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 24,170
(7) Annual reporting hours: 8,964
(8) Collection description: The collection obtains the information needed to pay death benefits and annuities due but unpaid at death under the RRA. Benefits are paid to designated beneficiaries or to survivors in a priority designated by law.

Additional Information or comments:

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy Egan (202–395–6880), Office of Managment and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 87–5539 Filed 3–13–87; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 30–24193; File Nos. SR–Amex–87–3, SR–NYSE–87–1, SR–PSE–87–2, SR–CBOE–87–2]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to Proposed Rule Changes by the American, New York and Pacific Stock Exchanges, and the Chicago Board Options Exchange, Inc., Relating to Monthly Expirations for Stock Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 21, and February 9, 1987, respectively, the American Stock Exchange, the Chicago Board Options Exchange, Incorporated, and the Pacific and New York Stock Exchanges filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The American, Pacific and New York Stock Exchanges, ("Amex"), "PSE", and "NYSE") and the Chicago Board Options Exchange, Incorporated ("CBOE") (collectively "the exchanges") propose to extend for an additional four months the stock options pilot program that provides for four expiration month—including two near-term months.[1] The details of the proposal are set forth below in Item II.A.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the self-regulatory organizations included statements concerning the purpose of and basis for the proposed rule changes, and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In June 1985, the various options exchanges implemented a one-year stock option pilot program for certain January cycle stock options. Under the terms of the pilot, the traditional January trading cycle was altered, in part, to ensure that (i) one-month and two-month options were made available for trading at all times, and (ii) four expiration months were outstanding at any time. In July 1986, the exchanges received approval to extend and expand the pilot for an additional six months.[2]

The purpose of the pilot program to determine whether a modified, near-term expiration cycle featuring four expiration months would improve investor's interest in such stock options. After monitoring the trading of the options subject to the pilot had having received favorable comments from both on-floor and off-floor market participants, the exchanges have found that the pilot, on balance, has improved investors' interest in trading such options. Further, the exchanges believe that a consensus appears to be developing to both continue the pilot and expand it to stock options trading on the February and March cycles.[3]

Since the pilot is due to expire on January 16, 1987, the exchanges propose to extend the current pilot for an additional four months, to May 16, 1987, in order to have sufficient time within which to determine whether and in what fashion the pilot sould be expended and the time and manner for phasing in February and March cycle options.[4]

The proposed changes are consistent with the requirements of the Securities Exchange Act of 1934 ("Act") and the rules and regulations thereunder applicable to the exchanges by continuing a pilot program tailored to meet investor preferences for stock options with near-term expiration cycles. At the same time, the pilot program continues to offer mid and far term options in the January cycle options. Therefore, the proposed rule change is consistent with section 6(b)(5) of the Act, which provides, in pertinent part, that the rules of the exchanges be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The exchanges believe that the proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The exchanges request accelerated effectiveness of the proposed rule changes pursuant to section 19(b)(2) of the Act to continue the pilot program without interruption. During the continuation of the pilot the exchanges will determine whether to file for permanent approval of the program, including whether to incorporate options on February and March cycles in the program.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. As originally proposed, the monthly expiration pilot contemplated that the exchanges would be able to add additional options classes as they deemed appropriate.[5] A four month extension of the pilot allows the exchanges to keep in place a pilot program that the exchanges have found to be successful. Accelerated approval will enable the exchanges to continue the pilot without interruption for another four months, during which time they may decide whether to request permanent approval of the program.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file number in the caption above and should be submitted by April 6, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 9, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-5602 Filed 3-13-87; 8:45 a.m]

BILLING CODE 8010-01-M

[1] The CBOE has proposed a six month extension of its pilot. *See* footnote 4 *infra.*

[2] *See* Securities Exchange Act Release No. 23461 (July 23, 1986), 51 FR 22296 (July 30, 1986).

[3] The NYSE has not yet placed any options in the pilot program, but anticipates doing so during the proposed extension.

[4] The CBOE has proposed to extend its pilot for an additional six months. The Commission is herein approving a four month extension for all the exchanges, including the CBOE, during which the exchanges will determine whether to file a rule change to make the pilot permanent. If the exchanges file such a rule change, but it has not been approved before the pilot extension expires, then the pilot will automatically be extended for an additional two months for all the exchanges.

[5] *See* Securities Exchange Act Release No. 22099 (May 31, 1985), 50 FR 23862 (June 6, 1985).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 10, 1987

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Family Dollar Stores, Inc., Common Stock, $0.10 Par Value (File No. 7–9778)
The Stanley Works, Common Stock, $2.50 Par Value (File No. 7–9779)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 31, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–5601 Filed 3–13–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public CM–8/1057]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 18, 1987 at 9:30 A.M. in Room 1205, Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting will be consideration of contributions and issues related to upcoming CCITT Study Group and/or working parties of Study Group VII, a report on the results of the meeting of Study Group VII, a report on the results of the meeting of Study Group XVII, and any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Mr. Gary Fereno in the office of Mr. Earl Barbely, telephone (202) 647–5832. All attendees must use the C entrance to the building.

Dated: February 23, 1987.

Earl S. Barbely,

Director, Office of Technical Stanadards and Development; Chairman, U.S. CCITT National Committee.

[FR. Doc. 87–5537 Filed 3–13–87; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/1056]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 14, 1987 at 1:30 p.m. in Room 1205, Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting will be consideration of contributions and issues related to upcoming CCITT Study Group and/or working parties of Study Group VII and XVII, and any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building in controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Mr. Gary Fereno in the office of Mr. Earl Barbely, telephone (202) 647–5832. All attendees must use the C entrance to the building.

Dated: February 23, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87–5538 Filed 3–13–87; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Commercial Space Transportation Advisory Committee; Open Meeting

AGENCY: Office of the Secretary of Transportation (OST); DOT.

ACTION: Commercial Space Transportation Advisory Committee; open meeting.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 1), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee. The meeting will take place on Monday, April 6, 1987, from 9:00 a.m. to 5:00 p.m., and Tuesday, April 7, 1987, from 9:00 a.m. to 4:00 p.m., in the Cheyenne Mountain Inn, Colorado Springs, Colorado. This will be the fifth meeting of the Committee. The meeting will address issues associated with launch licensing, insurance requirements, safety roles and responsibilities and private sector use of government launch ranges. The members of the Committee are:

Lionel Alford, Corporate Senior Vice President for Aerospace,The Boeing Company;
Joel Alper, President, Space Communications Division, Communications Satellite Corporation;
Norman Augustine, President and Chief Operating Officer, Martin Marietta Corporation;
James W. Barrett, President, International Technology Underwriters, Inc;
Jonathan Conrad, Executive Vice President, Sconset Group, Inc.;
Leonard Cormier, President, Third Millennium, Inc. (MMI);
William F. Ezell, Vice President, Propulsion Systems, Rocketdyne Division, Rockwell International Corporation;
Gregg Fawkes, President, Cybron Corporation;
Dr. Jerry Grey, Publisher, *Aerospace America, American Institute of Aeronautics and Astronautics;*
David Grimes, Chairman, Transpace Carriers, Inc.;
Edmund (Kip) Hawley, Vice President and Chief of Staff, Citicorp;
George A. Koopman, President and Chief Executive Officer, American Rocket Company;

John Krimsky, Jr., Deputy Secretary General, United States Olympic Committee;
T. Allan McArtor, Sr. Vice President, Telecommunications Division, Federal Express Corporation;
Adolph Medica, President, Space Transportation Systems;
Thomas Pauken, Vice President and Corporate Counsel, GARVON, Inc.;
William Rector, Division Vice President, Program Development, General Dynamics Space Division;
George Robinson, Associate General Counsel, Smithsonian Institution;
Dr. Robert Roney, Sr. Vice President, Hughes Aircraft Company;
Daniel Ruskin, Vice President, Government Requirements, Lockheed Missiles;
Bernard Schriever, General, United States Air Force (Retired) consultant to the aerospace industry;
Jerome Simonoff, Vice President, Citicorp Industrial Credit, Inc.;
Donald (Deke) Slayton, President, Space Services, Inc. and former astronaut.

This meeting is open to the interested public, but may be limited to the space available. Additional information may be obtained from DOT's Office of Commercial Space Transportation, Room 10401, 400 Seventh Street, SW., Washington, DC 20590. Contact: Mary F. Couch, telephone 202–366–2934.

Issued in Washington, DC, on March 11, 1987.

Courtney A. Stadd,

Director, Office of Commercial Space Transportation.

[FR Doc. 87–5569 Filed 3–13–87; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement; Santa Clara County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the Cities of Cupertino, Los Altos, Mountain View, and Sunnyvale, California.

FOR FURTHER INFORMATION CONTACT: D.L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809. Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an Environmental Impact Statement (EIS) for proposed highway improvements on State Route 85, 101, and 237 in the Cities of Cupertino, Los Altos, Mountain View, and Sunnyvale, Santa Clara County, California. The project includes widening of existing freeways, with interchange modifications, on all three routes, and conversion of a section of Route 237 which is now expressway to freeway. The project proposes the following specific improvements:

State Route 85: Widen the existing freeway to eight lanes between Homestead Road and Route 237, to six lanes between Route 237 and Moffett Boulevard and between Homestead Road and Stevens Creek Boulevard, and provide a two-lane branch connection to Route 101.

U.S. Route 101: Modify interchanges at Mathilda Avenue, State Route 237, Moffett Boulevard, State Route 85, and Stierlin Road, including constructing auxiliary lanes and collector roads at various locations, and replacing the Old Middlefield Road overcrossing; Route 101 is to be expanded from its present six to eight lanes throughout the project area by another project.

State Route 237: Modify interchanges and widen the existing four-lane facility to six lanes between Routes 85 and 101, and to eight lanes east of Route 101, and convert the existing expressway section to freeway with new interchanges at Maude Avenue and Middlefield Road.

The limits of this EIS are from Stevens Creek Boulevard to U.S. Route 101 on State Route 85 (Posts Miles R17.7 to 23.9); from 0.1 mile north of Fair Oaks Avenue to Old Middlefield Road on U.S. Route 101 (Post Miles 44.9 to 49.5); and from State Route 85 to 0.1 mile west of Fair Oaks on State Route 237 (Post Miles R0.4 to 3.8). All post mile limits are within Santa Clara County.

The project will be designed to allow future installation of HOV or transit facilities, but would not provide them at this time.

An interdisciplinary team appoach has been initiated for this proposal to ensure that: The full range of issues is addressed; the significant issues are identified; and the different disciplines interact through all stages of development of the environmental document. This interdisciplinary team includes representatives from the appropriate Federal, State, regional, and local agencies, and other organizations that have an interest in the study. A public information meeting concerning this project was held on June 26, 1985. No formal scoping meeting has been scheduled at this time; however, one or more will be scheduled if required, and public notice of the meeting(s) will be published in the local press.

It is requested at this time that you furnish any information on the location of historic properties that may be in the project vicinity and potentially affected by the proposal. Please also indicate if you wish to be notified at the completion of historic preservation studies.

To ensure that the full range of issues is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposal and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 202.5, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 6, 1987.

D.L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 87–5535 Filed 3–13–87; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Floyd and Johnson Counties, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Floyd and Johnson Counties, Kentucky.

FOR FURTHER INFORMATION CONTACT: Robert E. Johnson, Division Administrator, FHWA, 330 West Broadway, P.O. Box 536, Frankfort, Kentucky 40602–0536, Phone (502) 227–7321; FTS 352–5468.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kentucky Transportation Cabinet, is preparing an environmental impact statement in Floyd and Johnson Counties. The proposed improvement provides for the construction of a 4-lane, partially controlled access route on a new alignment between the cities of Prestonsburg and Paintsville, Kentucky. The proposed realignment, which is approximately 16 miles in length, will provide the 'closing link' in the 4-laning of this regional transportation corridor.

Possible alternatives under consideration include the (1) do-nothing, (2) project postponement, and (3) four alignment alternatives with design options, all in a basic north-south corridor.

The proposed project would be four-lane and would begin, on the Southern

end, at the intersection of U.S. Highway 23 and Kentucky Route 114 west of Prestonsburg, Kentucky. From this point, it would run in a northerly direction to Lick Fork. From Lick Fork northward, two alternative alignments are under consideration. The first takes a west and northerly direction, rejoining existing US 23 alignment, approximately one mile north of the US 460/US 23 intersection, northwest of Paintsville. The second proposed alignment would proceed in a more easterly route, north to northeast of Paintsville, ending at the existing US 460/US 23 intersection.

In addition to the U.S. 23 realignment, the proposed project includes two alternative design schemes for an east/west connector between U.S. 23 and KY 3 in the vicinity of Auxier.

An Interdisciplinary Team Meeting will be held. The proposed project is being coordinated with various Federal, State and local agencies and officials and other private organizations and parties identified as being impacted by the proposal or having an interest in its development. Letters describing the proposed action and soliciting comments will be sent.

A formal Scoping Meeting will be held. In addition, a public hearing is planned. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment.

It is estimated that the draft EIS will be available for public review in September 1987.

Issued on: March 6, 1987.

Robert E. Johnson,

Division Administrator, Frankfort, Kentucky.

[FR Doc. 87-5536 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Hazardous Materials; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes April 10, 1987.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9722-N	Russell-Stanley Corporation, Red bank, NJ	49 CFR 173.266	To Manufacture, mark and sell DOT Specification 34 containers of 55 gallon capacity, made from specific polyethylene resin and to a certain design, for shipment of 70% hydrogen peroxide, classed as an oxidizer. (modes 1, 2, 3)
9723-N	Aqua-Tech, Inc., Port Washington, WI	49 CFR 177.848(b)	To authorize shipment of cyanide or cyanide mixtures in the same transport vehicle with acids and corrosive liquids when contained in specially designed packagings. (mode 1)
9724-N	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 172.202, 172.203, 172.301, 172.400, and 172.504, Part 107 Appendix B.	To authorize shipment of limited quantities of flammable liquids, flammable solids, oxidizers, organic peroxides, corrosive materials, compressed gases, paints and paint related material in prescribed packages without the use of shipping papers, marking, labeling or placarding. (mode 1)
9725-N	Union Tank Car Company, Chicago, IL	49 CFR 173.124(a)(5)(iii), 173.314, and 179.102-12(a)(10).	To authorize transport of DOT Specification 105A300W tank cars, which are empty but contain residue of butadiene, classed as a flammable gas, to locations for cleaning and/or retrofit. (mode 2)
9726-N	Abbott Laboratories, North Chicago, IL	49 CFR 173.388	To authorize an alternative label other than as prescribed in 49 CFR for products containing hepatitis antigen, an etiologic agent. (mode 1, 4)
9727-N	Sherex Chemical Company, Inc., Dublin, OH	49 CFR 173.249	To authorize shipment of an alkaline (corrosive) liquid, n.o.s. in new or reconditioned DOT Specification 17H steel drums. (modes 1, 2, 3)
9728-N	Smith Systems, A Moorco Operation, Corpus Christi, TX.	49 CFR 173.119, 173.305, and 173.315	To manufacture, mark and sell a non-DOT specification portable meter prover device, for shipping of hyrocarbons, classed as flammable liquids and flammable gases. (mode 1)
9729-N	Allied-Signal Inc., Morristown, NJ	49 CFR 173.246(a)(1), 178.61-5	To authorize shipment of antimony pentaflouride, classed as a corrosive material in cylinders comparable to DOT Specification 4BW240 except they are constructed of 304-L stainless steel. (modes 1, 2, 3)
9730-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101	To authorize shipment of up to 6903 lbs. of hydrogen, refrigerated liquid, flammable gas in a DOT Specification MC-338 cargo tank on a cargo vessel. (mode 3)
9731-N	Richmond Lox Equipment Company, Delphi, IN.	49 CFR 173.338-9(b)	To manufacture, mark and sell DOT Specification MC-338 cargo tanks for shipment of liquid hydrogen with holding time tests performed in a manner other than as prescribed in the regulations. (modes 1, 3)
9732-N	Stepan Company, Northfield, IL	49 CFR 173.115	To authorize shipment of a material, classed as a flammable liquid to be offered as a combustible liquid under certain conditions. (mode 1)
9733-N	Rheem Manufacturing Company, Kingwood, TX.	49 CFR 173.164	To authorize shipment of chromic acid mixture, dry, or chromic acid, solid, classed as oxidizers in a DOT Specification 35 plastic pail. (modes 1, 2, 3)
9734-N	Pressed Steel Tank Co., Inc., Milwaukee, WI	49 CFR 173.302, 178.37	To authorize manufacture, marking and sale of a non-DOT specification cylinder, similar to a DOT 3AA specification cylinder, for shipping non-flammable compressed gases. (modes 1, 2)
9735-N	Hapa-Lloyd AG, Hamburg, West Germany	49 CFR 176.30(a)	To authorize placement of the Dangerous Cargo Manifest in the Cargo Office of a vessel, instead of the bridge, while the vessel is in port. (mode 3)
9736-N	Aqua-Tech, Inc., Port Washington, WI	49 CFR 173.115, 173.150, 173.240, and 173.343.	To authorize reuse of DOT-17H steel drum for a maximum of three times before reconditioning, to ship lab packs of combustible liquids, flammable liquids and solids, corrosive liquids, oxidizers and poison B materials. (mode 1)

This notice of recipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 6, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-5567 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Renewal or Modification of Exemptions or Applications To Become Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing a public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes March 30, 1987.

ADDRESS COMMENT TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1862-X	Greer Hydraulics, Inc., City of Commerce, CA.	1862
3004-X	National Welders, Charlotte, NC.	3004
3630-X	Mallinckrodt, Inc., Paris, KY.	3630
3768-X	Essex Industrial Chemicals, Inc., Baltimore, MD.	3768
4262-X	Schlumberger Offshore Services, Houston, TX.	4262
4262-X	Schlumberger Well Services, Houston, TX.	4262
4719-X	Halocarbon Products Corporation, North Augusta, GA.	4719
4719-X	Dow Chemical U.S.A., Freeport, TX.	4719
4726-X	U.S. Department of Energy, Washington, DC.	4726
4884-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	4884
5038-X	National Welders, Charlotte, NC.	5038
6016-X	Guttman Welding Supply Company, Belle Vernon, PA.	6016
6267-X	Imperial Plastics, Evansville, IN.	6267
6349-X	National Welders, Charlotte, NC.	6349
6543-X	National Welders, Charlotte, NC.	6543
6557-X	General Fire Extinguisher Corporation, Northbrook, IL.	6557
6614-X	Jones Chemicals, Incorporated, Caledonia, NY.	6614
6614-X	GPS Industries, City of Industry, CA.	6614
6658-X	U.S. Department of Defense, Falls Church, Va.	6658
6752-X	3M Company, St. Paul, MN.	6752
6774-X	HR Textron, Inc., Pacoima, CA.	6774
7007-X	Allied Universal Corporation, Miami, FL.	7007
7252-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	7252
7286-X	Liquid Carbonic Corporation, Chicago, IL.	7286
7735-X	Rheem Manufacturing Company, Linden, NJ.	7735
7835-X	Liquid Air Corporation, Walnut Creek, CA.	7835
7835-X	Matheson Gas Products, Inc., Secaucus, NJ.	7835
7835-X	AGA Burdox, Inc., Cleveland, OH.	7835
7835-X	Airco, The Boc Group, Inc., Murray Hill, NJ (See Footnote 1).	7835
7835-X	Union Carbide Corporation, Danbury, CT.	7835
7835-X	Liquid Carbonic Corporation, Chicago, IL.	7835
7835-X	National Welders, Charlotte, NC.	7835
7835-X	Air Products and Chemicals, Inc., Allentown, PA.	7835
8080-X	America Chrome & Chemicals, Inc., Corpus Christi, TX.	8080
8208-X	Jet Propulsion Laboratory, Pasadena, CA.	8208
8228-X	U.S. Department of Treasury, Washington, DC.	8228
8388-X	B.W. Norton Manufacturing Company, Inc., Oakland, CA (See Footnote 2).	8388
8396-X	Catalyst Resources, Inc., Elyria, OH (See Footnote 3).	8396
8396-X	Catalyst Resources, Inc., Elyria, OH (See Footnote 4).	8396
8407-X	Occidental Chemical Corporation, Niagara Falls, NY.	8407
8519-X	Hoegh-Ugland Auto Liners A/S, Oslo, Norway.	8519
8522-X	Tuscarora Plastics, Inc., Sterling, VA (See Footnote 5).	8522
8540-X	U.S. Department of the Army, Falls Church, VA.	8540
8554-X	E.I. du Pont de Nemours Co., Inc., Wlimington, DE (See Footnote 6).	8554
8554-X	Evenson Explosives, Inc., Morris, IL.	8554
8571-X	EM Science, Cincinnati, OH.	8571
8621-X	Atlantic & Gulf Stevedores, Gulfport, MS.	8621
8751-X	Delta Tech Service, Inc., Martinez, CA.	8751
8864-X	Miller Transporters, Inc., Jackson, MS.	8864
8901-X	Soweco, Inc., Amarillo, TX.	8901
8930-X	General Aviation, Inc., Greenville, TN.	8930

Application No.	Applicant	Renewal of exemption
8932-X....	Catalyst Resources, Inc., Elyria, OH (See Footnote 7).	8932
8932-X....	Catalyst Resources, Inc., Elyria, OH (See Footnote 8).	8932
8936-X....	Great Lakes Chemical Corporation, El Dorado, AR.	8936
8938-X....	Cryogenic Services, Inc., Canton, GA.	8938
8971-X....	NL McCullough/NL Industries, Inc., Houston, TX.	8971
8978-X....	Battery Engineering Inc., Hyde Park, MA.	8978
8983-X....	Universal Propulsion Company, Inc., Phoenix, AZ.	8983
9017-X....	Mobay Corporation, Pittsburgh, PA.	9017
9034-X....	Airco—The BOC Group, Inc., Murray Hill, NJ.	9034
9130-X....	Hydrotech Chemical Corporation, Marietta, GA (See Footnote 9).	9130
9254-X....	Speer Products, Incorporated, Memphis, TN.	9254
9280-X....	General Electric Company, Waterford, NY.	9280
9341-X....	Essex Environmental Industries, Inc., Hurst, TX (See Footnote 10).	9341
9341-X....	Essex Environmental Industries, Inc., Hurst, TX.	9341
9347-X....	Boondock International, Inc., Houston, TX (See Footnote 11.	9347
9371-X....	Ronson Aviation Incorporated, Trenton, NJ.	9371
9387-X....	Technical Products Corporation, Portsmouth, VA.	9387
9428-X....	CGTX, Inc., Montreal, Quebec, Canada.	9428
9443-X....	Hercules Incorporated, Wilmington, DE.	9443
9603-X....	Tennessee Eastman Company, Kingsport, TN.	9603
9678-X....	Rossborough Manufacturing Company, Avon Lake, OH.	9678
9683-X....	Meter Engineers, Inc., Wichita, KS.	9683

[1] To renew and to authorize a pallet truck and trailer configuration as additional transport vehicle for cylinders.

[2] To authorize an alternate cover design for polyethylene containers for shipment of certain corrosive and flammable liquids, n.o.s.

[3] To authorize an alternate type MC-307 cargo tank for shipment of organic peroxide solution, n.o.s.

[4] To authorize those organic peroxide solutions which have previously been approved to be shipped in various compatible combinations.

[5] Request authorization to modify polystyrene case by increasing thickness; incorporate a third strap etc., for shipment of commodities authorized in DOT Specification 33A.

[6] To authorize shipment of certain Class B explosives, blasting agents or oxidizers in DOT-MC-306, MC-307 and MC-312 cargo tanks without internal self closing shutoff valves on the bottom outlet.

[7] To authorize an alternate type MC-307 cargo tank for Shipment of organic peroxide solution, n.o.s.

[8] To authorize those organic peroxide solutions which have previously been approved to be shipped in various compatible combinations.

[9] To authorize two additional packaging configuration for shipment of an oxidizer.

[10] To modify exemption to provide for an additional polyethylene salvage drum design.

[11] To renew and to authorize an additional size cylinder for shipment of certain flammable or nonflammable gases.

Application No.	Applicant	Parties to exemption
4453-P....	Woodard Explosives, Inc., Albuquerque, NM.	4453
6418-P....	Quincy Farm Chemicals, Inc., Quincy, WA.	6418
6418-P....	J.R. Simplot Company, Pocatello, ID.	6418
6418-P....	The McGregor Company, Eltopia, WA.	6418
6418-P....	Nexus Ag. Chemicals, Inc., Quincy, WA.	6418
6418-P....	Cenex/Land O'Lakes AG Services, Vancouver, WA.	6418
6418-P....	Basin Fumigation, Quincy, WA.	6418
6557-P....	U.S. Department of Defense, Falls Church, VA.	6557
6658-P....	The Ensign-Bickkford Company, Simsbury, CT.	6658
7052-P....	FABRIKA Ni-Cd BATERIJA "TREPCA", Gnjilane, Yugoslavia.	7052
7052-P....	American Meter Company, Philadelphia, PA.	7052
7607-P....	SRW Associates Inc., Pittsburg, PA.	7607
7876-P....	Hi-Pure Chemicals, Inc., Nazareth, PA.	7876
7991-P....	CSX Transportation, Inc., Jacksonville, FL.	7991
8214-P....	Breed Automotive Corporation, Boonton Township, NJ.	8214
8451-P....	Morton Thiokol, Inc., Brigham City, UT.	8451
8748-P....	GE/Reuter-Stokes, Inc., Twinsburg, OH.	8748
8966-P....	GPS Industries, City of Industry, CA.	8966
9467-P....	Electric Transport, Inc., Reading, PA.	9467
9549-P....	Dresser Atlas, Houston, TX [1].	9549
9571-P....	U.S. Department of Defense, Falls Church, VA.	9571
9610-P....	Honeywell Inc., New Brighton, MN.	9610

[1] To authorize party status and to provide for an optional type packaging for shipment of oil well cartridges.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 9, 1987.

J. Suzanne Hedgepeth,

Chief Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-5568 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administraton, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart D), notice is hereby given of the exemptions granted in December 1987. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor Vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479-X	DOT-E 1479	Allied Chemical, Morristown, NJ	49 CFR 172.101, 173.318, 178.338	To revise and update exemption to include additional driver qualifications requirements; change placard I.D. (Mode 1.)
1479-X	DOT-E 1479	United States Department of the Army, Falls Church, VA.	49 CFR 172.101, 173.318, 176.338	To change proper shipping name to Fluorine, refrigerated liquid. (Mode 1.)
2709-X	DOT-E 2709	Hercules, Incorporated, Wilmington, DE.	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S or 6D/2S metal drum/polyethylene containers or non-DOT specification drums, for shipmnent of Class A and B explosive liquids. (Mode 1.)
2709-X	DOT-E 2709	Atlas Powder Company, Dallas, TX	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S or 6D/2S metal drum/polyethylene containers or non-DOT specification drums, for shipment of Class A and B explosive liquids. (Mode 1.)
2709-X	DOT-E 2709	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.52, 173.93, 177.821, 117.834(L)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S or 6D/2S metal drum/polyethylene containers or non-DOT specification drums, for shipment of Class A and B explosive liquids. (Mode 1.)
2709-X	DOT-E 2709	Trojan Corporation, Salt Lake City, UT.	49 CFR 173.52, 173.93, 177.821, 177.8324(L)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S or 6D/2S metal drum/polyethylene containers or non-DOT specification drums, for shipment of Class A and B explosive liquids. (Mode 1.)
3095-X	DOT-E 3095	Dowell Schlumberger, Inc., Tulsa, OK	49 CFR 173.119(a), 173.245(a) 173.248(a), 173.263(a), 173.264, 173.283, 173.289, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank, for shipment of certain hazardous materials. (Modes 1, 3.)
3095-X	DOT-E 3095	Dow Chemical Company, Midland, MI	49 CFR 173.119(a) 173.245(a), 173.248(a), 173.263(a), 173.264, 173.283, 173.289, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank, for shipment of certain hazardous materials. (Modes 1, 3.)
3498-X	DOT-E 3498	U.S. Department of Defense, Falls Church, VA.	49 CFR 146.02-22, 146.09, 146.29-100, 146.29-43, 176.3, Part 107, Subpart B, Part 176, Subpart B, Part 177, Parts 172, Parts 174, Subpart C, D, F, H, Subpart I, J, L, M, Subpart N, O.	To authorize transport of vehicles loaded with military explosives classed as explosives A, B or C and other hazardous materials essential for military operations. (Modes 1, 2, 3.)
3630-X	DOT-E 3630	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 177.839(a), 117.830(b)	To authorize use of a DOT Specification 33A polystyrene case to contain four 5-pint glass bottles of nitric acid. (Mode 1.)
4242-X	DOT-E 4242	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.134, 173.87	To authorize use of a non-DOT specification aluminum pressure vessel, for transportation of certain pyroforic mixture. (Mode 1.)
4453-X	DOT-E 4453	Buckley Powder Company, Englewood, CO.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3.)
4453-P	DOT-E 4453	Wood Explosives, Inc., Styostown, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3.)
4698-X	DOT-E 4698	United Technologies Automotive Group, Howe, IN.	49 CFR 173.302(a)(1), 175.3	To authorize use of non-DOT specification hydraulic accumulators, for shipment of a certain nonflammable compressed gas. (Modes 1, 2, 3, 4.)
5022-X	DOT-E 5022	Morton Thiokol, Incorporated, Elkton, MD.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipments of certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
5022-X	DOT-E 5022	Aerojet General Corporation, Sacramento, CA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipment of certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
5022-X	DOT-E 5022	U.S. Department of Defense, Falls Church, VA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipment of certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
5022-X	DOT-E 5022	Boeing Aerospace Company, Seattle, WA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipment of certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
5248-X	DOT-E 5248	Rockwell International Corporation, Anaheim, CA.	49 CFR 173.431(a), 175.3	To authorize shipment of a certain quantity of polonium-210 in any DOT Specification approved outer Type A packaging. (Modes 1, 2, 4.)
5557-X	DOT-E 5557	U.S., Department of Energy, Washington, DC.	49 CFR Part 173, Subpart C	To authorize use of non-DOT specification containers, for shipment of certain explosives, and gross weight exceeding prescribed limits. (Mode 1.)
5600-X	DOT-E 5600	Amoco Oil Company, Whiting, IN	49 CFR 175.3, Part 173, Subparts D, Subpart F, G.	To renew and to authorize an additional manufacture of cylinder parts. (Modes 1, 2, 4.)
6071-X	DOT-E 6071	Walter Kidde, Wilson, NC	49 CFR 173.304, 173.305, 175.3	To authorize use of non-DOT specification pressure vessels, for transportation of nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6267-X	DOT-E 6267	Coastal Industries, Incorporated, Carlstadt, NJ.	49 CFR 173.154, 173.217(a)	To authorize use of DOT Specification 12B corrugated fiberboard boxes with inside polyethylene bottles and non-DOT specification double-faced fiberboard boxes, for transportation of certain oxidizing materials. (Modes 1, 2, 3.)
6267-X	DOT-E 6267	Alden Leeds, Inc., South Kearny, NJ	49 CFR 173.154, 173.217(a)	To authorize use of DOT Specification 12B corrugated fiberboard boxes with inside polyethylene bottles and non-DOT specification double-faced fiberboard boxes, for transportation of certain oxidizing materials. (Modes 1, 2, 3.)
6267-P	DOT-E 6267	Chem-Tab Chemical Corporation, Carson, CA.	49 CFR 173.154, 173.217(a)	To become a party to Exemption 6267. (Modes 1, 2, 3.)
6443-X	DOT-E 6443	Montana Sulphur & Chemical Company, Billings, MT.	49 CFR 173.315(a)(1)	To authorize use of DOT Specification MC-331 insulated cargo tanks not presently authorized, for transportation of a flammable gas. (Mode 1.)
6472-X	DOT-E 6472	Morton Thiokol, Incorporated, Ogden, UT.	49 CFR 173.91	To authorize use of non-DOT specification polystyrene containers, for transportation of certain Class B explosives. (Modes 1, 2, 3.)
6583-X	DOT-E 6583	Phillips Petroleum Company, Bartlesville, OK.	49 CFR 173.249(a)(7)	To authorize shipment of a corrosive material in a DOT Specification 51 portable tank. (Mode 1.)
6626-X	DOT-E 6626	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To authorize use of DOT specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA, for shipment of certain compressed gases. (Modes 1, 2, 3, 4, 5.)
6626-P	DOT-E 6626	Messer Griesheim Industries, Inc., Valley Forge, PA.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To become a party to Exemption 6626. (Modes 1, 2, 3, 4, 5.)
6686-X	DOT-E 6686	Chilton Metal Products Division, Chilton, WI.	49 CFR 173.304, 178.65	To authorize use of a modified DOT Specification 39 steel cylinder, for transportation of a certain flammable gas. (Modes 1, 2.)
6762-X	DOT-E 6762	Texo Corporation, Cincinnati, OH	49 CFR 173.286(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic boxes overpacked in fiber board boxes. (Modes 1, 2, 3, 4.)
6773-X	DOT-E 6773	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.314(c)	To authorize shipment of a flammable compressed gas, in a DOT Specification 105A600W tank car. (Mode 2.)
6922-X	DOT-E 6922	General Electric Company, Waterford, NY.	49 CFR 173.314(c), 179.300-15	To authorize use of a DOT Specification 106A500-X multi-unit tank car tank, for shipment of certain compressed gases. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7026-X	DOT-E 7026	Walter Kidde, Wilson, NC	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize manufacture, marking and sale of a non-DOT specification welded steel pressure vessel for transportation of a compressed gas. (Modes 1, 2, 4, 5.)
7046-X	DOT-E 7046	J. T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.269, 178.340-5(c)	To authorize use of modified DOT Specification MC-312 glass lined cargo tanks, for transportation of certain corrosive liquids and a certain oxidizer. (Modes 1, 3.)
7601-X	DOT-E 7601	Atlantic Research Corporation, Gainesville, VA.	49 CFR 173.53(e), 173.62	To authorize shipment of densensitized nitroglycerin in non-DOT specification inside containers. (Mode 1.)
7625-X	DOT-E 7625	Hydrite Chemical Company, Milwaukee, WI.	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To authorize transport of certain hazardous material in DOT Specification 56 portable tanks. (Mode 1.)
7765-X	DOT-E 7765	Moog, Inc., Tampa, FL	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of nonrefillable, non-DOT specification pressure vessels, for transportation or compressed gases. (Modes 1, 2, 4.)
7767-X	DOT-E 7767	Walter Kidde, Wilson, NC	49 CFR 173.304(a)(1), 175.3, 1,78.47	To authorize manufacture, marking and sale of non-DOT specification welded Steel cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 5.)
7774-X	DOT-E 7774	Pipe Recovery Systems, Incorporated, Houston, TX.	49 CFR 173.246, 175.3	To authorize shipment of bromine trifluoride in non-DOT specification cylinders. (Modes 1, 2, 4.)
7808-X	DOT-E 7808	Whitmire Research Laboratories, Inc., Saint Louis, MO.	49 CFR 173.304, 175.3, 178.33a	To authorize shipment of insecticides and liquefied gas mixtures, in inside nonrefillable aluminum containers comparable to DOT Specification 2Q cylinders equipped with integral pressure relief system. (Modes 1, 2, 3, 4.)
7808-X	DOT-E 7808	Cline-Buckner, Inc., Artesia, CA	49 CFR 173.304, 175.3, 178.33a	To authorize shipment of insecticides and liquefied gas mixtures, in inside nonrefillable aluminum containers comparable to DOT Specification 2Q cylinders equipped with integral pressure relief system. (Modes 1, 2, 3, 4.)
7834-X	DOT-E 7834	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.306(b)(4), 175.3	To authorize transport of nonliquefied sulfur hexafluoride in certain X-ray machines, overpacked in strong wooden or fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7876-X	DOT-E 7876	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.299(a), 175.3	To authorize shipping description etching acid, liquid, n.o.s. to be used for products which do not comply with the definition in 49 CFR 173.229(a). (Modes 1, 2, 3, 4.)
7943-X	DOT-E 7943	Willard Products, Redwood City, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in one or two one-gallon polyethylene containers packed in fiberboard boxes, complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7943-X	DOT-E 7943	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272 (i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in one or two one-gallon polyethylene containers packed in fiberboard boxes, complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
8063-X	DOT-E 8063	Taylor-Wharton, Division of Harsco Corporation, Indianapolis, IN.	49 CFR 173.304(a)	To authorize use of a vacuum insulated DOT Specification 4L welded cylinder, for transportation of certain nonflammable gases. (Mode 1.)
8086-X	DOT-E 8086	Boeing Aerospace Company, Seattle, WA.	49 CFR 172.101, 172.102, 172.301, 173.118(b), 173.119, 173.206, 173.87.	To authorize transport of a cruise missile containing hazardous materials, packed in a wooden box. (Mode 1.)
8086-X	DOT-E 8086	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 172.102, 172.301, 173.118(b), 173.119, 173.206, 173.87.	To authorize transport of a cruise missile containing hazardous materials, packed in a wooden box. (Mode 1.)
8099-X	DOT-E 8099	Union Carbide Corporation, Danbury, CT.	49 CFR 173.365(a)(15)	To authorize additional packaging configuration identical to that presently authorized except for a larger capacity for shipment of certain poison B solids, n.o.s. (Modes 1, 2, 3.)
8126-P	DOT-E 8126	Compagnie des Containers Reservoirs, Paris, Frane.	49 CFR 173.123, 173.315, 174.63(b)	To become a party to Exemption 8126. (Modes 1, 2, 3.)
8127-X	DOT-E 8127	Israel Military Industries, Washington, DC.	49 CFR 171.12(d), 173.127, 173.184, 178.224.	To authorize use of a non-DOT specification fiberboard drum, for shipment of wet nitrocellulose. (Modes 1, 2, 3.)
8439-X	DOT-E 8439	Walter Kidde, Wilson, NC	49 CFR 173.302, 173.304, 175.3, 178.53	To authorize manufacture, marking and sale of non-DOT specification cylinders complying with DOT Specification 4DS, with certain exceptions, for shipment of various nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8445-P	DOT-E 8445	Special Waste Systems, Inc., Detroit, MI.	49 CFR Part 173, Subpart D, E, F, H	To become a party to Exemption 8445. (Mode 1.)
8445-P	DOT-E 8445	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	49 CFR Part 173, Subpart D, E, F, H	To become a party to Exemption 8441. (Modes 1.)
8451-P	DOT-E 8451	GOEX, Inc., Cleburne, TX	49 CFR 173.65, 173.86(e), 175.3	To become a party to Exemption 8445. (Mode 1, 2, 4.)
8526-P	DOT-E 8526	BE-Mac Transport Company, Inc., St. Louis, MO.	49 CFR 177.834(L)(2)(i)	To become a party to Exemption 8526. (Mode 1.)
8526-P	DOT-E 8526	Motor Express, Inc. of Indiana Chicago, IL.	49 CFR 177.834(L)(2)(i)	To become a party to Exemption 8526. (Mode 1.)
8554-X	DOT-E 8554	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307, and MC-312 cargo tank. (Mode 1.)
8554-X	DOT-E 8554	THR Corporation, Pennsuco, FL	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (Mode 1.)
8693-P	DOT-E 8693	Sunohio Company, Canton, OH	49 CFR 173.230	To become a party to Exemption 8693. (Modes 1, 3.)
8865-X	DOT-E 8865	Moog, Inc., East Aurora, NY	49 CFR 173.302(a), 175.3	To authorize use of nonrefillable, non-DOT specification cylinders, for transportation of a nonflammable gas. (Modes 1, 2, 4.)
8877-X	DOT-E 8877	Union Carbide Corporation, Danbury, CT.	49 CFR 173.119, 173.245	To authorize shipment of certain materials described as flammable liquid, corrosive, n.o.s. (corrosive to skin only) and corrosive liquids, n.o.s. in DOT-12B65, 12A65 and 12A80 fiberboard boxes with inside glass bottles having a capacity not to exceed one gallon. (Modes 1, 2, 3.)
8877-X	DOT-E 8877	KTI Chemicals, Incorporated, Danbury, CT.	49 CFR 173.119, 173.245	To authorize shipment of certain materials described as flammable liquid, corrosive, n.o.s. (corrosive to skin only) and corrosive liquids, n.o.s. in DOT-12B65, 12A65 and 12A80 fiberboard boxes with inside glass bottles having a capacity not to exceed one gallon. (Modes 1, 2, 3.)
8877-X	DOT-E 8877	American Hoechst Corporation, Somerville, NJ.	49 CFR 173.119, 173.245	To authorize shipment of certain materials described as flammable liquid, corrosive, n.o.s. (corrosive to skin only) and corrosive liquids, n.o.s. in DOT-12A65, 12A65 and 12A80 fiberboard boxes with inside glass bottles having a capacity not to exceed one gallon. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8877-X	DOT-E 8877	SCM Specialty Chemicals, Gainesville, FL.	49 CFR 173.119, 173.245	To authorize shipment of certain materials described as flammable liquid, corrosive, n.o.s. (corrosive to skin only) and corrosive liquids, n.o.s. in DOT-12A65, 12A65 and 12A80 fiberboard boxes with inside glass bottles having a capacity not to exceed one gallon. (Modes 1, 2, 3.)
9023-P	DOT-E 9023	Chemical Industries of Northern Greece, S.A., Thessaloniki, Greece.	49 CFR 173.315, 178.245	To become a party to Exemption 9023. (Modes 1, 2, 3.)
9066-P	DOT-E 9066	Porsche Cars North America, Inc., Reno, NV.	49 CFR 173.154, 175.3	To become a party to Exemption 9066. (Modes 1, 2, 3, 4.)
9082-P	DOT-E 9082	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	49 CFR 173.365	To become a party to Exemption 9082. (Modes 1, 3.)
9108-P	DOT-E 9108	Atlas Powder Company, Dallas, TX	49 CFR 173.77	To become a party to Exemption 9108. (Mode 1.)
9176-X	DOT-E 9176	Minnesota Valley, Engineering, Inc., New Prague, MN.	49 CFR 173.304(a), 177.840(a)(1)	To authorize construction with all stainless steel exterior plumbing and add a new design pressure control valve. (Mode 1.)
9222-P	DOT-E 9222	First Piedmont Corporation, Chatham, VA.	49 CFR 173.154	To become a party to Exemption 9222. (Mode 1.)
9235-X	DOT-E 9235	Bennett Industries, Peotone, IL	49 CFR 178.116-6	To authorize manufacture, marking and sale of non-DOT specification steel drums of 24-gauge thickness and six-gallon capacity, to be used in place of 24 gauge, five-gallon capacity, DOT Specification 17E steel drums, for transportation of various hazardous materials. (Modes 1, 2, 3.)
9256-P	DOT-E 9256	U.S. Department of Energy, Washington, DC.	49 CFR 146.20-13, 173.86, 175.30, Part 107, Subpart B.	To become a party to Exemption 9256. (Modes 1, 2, 3, 4.)
9271-X	DOT-E 9271	Union Pacific Railroad Company, Omaha, NE.	49 CFR 174.90	To authorize deviation from car separation requirements, for transportation of Class A and B explosives. (Mode 2.)
9271-P	DOT-E 9271	CSX Transportation, Inc., Jacksonville, FL.	49 CFR 174.90	To become a party to Exemption 9271. (Mode 2.)
9271-X	DOT-E 9271	Missouri Pacific Railroad Company, Omaha, NE.	49 CFR 174.90	To authorize deviation from car separation requirements, for transportation of Class A and B explosives. (Mode 2.)
9275-P	DOT-E 9275	Max Factor & Company & Halston Fragrances, Oxford, NC.	49 CFR Parts 100-199	To become a party to Exemption 9275. (Modes 1, 2, 3, 4, 5.)
9277-P	DOT-E 9277	Rhone-Poulenc, Inc., Monmouth, NJ	49 CFR 173.377(j)	To become a party to Exemption 9277. (Modes 1, 2.)
9281-P	DOT-E 9281	A-Z International Tool Company, Houston, TX.	49 CFR 172.101, 173.100, 175.3	To become a party to Exemption 9281. (Modes 1, 2, 3, 4.)
9295-X	DOT-E 9295	Applied Companies, San Fernando, CA.	49 CFR 173.302(a)	To authorize manufacture, marking and sale of Non-DOT specification toroidal pressure vessel equivalent to a DOT Specification 39 cylinder, for transportation of nonflammable, nonliquefied gases. (Modes 1, 2, 4.)
9317-X	DOT-E 9317	Dow Chemical Company, Freeport, TX.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification skid mounted portable tanks to be transported on public highway within company property. (Mode 1.)
9319-X	DOT-E 9319	W.R. Grace & Company, Dearborn Division, Lake Zurich, IL.	49 CFR 173.245(a)(38)	To authorize DOT Specification 57 Type 304 or 316 stainless steel portable tanks, for water treatment compounds or boiler compounds, liquid that are not alkaline. (Modes 1, 2.)
9327-X	DOT-E 9327	Precision Measurement, Inc., Tulsa, OK.	49 CFR 173.119, 173.304, 173.315	To authorize manufacture, marking and sale of mechanical displacement meter provers mounted on a truck chassis or trailer, for shipment of flammable liquids and gases. (Mode 1.)
9329-X	DOT-E 9329	Dresser Atlas, Houston, TX	49 CFR 172.101 Column 6(b), 173.110, 173.80, 175.30.	To authorize transport of charged well casing jet perforating guns, classes as explosive A or explosive C. (Mode 4.)
9332-X	DOT-E 9332	Engelhard Corporation, Edison, NJ	49 CFR 172.101, 173.150, 175.3	To authorize transport of a solid explosive dissolved in an ammonia solution as a flammable solid, in DOT Specification 34 polyethylene containers or DOT Specification 2E polyethylene bottles, packed in DOT Specification 15A wooden boxes. (Modes 1, 2, 4.)
9354-X	DOT-E 9354	Companhia Nitro Quimica, Brasileira, Sao Paulo, Sp Brazil.	49 CFR 173.127	To authorize transport of alcohol-wet nitrocellulose in non-DOT specification fiber drums. (Modes 1, 2, 3.)
9374-X	DOT-E 9374	Poly Processing Company, Inc., Monroe, LA.	49 CFR 173.114a(h)(3), 173.119, 173.256, 173.266, 176.415, 176.83, 178.19, 178.353, Part 173, Subpart F.	To authorize shipment of 10% nitric acid solution, classed as oxidizer, in non-DOT specification polyethylene portable tanks. (Modes 1, 2, 3.)
9388-P	DOT-E 9388	Gulf Central Storage & Terminal Company, Tulsa, OK.	49 CFR 173.314(e)	To become a party to Exemption 9388. (Mode 2.)
9449-P	DOT-E 9449	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	49 CFR 172.101, 173.21, 173.315(i)(3), 173.346, 173.3a, 178.245.	To become a party to Exemption 9449. (Modes 1, 3.)
9466-P	DOT-E 9466	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	49 CFR 173.365(a)(6)	To become a party to Exemption 9466. (Modes 1, 2, 3.)
9467-P	DOT-E 9467	Red Star Express Lines of Auburn, Inc. Auburn, NY.	49 CFR 177.834(k)	To become a party to Exemption 9467. (Modes 1.)
9467-P	DOT-E 9467	ANR Freight System, Denver, CO	49 CFR 177.834(k)	To become a party to Exemption 9467. (Mode 1.)
9480-P	DOT-E 9480	Messer Griesheim Industries, Inc., Valley Forge, PA.	49 CFR 173.302(a)(5)	To become a party to Exemption 9480. (Modes 1, 2, 3, 4.)
9491-P	DOT-E 9491	Messer Griesheim Industries, Inc., Valley Forge, PA.	49 CFR 173.302, 173.304	To become a party to Exemption 9491. (Modes 1, 2, 3, 4, 5.)
9599-X	DOT-E 9599	Gibson Cryogenics, Inc., El Cajon, CA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h).	To provide for shipment of liquid oxygen and liquid nitrogen in non-DOT specification portable tanks. (Modes 1, 3.)
9610-P	DOT-E 9610	Remington Arms Company, Inc., Bridgeport, CT.	49 CFR 172.203 (a), (e), 172.204, 173.29 (a), (d), Part 107, Appendix B, Parts 171-189.	To become a party to Exemption 9610. (Modes 1, 2.)
9610-P	DOT-E 9610	Federal Cartridge Company, Anoka, MN.	49 CFR 172.203 (a), (e), 172.204, 173.29 (a), (d), Part 107, Appendix B, Parts 171-189.	To become a party to Exemption 9610. (Modes 1, 2.)
9626-P	DOT-E 9626	NL McCullough/NL Industries, Inc., Houston, TX.	49 CFR 177.834(k)	To become a party to Exemption 9626. (Mode 1.)
9678-X	DOT-E 9678	Rossborough Manufacturing Company, Avon Lake, OH.	49 CFR 173.154	To renew an exemption originally issued on an emergency basis to authorize shipment of magnesium and calcium salt mixtures classed as flammable solid, in dry bulk tank semi-trailer. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9642-N	DOT-E 9642	Allied Corporation, Morristown, NJ	49 CFR 173.245(a)	To authorize use of DOT Specification 106A500X and 110A500W multi-unit tank car tanks for a waste liquid mixture that is corrosive to skin only. (Modes 1, 2.)
9643-N	DOT-E 9643	Eastman Kodak Company, Rochester, NY.	49 CFR 172.300, 172.400, 177.848, Part 178.	To authorize transport of certain hazardous materials over 0.3 miles of public highway exempted fro DOT requirements for package marking, labeling, specification packaging and segregation. (Modes 1.)
9652-N	DOT-E 9652	Dresser Industries, Inc., Houston, TX	49 CFR 173.103, 173.66(e)(2), 175.3	To authorize transport of specially packaged detonators in DOT Specification 12B fiberboard boxes (Modes 1, 4, 5.)
9654-N	DOT-E 9654	Interox America, Houston, TX	49 CFR 173.266(a)(2), 178.109-6	To authorize shipment of hydrogen peroxide solution exceeding 52% concentration, in aluminum drums conforming to DOT Specification 44D except for rolling hoops. (Modes 1, 2, 3.)
9659-N	DOT-E 9659	Compositek Engineering Corporation, Buena Park, CA.	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinder, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
9671-N	DOT-E 9671	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.302(a)	To authorize transport of non-liquefied ethylene in DOT Specification 4BA240 cylinders. (Mode 1.)
9695-N	DOT-E 9695	Southern California Gas Company, Los Angeles, CA.	49 CFR 173.301(c)	To authorize transport of an ammonia solution in DOT Specification 4AA480 cylinders which were charged after the required retest date. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 5022-X	DOT-E 5022	United Technologies Corporation, San Jose, CA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, 177.834(L)(1).	To authorize shipment of certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
EE 9712-N	DOT-E 9712	Dow Chemical Company, Midland, MI	49 CFR 179.105-4(c)	To authorize transport of butadiene in a DOT Specification 105J400W tank car with a thermal protection system not authorized in accordance with 49 CFR. (Mode 2.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8522-X	General Chemical Corporation, Morristown, NJ.	49 CFR 177.839(a), 177.839(b), 178.150, Part 173 Subpart F.	To authorize manufacture, marking and sale of non-reusable expanded polystyrene cases similar to DOT Specification 33A, except that it will incorporate 6 cavities to contain not more than six 5-pint bottles, or 6 20-ounce bottles, for shipment of those commodities presently authorized in DOT-33A. (Modes 1, 2, 3.)
9669-N	Pesco, Inc., Mills, WY	49 CFR, 173.110(c)(1), 173.80(b), (c)	To ship charged well casing jet perforating guns with detonators and arrest device attached. (Modes 1, 3.)

Denials

9522-N—Request by Faber Industries S.P.A., Cividale, Italy to manufacture, mark and sell non-DOT specification cylinders patterned after DOT Specification 3T with exceptions for shipment of methane and natural gas denied January 29, 1987.

9587-N—Request by Dynatherm Corporation, Cockeysville, MD to authorize exemption from labeling and specification packaging requirements for Isothermal Furnace Liners containing small amounts of sodium or potassium metal denied January 27, 1987.

9641-N—Request by Ulrich Chemical, Inc., Indianapolis, IN to authorize shipment of nitric acid, 60–68% aqueous solutions, classed as an oxidizer, in stainless steel DOT Specification 57 portable tanks denied January 27, 1987.

9660-N—Request by Russell-Stanley West, Inc., City of Industries, CA to authorize shipment of aniline oil, classed as Poison B, in a DOT Specification 34 polyethylene drum they propose to manufacture, mark, and sell denied January 27, 1987.

Issued in Washington, DC, on March 10, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-5615 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

UMTA Sections 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: Public Law 99-500 signed into law by President Reagan on October 18, 1986, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** each time a grant is obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Chief, Resource Management Division, (202) 366-2053, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to Pub. L. 99-500, UMTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant No.	Grant amount	Date obligated
Regional Transportation District (Denver, Colorado)	CO-03-0032-01	$9,000,000	2/27/87

SECTION 9 GRANTS

Transit property	Grant No.	Grant amount	Date obligated
Tidewater Transportation District Commission (Norfolk, Virginia)	VA-90-X043	$9,570,577	2/27/87
City of Charlotte (Charlotte, North Carolina)	NC-90-X057	3,569,319	2/27/87
Pinellas Suncoast Transportation Authority (Clearwater, Florida)	FL-90-X072	2,387,732	2/27/87
Chattanooga Area Regional Transportation Authority (Chattanooga, Tennessee).	TN-90-X046	1,980,929	2/27/87
Fort Wayne Public Transit Corporation (Fort Wayne, Indiana)	IN-90-X083-01	1,120,000	3/04/87
Southwest Ohio Regional Transit Authority (Cincinnati, Ohio)	OH-90-X072	5,191,288	3/10/87
Southwest Ohio Regional Transit Authority (Cincinnati, Ohio)	OH-90-X059-02	4,950,048	3/10/87
Champaign-Urbana Mass Transit District (Urbana, Illinois)	IL-90-X083-01	759,387	2/09/87
Lane Transit District (Eugene, Oregon)	OR-90-X006-02	28,000	2/07/87

Ralph L. Stanley,

Administrator.

Issued on: March 10, 1987.

[Fr Doc. 87-5616 Filed 3-13-87; 8:45 am]

BILLING CODE 4910-57-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 50
Monday, March 16, 1987

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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, March 18, 1987, see times below.

LOCATION: Room 456, Westwood Towers, 5401 Westband Avenue, Bethesda, Md.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public—10:00 a.m.

1. FY '89 Planning Issue Topics

The Commission will consider Fiscal Year 1989 planning issue topics.

2. Field Plan Review

The Commission will consider the implementation plan for the Field reorganization.

Open to the Public—3:00 p.m.

3. General Policy Statement

The Commission will consider a proposed statement of General Policy concerning the structure and workings of the Commission staff and the flow of information within the Agency.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
March 12, 1987.

[FR Doc. 87–5718 Filed 3–13–87; 3:35 pm]
BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, March 19, 1987.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on various Compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
March 12, 1987.

[FR Doc. 87–5719 Filed 3–12–87; 3:35 pm]
BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 52 No. 44, FR 7062, Friday, March 6, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, March 16, 1987.

CHANGE IN THE MEETING:

The following item was postponed from the open portion of the meeting and will be rescheduled at a later date:

Proposed Compliance Manual, Section 630, Volume II, Unions

The following item has been added to the closed portion of the meeting:

Discussion of a Commissioner's Charge

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Date: March 11, 1987.

Cynthia C. Matthews,
Executive Officer.

This Notice Issued March 11, 1987.

[FR Doc. 87–5605 Filed 3–11–87; 4:36 pm]
BILLING CODE 6750–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time) Monday, March 23, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. Report on Commission Operations (Optional)
3. Amendment to Federal Sector Processing Regulations: Changing the Organizational Title of "Complaints Examiner" to "Administrative Judge"
4. Proposed Compliance Manual, Section 12, Involvement of the Legal Unit in the Administrative Process
5. Formal Opinion Letter Request from Congressman Claude Pepper Regarding Coverage Under ADEA for Appointed State Court Judges
6. Proposed Revision of 29 CFR 1601.13(a), "Filing: Deferrals to State and Local Agencies"

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Discussion on Federal request to appeal an agency decision

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: March 11, 1987.

Cynthia C. Matthews,
Executive Officer, Executive Secretariat.

This Notice Issued March 11, 1987.

[FR Doc. 87–5606 Filed 3–11–87; 1:36 pm]
BILLING CODE 6750–06–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 11, 1987.

TIME AND DATE: 10:00 a.m., Thursday, March 12, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

3. *Doug Connelly Sand & Gravel,* Docket No. WEST 86–196–M. (Issues include request for relief from default order).
4. *Patriot Coal Company,* Docket No. WEVA 86–400. (Issues include request for relief from default order).

It was determined by a unanimous vote of Commissioners that these items be included in the meeting and that no

earlier announcement of the addition was possible. 5 U.S.C. 552b(e)(1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–5667 Filed 3–12–87; 11:52 am]

BILLING CODE 6735–01–M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, March 19, 1987.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of scheduling weekly Commission meetings.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326–2179, Recorded Message: (202) 326–2711.

Emily H. Rock,

Secretary.

[FR Doc. 87–5722 Filed 3–12–87; 3:59 pm]

BILLING CODE 6750–01–M

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 7520, dated March 11, 1987.

Previously announced time and date of the meeting: 10:00 a.m., Tuesday, March 17, 1987.

Addition of agenda item for the meeting: 7. Inv. 731–TA–175 (Final) (Remand) (Cold-rolled carbon steel plates and sheets from Argentina).

In conformity with 19 CFR 201.37(b), Commissioners Liebeler, Brunsdale, Eckes, Lodwick, and Rohr determined that Commission business required the change in subject matter of the meeting on March 17, 1987 by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

Contact person for more information: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

March 11, 1987.

[FR Doc. 87–5752 Filed 3–13–87; 10:27 am]

BILLING CODE 7020–02–M

Corrections

Federal Register
Vol. 52, No. 50
Monday, March 16, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87E-0046]

Determination of Regulatory Review Period for Purposes of Patent Extension; Enkaid

Correction

In notice document 87-4740 beginning on page 7034 in the issue of Friday, March 6, 1987, make the following correction:

On page 7034, in the third column, in **SUPPLEMENTARY INFORMATION**, in the third line, the Public Law number should read "98-417".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86N-0438]

Dimetridazole; Opportunity for Hearing

Correction

In notice document 86-28203 beginning on page 45244 in the issue of Wednesday, December 17, 1986, and corrected on page 6425 in the issue of Tuesday, March 3, 1987, make the following additional corrections:

In the December 17th document, on page 45259, in the first column, in the first complete paragraph, in the fourth line from the bottom, the section citation should read "512(e)(1)(B)". In the second complete paragraph, in the ninth line, insert "of" after "evidence".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87D-0020]

Availability of List of Biopharmaceutic Guidances

Correction

In notice document 87-4448 appearing on page 6615 in the issue of Wednesday, March 4, 1987, in the "Address", in the sixth line, "prohibited" should read "published".

BILLING CODE 1505-01-D

federal register

Monday
March 16, 1987

Part II

Environmental Protection Agency

40 CFR Parts 117 and 302
Hazardous Substances; Reportable Quantity Adjustments; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 117 and 302

[SW H-FRL 3122-8]

Reportable Quantity Adjustments

AGENCY: U.S. Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: Sections 103(a) and 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, require that persons in charge of vessels or facilities from which a hazardous substance has been released in quantities that are equal to or greater than its reportable quantity (RQ) immediately notify the National Response Center of the release. Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound except those for which RQs were established pursuant to section 311(b)(4) of the Clean Water Act (CWA).

Section 102(a) authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to adjust RQs for hazardous substances and to designate as hazardous substances those substances which, when released into the environment, may present substantial danger to the public health or welfare or the environment. A final rule published on April 4, 1985 (50 FR 13456) adjusted reportable quantities for 340 hazardous substances. In a Notice of Proposed Rulemaking (NPRM) also published on April 4, 1985, the Agency proposed adjusted RQs for 105 additional hazardous substances (50 FR 13514). A final rule published on September 29, 1986 (51 FR 34534) finalized RQ adjustments for 102 of these 105 hazardous substances.[1] Currently, there are 717 CERCLA hazardous substances. Twelve of these substances were listed recently under section 3001 of the Resource Conservation and Recovery Act (RCRA) and adjusted RQs are proposed for these twelve substances in this rulemaking.[2] In today's rulemaking, EPA proposes adjusted RQs for 273 of the 275 remaining hazardous substances whose RQs were not adjusted by the April 4, 1985 final rule or the September 29, 1986 final rule.[3] By making these adjustments, the Agency will be able to focus its resources on those releases which are most likely to pose potential threats to public health, welfare and the environment. In addition, these adjustments will relieve the regulated community of the burden of reporting releases which are unlikely to pose such threats. The RQ adjustments proposed in this rulemaking will affect not only the statutory one-pound RQs under CERCLA, but also the RQs established pursuant to section 311(b)(4) of the CWA.

When there is a release of a hazardous substance in a quantity equal to or greater than its RQ as listed in 40 CFR 302.4, Table 302.4, as amended in the September 29, 1986 final rule (see 51 FR 34534, 34541), the person in charge of the vessel or facility must immediately notify the National Response Center. The toll-free number of the National Response Center is listed below under "Addresses."

DATES: Comments must be received on or before May 15, 1987.

ADDRESSES: The toll-free telephone number of the National Response Center is 1-800/424-8802; in the Washington, DC metropolitan area the number is 1-202/426-2675.

Comments: Comments should be submitted in triplicate to Emergency Response Division, Superfund Docket Clerk, Attention: Docket Number 102 RQ-273C, Superfund Docket Room LG-100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are contained in Room LG-100 at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket is available for inspection between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, excluding federal holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Senior Project Officer, Response Standards and Criteria Branch, Emergency Response Division (WH-548B), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or the RCRA/Superfund Hotline 1-800/424-9346; in the Washington, DC metropolitan area at 1-202/382-3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction
- A. Statutory Authority
- B. Background of this Rulemaking

II. Key Issues Not Addressed in this Rule
- A. Continuous Releases
- B. Federally Permitted Releases
- C. Radionuclide RQs

III. Reportable Quantity Adjustments
- A. Introduction
- B. Summary of the General Methodology Underlying the Reportable Quantity Adjustments
- C. Summary of the Methodology for Adjusting the RQs of Potential Carcinogens
  - 1. Identification Methodology
  - 2. Ranking Methodology
  - 3. Changes in Ranking Methodology
- D. Substances for Which Adjusted RQs are Proposed
  - 1. Individual Hazardous Substances
  - 2. Hazardous Waste Streams

IV. Reportable Quantity Adjustments Under Section 311 of the Clean Water Act

V. Summary of Supporting Analyses

I. Introduction

A. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), 42 U.S.C. 9601 et seq. (CERCLA or the Act), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (SARA), establishes broad federal authority to deal with releases or threats of releases of hazardous substances from vessels and facilities. Section 101(14) of CERCLA defines the term "hazardous substance" by reference to other environmental statutes. Currently, there are 717 CERCLA hazardous substances. The Administrator of the U.S. Environmental Protection Agency (EPA) may designate additional hazardous substances pursuant to section 102 of CERCLA.

Section 103 of the Act requires that the person in charge of a vessel or facility notify the National Response Center immediately when there is a release of a hazardous substance in an amount equal to or greater than the reportable quantity (RQ) for that substance.[4] Section 102(b) of CERCLA

[1] As noted in that final rule, the Agency decided to retain the statutory one-pound RQs for lead, pentachloroethane, and methyl chloride, pending analysis of their potential carcinogenicity. The RQ for lead will be adjusted in a future rulemaking. The RQs for methyl chloride and pentachloroethane are reproposed for adjustment in this rulemaking (for further discussion of these two proposed RQ adjustments, see Section III.D.1. of this preamble).

[2] The 12 recently listed substances for which adjusted RQs are proposed in this rule are: waste streams K111, K112, K113, K114, K115, and K116, o-toluidine and p-toluidine (50 FR 42936), waste streams K117, K118, and K136 (51 FR 5327), and 2-ethoxyethanol (51 FR 6537). See also note 5 below.

[3] Today's rule does not propose adjusted RQs for lead and methyl isocyanate. The statutory one-pound RQs for these two substances will be retained until adjusted in future rulemakings.

[4] A release into the environment of a substance which is not listed as a CERCLA hazardous substance but which rapidly forms a CERCLA hazardous substance upon release is subject to the notification requirements of section 103. If the amount of the hazardous substance formed as such

Continued

establishes RQs for releases of hazardous substances at one pound, except those for which RQs were established pursuant to section 311 of the Clean Water Act (CWA). Section 102(a) authorizes EPA to adjust all of these RQs by regulation.

A major purpose of the section 103 (a) and (b) notification requirement is to alert the appropriate government officials to releases of hazardous substances that may require a federal response action to protect public health and welfare and the environment. Under section 104 of CERCLA, the federal government may respond whenever there is a release or a substantial threat of a release into the environment of a hazardous substance. Response activities are to be taken, to the extent practicable, in accordance with the National Contingency Plan (NCP) (40 CFR 300), which was originally developed under the CWA and which has been revised to reflect the responsibilities and authority created by CERCLA. EPA emphasizes that a hazardous substance release notification is merely a trigger for informing the government of a release so that appropriate federal personnel can evaluate the need for a federal removal or remedial action and undertake any necessary action in a timely fashion. Federal personnel will evaluate all reported releases, but will not necessarily initiate a removal or remedial action in response to all reported releases, because the release of an RQ of a hazardous substance will not necessarily pose a hazard to public health or welfare or the environment. Government personnel will assess each reported release on a case-by-case basis to determine the appropriate action. In certain limited situations, when direct reporting to the National Response Center is not practicable, the person in charge may report to the nearest Coast Guard- or EPA-predesignated On-Scene Coordinator (OSC). If it is not possible to notify the National Response Center or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit, provided that the person in charge notifies the National Response Center as soon as possible (40 CFR 300.63(b) and 33 CFR 153.203).

Section 103(b) authorizes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed RQs. Section 109 of SARA amends section 103(b) of CERCLA, increasing the maximum penalties and years of imprisonment. Any person who, as soon as that person has knowledge of a reportable release, fails to report the release immediately pursuant to section 103(b) or who submits any information which he knows to be false or misleading, shall, upon conviction, be fined in accordance with the applicable provisions of Title 18, United States Code (not more than $250,000 or $500,000, depending upon whether the violator is an individual or an organization), or imprisoned for not more than three years (or not more than five years for second and subsequent convictions), or both. Notifications received under section 103(b) or information obtained by exploitation of such notifications cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement. Section 109 of SARA also provides for a system of administrative penalties for violations of CERCLA section 103(b), enforceable through civil proceedings.

B. Background of this Rulemaking

On May 25, 1983, EPA proposed a rule (48 FR 23552) to clarify procedures for reporting releases of CERCLA hazardous substances and to adjust RQs for 387 of the then 696 CERCLA hazardous substances.[5] The May 25, 1983 NPRM also compiled for the first time the list of "hazardous substances" defined under section 101(14) of CERCLA. The NPRM discussed in detail the CERCLA notification provisions (including the persons required to notify the National Response Center of a release, the hazardous substances for which notification is required, the types of releases subject to the notification requirements, and the exemptions from these requirements), the methodology and criteria used to adjust the RQ levels, and the RQ adjustments proposed under section 102 of CERCLA and under section 311 of the CWA. On April 4, 1985, EPA promulgated a final rule (50 FR 13456), that clarified reporting procedures and finalized RQ adjustments for 340 hazardous substances, including 21 waste streams.

The April 4, 1985 **Federal Register** also contained an NPRM proposing RQ adjustments for 105 additional CERCLA hazardous substances, including seven waste streams (50 FR 13514). On September 29, 1986, the Agency promulgated a rule (51 FR 34534) that finalized RQ adjustments for 102 of these 105 hazardous substances.

Today's NPRM proposes RQ adjustments for a total of 273 hazardous substances (including 78 waste streams). The RQ adjustments proposed in this rule would amend Table 302.4 of 40 CFR 302.4 and, consistent with 40 CFR 117.3, would apply not only to CERCLA RQs, but also to the RQs established for hazardous substances under section 311(b)(4) of the CWA.

Section II of this preamble discusses key issues relating to RQ adjustments and CERCLA notification requirements that are not addressed in this rulemaking. Section III discusses the RQ adjustments and the methodology used in making these adjustments, focusing in particular on the methodology for adjusting RQs based on potential carcinogenicity. Section IV addresses RQ adjustments under section 311 of the CWA. Section V provides a summary of the analyses supporting this proposed rule.

It is important to note that other provisions of CERCLA may apply even when the statute does not require notification. Therefore, nothing in this rulemaking should be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act. For example, unless specifically exempted under CERCLA, a party responsible for a release is liable for the costs of cleaning up that release and for any natural resource damages caused by the release, even if the release is not subject to the notification requirements of sections 103 (a) and (b). Similarly, proper reporting of a release in accordance with sections 103 (a) and (b) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is properly reported or that it is not subject to the notification requirements of sections 103 (a) and (b) will not preclude EPA or other government agencies from taking response actions under section 104, seeking reimbursement from responsible parties under section 107, or pursuing an enforcement action against responsible parties under section 106. Note also that this proposed rule does not affect hazardous substance reporting requirements imposed by other

a reaction product equals or exceeds the RQ for that substance, the release must be reported to the National Response Center.

[5] Since the May 25, 1983 NPRM, 21 additional substances have been listed under section 101(14): waste stream F024 under section 3001 of the Resource Conservation and Recovery Act (RCRA) (49 FR 5308); coke oven emissions under section 112 of the Clean Air Act (CAA) (49 FR 38560); waste streams F020, F021, F022, F023, F026, F027, and F028 under section 3001 of RCRA (50 FR1978); waste streams K111, K112, K113, K114, K115, and K116, o-toluidine and p-toluidine under section 3001 of RCRA (50 FR 42936); waste streams K117, K118, and K136 under section 3001 of RCRA (51 FR 5327); and 2-ethoxyethanol under section 3001 of RCRA (51 FR 6537).

regulations and statutes (except the CWA—see Section IV below).

Neither today's NPRM, the September 29, 1986 final rule, nor the April 4, 1985 final rule addresses the designation under section 102(a) of hazardous substances which are not designated under other statutes listed in CERCLA section 101(14). The Agency has conducted several preliminary economic and technical analyses on this subject, and an Advance Notice of Proposed Rulemaking (ANPRM) (48 FR 23602), published on May 25, 1983, invited public comment. Section 302 of the recently enacted SARA legislation requires EPA to publish a list of extremely hazardous substances. On November 17, 1986, the Agency published this list (51 FR 41570). Because some of the substances on this recently published list are not CERCLA hazardous substances, EPA has decided to initiate a proposed rulemaking under section 102 of CERCLA to designate these extremely hazardous substances as CERCLA hazardous substances, both to better protect public health, welfare, and the environment, and to promote regulatory consistency.

II. Key Issues Not Addressed in This Rule

A. Continuous Releases

Under sections 103 (a) and (b) of CERCLA, no distinction is made between episodic and continuous releases. Section 103 (f)(2), however, sets forth a reduced reporting requirement for certain releases of hazardous substances. Releases may be reported less frequently than under sections 103 (a) and (b) if they are "continuous," "stable in quantity and rate," and notification has been given under sections 103 (a) and (b) "for a period sufficient to establish the continuity, quantity, and regularity" of the release. Notification must still be given "annually, or at such time as there is any statistically significant increase" in the quantity of the hazardous substance being released. Thus, instead of reporting every release as it occurs, certain continuous releases may be reported less often.

In the May 25, 1983 proposal, EPA noted that enforcement efforts would be focused on episodic rather than continuous releases. The Agency presented alternative interpretations of which releases could be included within the continuous release definition, and discussed an ongoing (e.g., annual) notification scheme for releases initially determined to be within the definition.

The Agency received more than 40 comments in response to the discussion of continuous releases in the May 25, 1983 NPRM. At the present time, EPA is in the process of developing continuous release reporting regulations to clarify this reduced reporting requirement.

B. Federally Permitted Releases

One of the exemptions from section 103 reporting requirements is for "federally permitted releases." The definition of "federally permitted release" in CERCLA section 101(10) specifically identifies releases permitted under certain other state or federal programs.

In the May 25, 1983 NPRM, EPA explained its interpretation of each type of release exempted by the definition of "federally permitted release." The Agency received many comments on the scope of the federally permitted release exemption, most of which urged a broad interpretation of one or more of the federally permitted releases. Due to the complexity of the issues involved, the Agency decided to examine further the scope of the federally permitted release exemption. Currently, the Agency is developing a rule clarifying the definition of "federally permitted releases."

C. Radionuclide RQs

Radionuclides are hazardous substances under CERCLA because they are designated as a hazardous air pollutant under section 112 of the Clean Air Act (CAA). In the preambles to the May 25, 1983 NPRM and the April 4, 1985 final rule, the Agency recognized that the statutory RQ of one pound may not be appropriate for radionuclides, but deferred regulatory action to adjust this RQ until the Agency's analysis of radionuclides was completed. The statutory one-pound RQ for radionuclides is proposed for adjustment in a separate NPRM in today's **Federal Register**.

III. Reportable Quantity Adjustments

A. Introduction

Section 102(b) of CERCLA establishes RQs for releases of hazardous substances at one pound unless other RQs were established under section 311 of the CWA. For these latter substances, section 102(b) adopts the established CWA RQs. This rulemaking proposes adjustments to the statutory RQs based upon specific scientific and technical criteria that relate to the possibility of harm from the release of a hazardous substance in an RQ. These proposed RQs, therefore, when finally adjusted, will enable the Agency to focus its resources on those releases which are most likely to pose potential threats to public health and welfare and the environment. Such RQ adjustments will also relieve the regulated community and emergency response personnel from the burden of making and responding to reports of releases which are unlikely to pose such threats.

This NPRM proposes adjusted RQs for 273 of the 275 hazardous substances not assigned adjusted RQs by either the April 4, 1985 final rule or the September 29, 1986 final rule. These 273 hazardous substances have been evaluated for potential carcinogenicity and/or chronic toxicity, and the proposed RQ adjustments are based on the results of these evaluations. RQs are also proposed for six of the constituents used to determine the RCRA characteristic of extraction procedure (EP) toxicity.[6]

The primary purpose of notification is to ensure that persons in charge notify the federal government so that federal personnel can assess the need to respond to the release. The different RQ levels do not reflect a determination that a release of a CERCLA substance will be hazardous at the RQ level and not hazardous below that level. EPA has not made such a determination because the Agency has found that the actual hazard will vary with the unique circumstances of the release, and extensive scientific data and analysis would be necessary to determine the hazard presented by each substance under a number of possible circumstances. Instead, the RQs are designed to be a trigger for notification and reflect the Agency's judgment that the federal government should be notified of certain releases to which a federal response might be necessary. The RQs represent a determination only of possible or potential harm, not that releases of a particular amount of a hazardous substance necessarily will be harmful to public health or welfare or the environment.

Many considerations aside from the quantity released affect the government's decision concerning whether and how it should undertake a response action pursuant to the NCP with respect to a particular release. The location of the release, its proximity to drinking water supplies or other valuable resources, the likelihood of exposure or injury to nearby populations, response actions taken by responsible parties, and other factors must be assessed by the federal OSC on a case-by-case basis. The reporting requirement enables the federal

[6] For a discussion of these six constituents, including their proposed RQs, see Section III.D.2. of this preamble.

government to learn when such assessments should be made.

Because the CERCLA RQ adjustment methodology is broader than that used pursuant to section 311 of the CWA, some of the RQs proposed today are not the same as those initially promulgated under the CWA. The April 4, 1985 final rule (50 FR 13456), amended 40 CFR 117.3 to make RQs adjusted under CERCLA the applicable RQs for purposes of CWA section 311. Thus, when finalized, today's proposed RQ adjustments will apply to both CERCLA and the applicable CWA RQs. A person in charge need not report a single release twice in order to satisfy CERCLA and CWA reporting requirements; one report to the National Response Center suffices.

B. Summary of the General Methodology Underlying the Reportable Quantity Adjustments

The Agency has wide discretion in adjusting the statutory RQs for hazardous substances under CERCLA.[7] Administrative feasibility and practicality are important considerations. The Agency's selected methodology for adjusting RQs begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each hazardous substance. The intrinsic properties examined—called "primary criteria"—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity.

The Agency ranks each intrinsic property (except potential carcinogenicity) on a five-tier scale, associating a specific range of values on each scale with a particular RQ value. This five-tier scale uses the five RQ levels of 1, 10, 100, 1000, and 5000 pounds, originally established pursuant to CWA section 311 (see 40 CFR Part 117 and 44 FR 50776). For hazardous substances evaluated for potential carcinogenicity, each substance is assigned a hazard ranking of "high," "medium," or "low." These hazard rankings correspond with RQ levels of 1, 10, and 100 pounds, respectively. Each substance receives several tentative RQ values based on its particular properties.[8] The lowest of all of the tentative RQs becomes the "primary criteria RQ" for that substance.

This proposed rule discusses the RQ adjustment methodology based on the primary criterion of potential carcinogenicity. For a more detailed discussion of the other five primary criteria, see the preamble to the May 25, 1983 NPRM (48 FR 23562–23565), the preamble to the April 4, 1985 final Rule (50 FR 13456, Section V.D.1), and the Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102, Volume 1, March 1985, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes. These natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). These processes tend to reduce the relative potential for harm to public health and welfare and the environment of many hazardous substance releases. Subject to the qualifications set forth below, if analysis indicates that an eligible hazardous substance degrades relatively rapidly to form a less harmful substance or compound through one or more of the BHP processes when it is released into the environment, the primary criteria RQ for that substance is raised one level on the basis of BHP. The single RQ assigned to each hazardous substance on the basis of the primary criteria and BHP becomes the adjusted RQ for the substance. Under no circumstances may the RQ for a substance be raised more than one level based on BHP. If hazardous substances have primary criteria RQs already at the maximum assignable level of 5000 pounds or are found to be bioaccumulative, environmentally persistent, highly reactive (or otherwise unusually hazardous), or degradable to more hazardous products, they are not eligible for a one-level RQ increase on the basis of BHP. In this rulemaking, the Agency has not adjusted RQs for potential carcinogens beyond 100 pounds based on BHP. The Agency, however, solicits comments with supporting data on whether BHP should be used as a basis for raising RQs for potential carcinogens beyond the 100-pound level.

For a more detailed discussion of the BHP criteria and their use in combination with the primary criteria, see the preamble to the May 25, 1983 NPRM (48 FR 23565), the preamble to the April 4, 1985 final rule adjusting reportable quantities (50 FR 13456, Sections V.C.1. and V.D.2.), and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG.100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

C. Summary of the Methodology for Adjusting the RQs of Potential Carcinogens

1. Identification Methodology

To identify those CERCLA hazardous substances that may be potential carcinogens, EPA reviewed four sources of human epidemiologic and/or animal bioassay data on hazardous substances that suggest possible carcinogenic effect. These sources are: (1) the Annual Reports on Carcinogens of the National Toxicology Program, U.S. Department of Health and Human Services (DHHS); (2) the Monographs of the International Agency for Research on Cancer (IARC); (3) final Agency determinations published in the **Federal Register** identifying substances as potential carcinogens; and (4) ongoing determinations by the Agency's Office of Health and Environmental Assessment that substances may be potential carcinogens, based on either published or unpublished data. The Agency compared the list of substances derived from these four sources with the list of the 717 CERCLA hazardous substances to determine which hazardous substances should be evaluated for potential carcinogenicity.

Sources 3 and 4 listed above have been recently added to supplement the Agency's screening criteria for identifying potential carcinogens. The Agency currently is in the process of screening for potential carcinogenicity the hazardous substances that received adjusted RQs in the April 4, 1985 final rule and the September 29, 1986 final rule. Any hazardous substance identified as a potential carcinogen as a result of this review will receive a ranking for potential carcinogenicity, as described below, and may have its RQ readjusted on that basis in a future rulemaking.

2. Ranking Methodology

The Agency's Carcinogen Assessment Group (CAG) has developed a method

[7] As Senate Report No. 848, 96th Congress, Second Session (1980) notes at page 29: "In determining reportable quantities under this paragraph [section 3(a)(2) of S. 1480], the President may consider any factors deemed relevant to administering the reporting requirements or the President's other responsibilities under this Act."

[8] If available evidence shows that a substance undergoes biodegradation, hydrolysis, or photolysis to form a more hazardous reaction product, the primary criteria are applied to the more hazardous product rather than to the original substance to determine the tentative RQ values for the original substance. For example, substances known to generate hydrofluoric acid, hydrogen sulfide, or phosphine upon hydrolysis are assigned primary criteria RQs on the basis of these more hazardous degradation products.

for ranking CERCLA hazardous substances for potential carcinogenicity. The CERCLA methodology for evaluating hazardous substances for potential carcinogenicity is set out for public comment for the first time in today's proposal. The weight-of-evidence portion of the CERCLA methodology was developed independently of this rulemaking, as part of the Agency's Proposed Guidelines for Carcinogen Risk Assessment (49 FR 46284, November 23, 1984).[9] The CERCLA methodology is not a risk assessment and it does not yield an absolute measure of harm. Rather, the methodology simply represents a means of sorting potentially carcinogenic substances into categories, which may then be equated to RQ levels.

The methodology for ranking potential carcinogens begins by reviewing available information in the scientific literature on each substance identified as a potential carcinogen. This information is then evaluated using a two-stage process. The first stage is a qualitative assessment of the likelihood that a particular hazardous substance is a human carcinogen. During this stage, the available data is evaluated using EPA's "weight-of-evidence" classification system, presented in the Agency's Guidelines for Carcinogen Risk Assessment. The second stage is a quantitative assessment designed to predict the relative strength of a hazardous substance to elicit a carcinogenic response ("potency factor"). The quantitative stage allows the Agency to rank potential carcinogens on a numerical scale by identifying the most potent substances as the most hazardous. The results of the qualitative and quantitative assessments are then combined to arrive at a "hazard ranking" for each hazardous substance evaluated for potential carcinogenicity. The CAG methodology for ranking potential carcinogens is discussed in more detail below.

During the qualitative assessment stage, the Agency evaluates the quality and reliability of the available data to determine the "weight of evidence" (or degree of certainty) that a particular hazardous substance is a human carcinogen. The data used are derived primarily from human epidemiology studies and animal bioassay studies, but supportive information such as mutagenicity and chemical structure also is considered. In this process, the degree of evidence in human and animal studies is evaluated separately and classified as "sufficient" evidence, "limited" evidence, "inadequate" evidence, "no data," or "no evidence." The guidelines used for the weight-of-evidence determination follow the Agency's Guidelines for Carcinogen Risk Assessment. These classifications are then combined with supportive evidence to arrive at an overall weight-of-evidence category (A, B1, B2, C, D, or E) representing the degree of certainty that a particular hazardous substance is a human carcinogen.

A hazardous substance is placed in Group A (known human carcinogen) only if "sufficient" evidence from human epidemiologic studies supports a causal connection between exposure to the hazardous substance and cancer. Group B (probable human carcinogen) includes hazardous substances for which the weight of evidence of human carcinogenicity based on epidemiologic studies is "limited," or for which the weight of evidence of carcinogenicity based on animal studies is "sufficient" (in the absence of sufficient human evidence). Group B is divided into two subgroups, B1 and B2. Where there is limited evidence of carcinogenicity from epidemiologic studies, a hazardous substance usually is placed in Group B1. Hazardous substances for which there is "sufficient" evidence from animal studies and "inadequate" evidence or "no data" from human epidemiologic studies usually are placed in Group B2. Because it is reasonable to treat hazardous substances for which there is sufficient evidence of carcinogenicity in animals as if they present a carcinogenic risk to humans, such substances are classified as probable human carcinogens (Group B). Group C (possible human carcinogen) includes hazardous substances with "limited" evidence of carcinogenicity in animals and "inadequate evidence" or "no data" from human epidemiologic studies. A hazardous substance is placed in Group D (not classifiable for human carcinogenicity) if there is "inadequate" human and animal evidence of carcinogenicity or no data are available. Group E (evidence of non-carcinogenicity for humans) includes hazardous substances that show no evidence of carcinogenicity in at least two animal tests in different species or in both human epidemiologic and animal studies. The designation of a Group E substance is based on the available evidence and should not be interpreted as a definitive conclusion that the substance will not elicit a carcinogenic response under any circumstances. Group D and E substances are not considered to be "potential carcinogens" for purposes of this proposed rulemaking (see note 11 below). No hazard ranking is made for these substances and other primary criteria are used to assign RQs.

During the quantitative stage, the Agency uses the available data to estimate the dose of a hazardous substance associated with a lifetime increased cancer risk of 10 percent (ED_{10}). The estimated dose is then used to calculate a potency factor (F), where F equals $1/ED_{10}$. The 10 percent lifetime risk is used because this risk level is within the experimental range and does not require additional extrapolation to estimate the carcinogenic response at extremely low doses. Details of the calculation of potency factors for specific hazardous substances evaluated for potential carcinogenicity may be found in the individual chemical profiles for each potential carcinogen. These chemical profiles are available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Based on the calculated potency factors, each potential carcinogen is ranked and then placed in one of three potency groups. Group 1 includes those hazardous substances with the highest potencies. Other potential carcinogens with medium and low potencies are placed in Groups 2 and 3, respectively.

Whenever available information allows EPA to quantify potency, a substance is placed in potency Group 1, 2, or 3. However, for certain potential carcinogens, there is either "sufficient" or "limited" evidence of carcinogenic effect, but the quantitative information is not adequate to allow the Agency to estimate a potency factor using the Agency's current methodology. There are two classes of such substances. First, if the best available data indicates that a substance may be a strong carcinogen (i.e., all animals exposed to *every* experimental dose developed tumors), the Agency will assign the substance to the highest potency group (Group 1). Second, if the best available data are inadequate for calculating a potency factor and allow no quantitative inferences to be made, the substance will be assigned to Group 2, as though it had a mid-range potency factor.[10] These

[9] The Final Guidelines for Carcinogen Risk Assessment were signed by the Administrator on August 22, 1986, and published in the **Federal Register** on September 24, 1986 (see 51 FR 33992). The weight-of-evidence methodology contained in the Proposed Guidelines was not changed in the Final Guidelines or in the CERCLA methodology described above.

[10] For similar reasons, asbestos is assigned to potency Group 2. Asbestos is a unique case because

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assigned potency factors enable the Agency to assign hazard rankings to these substances following the standard procedure of combining the weight-of-evidence group with the potency group, as described below.

The final step in the hazard ranking procedure is to combine the qualitative weight-of-evidence groups and the quantitative potency factor groups using a matrix to yield a relative hazard ranking for each substance. Thus, hazard rankings are based jointly on two factors—weight of evidence and potency—that the Agency believes are important in describing carcinogenic hazards. The three relative rankings are identified as "high," "medium," and "low." The matrix is arranged so that as the weight of evidence and the potency factors decrease, the hazard ranking decreases also.

Depending on whether a weight-of-evidence Group B carcinogen falls into potency Groups 1, 2, or 3, a hazard ranking of high, medium, or low is assigned. Hazard rankings are one level higher (high, high, or medium) for weight-of-evidence Group A carcinogens. This increased concern is justified because there is direct human evidence establishing that Group A substances cause cancer. Hazard rankings are one level lower (medium, low, or low) for Group C carcinogens. This reduced concern is justified because of the lack of evidence implicating Group C substances as human carcinogens, i.e., either the available studies are well-conducted but unreplicated or the evidence is of marginal biological or statistical significance.

Before settling on these hazard ranking assignments, alternative ranking schemes were considered. Proposals that all Group A substances be ranked high or that all Group C substances be ranked low were rejected because the Agency believes strongly that potency, too, is important in describing a carcinogenic hazard. Similarly, a proposal to base hazard rankings on potency alone was rejected because the Agency believes that the weight of evidence must be considered as well. The Agency believes that the hazard scheme finally selected allows proper consideration of both weight of evidence and potency. For further discussion of the hazard ranking matrix, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, December 1986, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The following is the matrix the Agency used to arrive at hazard rankings:

HAZARD RANKING

Weight-of-evidence group	Potency group		
	1 (highest)	2	3 (lowest)
A	High	High	Medium.
B	High	Medium	Low.
C	Medium	Low	Low.
D	No hazard ranking is made. The other primary criteria are used to assign the RQ.		
E	No hazard ranking is made. The other primary criteria are used to assign the RQ.		

This grouping of all potential carcinogens [11] into "high," "medium," and "low" hazard categories on the basis of biological information is used to assign RQ levels. RQ levels are assigned to the hazard rankings as follows: high—one-pound RQ; medium—10-pound RQ; and low—100-pound RQ.

In deciding whether to assign RQs for potential carcinogens at all five RQ levels, the Agency examined the special properties associated with these substances, used the Agency's air dispersion model to analyze the risks posed by their release, and evaluated them in light of the Agency's chronic toxicity methodology. The Agency decided not to use the two highest RQ levels for potential carcinogens for several reasons. First, cancer can be considered to be a chronic health effect. EPA therefore believes that reference to the Agency's chronic toxicity methodology is appropriate in assigning RQs to potential carcinogens. Under the chronic toxicity methodology, each substance is assigned two rating values, one based on the dose that causes a particular effect and one based on the severity of the effect. The dose ratings range from one to 10, with 10 representing the most toxic substances. The effect ratings also range from one to 10, with 10 representing the most severe effect. The product of the dose and effect ratings for each substance yields a composite ranking score between one and 100. For a more detailed discussion of the chronic toxicity methodology, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Because cancer is a life-threatening or life-shortening effect, the effect rating for cancer would be 10 if cancer were ranked on the chronic toxicity scale. Therefore, the composite score for any potential carcinogen would be at least 10. A composite score of 10 corresponds to an RQ of 1000 pounds. Thus, a 5000-pound RQ for a potential carcinogen would be inappropriate based on the Agency's chronic toxicity scale.

Second, application of an air dispersion model developed by the Agency shows that substantial cancer risks can result from releases of 1000 pounds or more of moderate to weak potential carcinogens. The results of the Agency's evaluation using the air dispersion model indicate that reporting levels of 100 pounds or less for potential carcinogens are necessary to protect public health from releases of these hazardous substances. The model is based on an exposure scenario that includes the following release conditions: the substance is a stable gas, volatile liquid, or aerosol that remains in the air long enough to reach the point of exposure, the duration of exposure is 24 hours, the release occurs under stable meteorological conditions (one meter per second wind speed), and exposure occurs 30 meters downwind from the point of release. For a more detailed discussion of the Agency's air dispersion model and the assumptions on which it is based, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, December 1986, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

The Agency has rejected the use of scenarios for RQ adjustment purposes in previous RQ rulemakings (see 50 FR 13456, 13466, April 4, 1985). In this proposed rulemaking, however, the Agency has used worst case exposure assumptions in its analysis. The Agency made these assumptions because of uncertainty about the duration, magnitude, and route of future exposures. Because of the factors described below, future exposures to potential carcinogens may be of concern. First, in contrast with other toxic effects, threshold levels of exposure below which a potential carcinogen does not present some risk of cancer have not been demonstrated. Doses that have been shown to cause cancer are generally lower than the lowest dose that induces a chronic effect. The linear non-threshold mechanisms of carcinogenesis contained in the Agency's Guidelines for

although data are available, these data are based on particle size rather than weight so that a relative potency ranking cannot be calculated for asbestos (see discussion in Section III.D.1 of this preamble).

[11] For purposes of this proposed rule, the term "potential carcinogens" refers to all hazardous substances assigned to Group A, B, or C under the Agency's weight-of-evidence methodology.

Carcinogen Risk Assessment (51 FR 33992) suggest that appropriately-designed studies could demonstrate onset of cancer at even lower doses. Second, cancer risks are considered to be cumulative, therefore a number of small releases can be as serious as a single large release. Because the cancer risk depends on the cumulative dose, uncertainties about future exposures are cause for concern. Future releases of the same potential carcinogen add to the risk. Future releases of other potential carcinogens that cause cancer by the same mechanism also add to the risk. Occupational exposures or ambient environmental exposures increase the risk further. This is in contrast to non-cancer health effects, for which a number of small exposures below the threshold pose no future risk. For these reasons, together with the fact that cancer has a latent period that does not allow direct observation of carcinogenic risks from substances newly released into the environment, the Agency proposes to calculate the appropriate maximum RQ level for potential carcinogens using a model that is based on conservative assumptions.

Although this proposed rule does not assign 1000-pound or 5000-pound RQs to any potential carcinogen, EPA solicits comments with supporting data on whether individual potential carcinogens should be eligible for 1000-pound or 5000-pound RQs because such substances lack the special characteristics that distinguish potential carcinogens from other hazardous substances. At this time, the Agency does not plan to assign final adjusted RQs of greater than 1000 pounds to any potential carcinogen because this result would be inconsistent with the Agency's chronic toxicity methodology discussed above.

3. Changes in Ranking Methodology

In its evaluation of CERCLA hazardous substances identified as potential carcinogens, the Agency initially employed a ranking methodology that used a weight-of-evidence scheme developed by IARC. EPA subsequently revised the IARC weight-of-evidence scheme, and used this revised weight-of-evidence methodology in conjunction with potency factors, to obtain hazard rankings for CERCLA hazardous substances that are potential carcinogens. The revised ranking methodology has been summarized in Section III.C.2. of this preamble and is discussed in greater detail in the CAG report entitled "Technical Support Document and Summary Table for the Ranking of Chemicals Based on Carcinogenicity," OHEA–C–073, February 1986. This report is reproduced as Appendix A of the December 1986 Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

EPA decided to use the revised weight-of-evidence methodology because the revised methodology refines the IARC approach and has had extensive peer review both within and outside the Agency. In order to distinguish more accurately those substances for which there is limited evidence of carcinogenicity, but not enough evidence to satisfy Group B requirements, EPA divided IARC Group 3 (insufficient evidence) into Group C (possible human carcinogen) and Group D (not classifiable for carcinogenicity). The revised weight-of-evidence methodology allows Group C substances to be assigned RQs based on potential carcinogenicity. IARC Group 3 substances could not be so assigned.

In addition, the Agency's Guidelines for Carcinogen Risk Assessment provide for consideration of certain benign as well as malignant tumor data, when appropriate, and pooling of significantly elevated tumor sites and types. Because the RQ adjustment process for this proposed rule was initiated while the Guidelines still were being developed, the potency factors for some potential carcinogens may not fully reflect the position set forth in the Guidelines regarding consideration of benign tumors and pooling of tumor sites and types. Therefore, as the Agency publishes this proposed rule, we are in the process of verifying that all potency factor calculations are in accordance with the Guidelines. Because many potency factor calculations will not be affected by this review and potency factors would have to change substantially to change hazard rankings, we expect that few, if any, of the substances still undergoing verification will have proposed RQs altered as a result of this review. Therefore, the Agency has decided to proceed now with this proposed rulemaking. The list of substances subject to verification is available for review in the public docket for this rule. This verification process will be completed during the comment period and the resulting chemical profiles and adjusted RQs will be available in the public docket for public review and comment. If necessary, the public comment period will be extended for those substances where reasonable notice and comment time is not available.[12]

D. Substances for Which Adjusted RQs are Proposed

Today's rule proposes to adjust RQs for 273 of the remaining 275 hazardous substances.[13] The proposed RQs lower the statutory RQs of 56 hazardous substances, raise the statutory RQs of 123 hazardous substances, and leave the statutory RQs of 94 hazardous substances unchanged. The 273 hazardous substances include 195 individual hazardous substances and 78 hazardous waste streams. EPA requests comments on the RQ adjustments for particular hazardous substances proposed in this rulemaking, as well as the Agency's methodology for adjusting the RQs for hazardous substances based on potential carcinogenicity.

1. Individual Hazardous Substances

The bases for the proposed adjusted RQs of the 195 individual hazardous substances are as follows: 137 on the basis of potential carcinogenicity alone, 23 on the basis of potential carcinogenicity and at least one other primary criterion, and 35 on the basis of criteria other than potential carcinogenicity.[14] The following discussion provides an explanation of the proposed RQs for certain individual hazardous substances.

Within the 273 hazardous substances (195 individual hazardous substances and 78 hazardous waste streams), subject to today's proposed rule, there are four hazardous substances that were not evaluated for the primary RQ

[12] In addition, the Agency has completed a separate primary review of the RQ profiles for each of the 191 individual hazardous substances that have been evaluated for potential carcinogenicity. Currently, the Agency is conducting a secondary level of review of these profiles. The Agency expects that this secondary review will be completed during the public comment period. If, as a result of this review, reasonable notice and comment time is not available for particular substances, the public comment period will be extended for those substances.

[13] The two substances whose RQs are not adjusted in this rulemaking are being evaluated as follows: methyl isocyanate on the basis of inhalation toxicity; and lead on the basis of potential carcinogenicity. The statutory one-pound RQs for methyl isocyanate and lead will be retained, pending completion of the Agency's analysis of their toxicity or potential carcinogenicity.

[14] Thirty-one of these 35 substances were identified as potential carcinogens. The proposed RQs for these 31 substances are not based on potential carcinogenicity, however, because their tentative RQs based on potential carcinogenicity are higher than the tentative RQs based on other criteria. Four of these 35 substances were not evaluated for potential carcinogenicity (see discussion following in text).

adjustment criterion of potential carcinogenicity (chloral, hexachlorocyclopentadiene, 2-ethoxyethanol, and parathion). The proposed RQs for these four hazardous substances are based on primary criteria other than potential carcinogenicity.

Chloral originally was identified as a potential carcinogen because it was thought to hydrolyze to chloroform, a potential carcinogen. The May 25, 1983 NPRM (48 FR 23552) indicated that chloral was to be evaluated for potential carcinogenicity based on its potentially carcinogenic reaction product, chloroform. One comment received in response to the May 25, 1983 NPRM noted, however, that chloral does not readily hydrolyze. The Agency agrees with this observation, and therefore has decided to base the proposed RQ for chloral (5000 pounds) on evaluation of the primary criteria for chloral itself, and not on an evaluation of the primary criteria for any reaction products.

Parathion and hexachlorocyclopentadiene have not been identified as potential carcinogens for RQ adjustment purposes. The RQs for both substances are being reproposed from the one-pound RQs proposed in the May 25, 1983 NPRM for both substances on the basis of the primary RQ adjustment criterion of aquatic toxicity. A comment received on the May 25, 1983 NPRM cited more recent aquatic toxicity data using preferred species. The new aquatic toxicity data support a proposed 10-pound RQ for parathion. Since publication of the May 25, 1983 NPRM, the Agency has also obtained additional data on the degradation of hexachlorocyclopentadiene in the environment. These additional data support raising the previously proposed one-pound RQ for hexachlorocyclopentadiene to 10 pounds based on BHP. Finally, 2-ethoxyethanol also has not been identified as a potential carcinogen and its proposed 1000-pound RQ is based on the primary RQ adjustment criterion of chronic toxicity. After the most recent rulemaking proposing RQ adjustments (50 FR 13514, April 4, 1985), 2-ethoxyethanol was added to the list of CERCLA hazardous substances as a result of its listing as a hazardous waste under section 3001 of RCRA (51 FR 6537, February 25, 1986). Therefore, the proposed RQ adjustment for 2-ethoxyethanol is included in this proposed rule.

Two substances (pentachloroethane and methyl chloride) for which adjusted RQs originally were proposed in the April 4, 1985 NPRM (50 FR 13514) have their RQs reproposed for adjustment in today's rule. As noted in the September 29, 1986 final rule (51 FR 34534), the statutory one-pound RQs for these two substances were retained, pending analysis of their potential carcinogenicity. That analysis is now complete and the proposed RQ for methyl chloride is 100 pounds based on ignitability and potential carcinogenicity. Pentachloroethane was evaluated for potential carcinogenicity, but received a lower RQ of 10 pounds based on aquatic toxicity. Therefore, the proposed RQ for pentachloroethane is 10 pounds based on aquatic toxicity.

In the May 25, 1983 NPRM (48 FR 23552), the Agency proposed to lower the RQ for PCBs from the statutory level of 10 pounds (established on the basis of aquatic toxicity data under section 311 of the CWA) to one pound, on the basis of other aquatic toxicity data. EPA received 28 comment letters containing 66 total comments, all of which objected to the proposed one-pound RQ for PCBs. The Agency stated in the April 4, 1985 final rule that it was evaluating PCBs for potential carcinogenicity and would retain the 10-pound statutory RQ until that analysis was completed.

The Agency's analysis of PCBs for potential carcinogenicity is now complete, and that analysis has yielded a hazard ranking of "medium," corresponding to a 10-pound RQ. However, based on a re-examination of all of the comments received on the appropriate RQ for PCBs in response to the May 25, 1983 proposal and a re-evaluation of all available aquatic toxicity data concerning PCBs, the Agency has decided to repropose a one-pound RQ for PCBs in this rulemaking, based on aquatic toxicity.

The Agency's current methodology for adjusting RQs based on aquatic toxicity favors use of data from tests using adult life stages. However, use of data from tests using juvenile life stages is appropriate for adjusting the RQ for PCBs because PCBs bioaccumulate, are insoluble, and are sinkers. Because of the combined effect of these chemical and physical properties, PCBs pose a particular threat to benthic organisms (including the early life stages of many aquatic species). The Agency used early life stage data to support the original proposed one-pound RQ for PCBs in the May 25, 1983 NPRM. As mentioned earlier, EPA received extensive comments opposing a one-pound RQ for PCBs. None of these comments, however, objected to the Agency's reliance on early life stage data. In addition, use of such data is entirely consistent with EPA's 1985 Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses.

Available aquatic toxicity data from tests using early life stages supports a one-pound RQ for PCBs. Available data from tests using adult life stages supports a 10-pound RQ for PCBs. The Agency has decided that where both early life stage and adult life stage data are available for substances that are bioaccumulative insoluble sinkers, the early life stage data will be preferred because this approach is consistent with the Agency's 1985 National Water Quality Guidelines mentioned above. For further information on the substances EPA has identified as bioaccumulative insoluble sinkers, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, December 1986, available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Thus, EPA reproposes to adjust the 10-pound statutory RQ for PCBs to one pound in today's rule. The Agency solicits comments on the proposed one-pound RQ for PCBs as well as the possible future revision of the aquatic toxicity methodology to provide for use of early life stage data for hazardous substances (such as PCBs) that are bioaccumulative insoluble sinkers.

Asbestos has been identified as a known human carcinogen (weight-of-evidence Group A). However, exposure to asbestos is measured by calculating the size and number of airborne fibers, and not by the standard method of measuring quantitative exposure to potential carcinogens based on weight, volume, or concentration. Therefore, a numerical potency factor based on weight cannot be calculated for asbestos to achieve a direct potency ranking. Thus, EPA has assigned asbestos to potency Group 2, as though it had a mid-range potency factor. Using the Agency's matrix for ranking potential carcinogens, a substance in weight-of-evidence Group A and potency Group 2 receives a high hazard ranking, and thus a one-pound RQ. EPA is, therefore, proposing a one-pound RQ for asbestos.

For three hazardous substances evaluated for potential carcinogenicity (cacodylic acid, dichlorophenylarsine, and diethylarsine), CAG found no evidence demonstrating that these substances themselves cause cancer. However, because each of these three hazardous substances can and will degrade to arsenic trioxide and arsenic pentoxide (both of which are potential carcinogens) when released into the environment, the Agency has decided to

propose a one-pound RQ for each substance, based on the one-pound RQs for these two inorganic arsenic oxides. The proposed RQs for cacodylic acid, dichlorophenylarsine, and diethylarsine are consistent with the Agency's established methodology of basing the RQ of a substance on its more hazardous degradation products, where those degradation products have been identified.

As discussed in Section III.B. above, hazardous substances are eligible for a one-level RQ increase on the basis of BHP. For five hazardous substances identified as potential carcinogens (bis(chloromethyl)ether, chloromethyl methyl ether, dimethyl sulfate, formaldehyde, and 2-naphthylamine), sufficient data are available to justify a one-level RQ increase based on BHP. Therefore, the RQs of these five hazardous substances are increased to 10, 10, 100, 100, and 10 pounds, respectively (these increases are from the one-level lower primary criteria RQs).

In addition, one potential carcinogen, sulfur selenide, hydrolyzes to form two hazardous reaction products, hydrogen sulfide and selenium dioxide. The RQ for hydrogen sulfide is 100 pounds and the RQ for selenium dioxide is 10 pounds. Therefore, a 10-pound RQ is proposed for sulfur selenide, based on the lower RQ of its two reaction products. Another potential carcinogen, 3,3'-dichlorobenzidine, is subject to rapid photolysis if released into the environment, yielding benzidine as one of the photolysis products. Therefore, although the CAG methodology yields a "medium" ranking (10-pound RQ) for 3,3'-dichlorobenzidine, the Agency is proposing a one-pound RQ for this hazardous substance, based on the "high" hazard ranking (one-pound RQ) for its photolysis product, benzidine.

2. Hazardous Waste Streams

In addition to the 195 individual hazardous substances for which this rulemaking proposes adjusted RQs, the Agency also proposes to adjust the RQs for 78 hazardous waste streams. The proposed RQ for each hazardous waste stream is the lowest RQ associated with the individual hazardous constituents of the waste stream. However, under 40 CFR 302.6, if a person in charge knows of the percentage composition of a waste stream, the CWA mixture rule may be applied. The CWA mixture rule provides that "[d]ischarges of mixtures and solutions are subject to [regulation] only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its RQ" (44 FR 50767, August 29, 1979). As explained in the April 4, 1985 final rule (50 FR 13463), the RQs for different hazardous substances are not additive under the mixture rule, so that the release of a mixture containing half an RQ of one hazardous substance and half an RQ of another hazardous substance does not trigger the CERCLA section 103 reporting requirements.

The RQs for the 78 hazardous waste streams for which today's rule proposes adjusted RQs are all currently at the statutory one-pound level. The proposed adjustments leave the RQs of 44 hazardous waste streams at one pound, raise the RQs of 32 hazardous waste streams to 10 pounds, and raise the RQs of two hazardous waste streams to 100 pounds.

Today's rule also proposes RQs for six of the constituents used to determine the RCRA characteristic of EP toxicity for unlisted hazardous wastes. These six components have been assigned proposed RQs as follows: one pound for arsenic and chromium and 10 pounds for cadmium, all on the basis of potential carcinogenicity; 100 pounds for lead on the basis of chronic toxicity; and one pound for lindane and toxaphene on the basis of aquatic toxicity. Under 40 CFR 302.5(b), the proposed RQ applies to the unlisted waste itself, not merely to the toxic substance. The RQ for the metal constituents is based on the RQ for soluble metal salts, and not the metal itself.

IV. Reportable Quantity Adjustments Under Section 311 of the Clean Water Act

The April 4, 1985 final rule (50 FR 13456) amended 40 CFR 117.3 to make RQs adjusted under CERCLA the applicable RQs for notification of discharges of hazardous substances pursuant to CWA section 311. Thus, the RQ adjustments proposed in this rulemaking will, when finalized, apply to both CERCLA and CWA section 311 RQs. Of the 195 individual hazardous substances in this rulemaking, 63 were originally listed as hazardous substances and assigned RQs under section 311 of the CWA. The proposed RQs lower the statutory CWA RQs of 49 of these substances, raise the statutory RQs of two of the substances, and leave the RQs of 12 of the substances at the statutory level. RQs under both CERCLA and the CWA are set forth in Table 302.4. Where there is a release of a hazardous substance in an RQ into navigable waters, a single report to the National Response Center by the person in charge will satisfy the notification requirements of both statutes. For further discussion of the relationship between CERCLA RQs and CWA section 311 RQs, see the May 25, 1983 proposed rule preamble at 48 FR 23569, and the April 4, 1985 final rule preamble at 50 FR 13473.

V. Summary of Supporting Analyses

Executive Order 12291 requires that regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

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

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

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

An economic analysis performed by the Agency, available for inspection at Room LG-100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, shows that today's proposed rule is non-major, because the rule will result in net costs of approximately $3.9 million annually. The annual net cost savings of RQ adjustments made to date (including those proposed in this NPRM) is $13.8 million. It should be noted that these costs and cost savings reflect only those effects of the RQ adjustments that are readily quantifiable in dollars.

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." To determine whether a Regulatory Flexibility Analysis is necessary for today's proposed rule, a preliminary analysis was conducted using a computer model that simulated the typical operation of a small U.S. chemical company. The results of the simulation indicate that the upper-bound total cost of compliance to small firms is negligible. See the Regulatory Impact Analysis of Reportable Quantity Adjustments Under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act, Volume III, November 1986, available for inspection at Room LG-100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Therefore, because today's proposed rule is not expected to have a significant impact on small entities, EPA

certifies that no Regulatory Flexibility Analysis is necessary.

The Information Impact Analysis performed for the April 4, 1985 final rule indicated that that final rule would decrease the paperwork burden imposed on parties other than EPA by about 50,000 hours. Today's proposed RQ adjustments will provide a small increase in the paperwork burden imposed on the regulated community for information collection associated with reporting releases. Because the effect of this proposed rule on the paperwork burden is minimal, EPA has determined that no further Information Impact Analysis need be performed.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this proposed rule have been submitted for approval to OMB under section 3504(h) of the Paperwork Reduction Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

List of Subjects

40 CFR Part 117

Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Nuclear materials, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control.

Dated: December 31, 1986.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITES AND NOTIFICATION

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

Authority: Sec. 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9602; Secs. 311 and 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1321 and 1361.

2. Section 302.4 is amended by revising the following entries in Table 302.4 and in its Appendix A to read as set forth below. The note preceding Table 302.4 is republished without change.

Note—The numbers under the column headed "CASRN" are the Chemical Abstracts Service Registry Numbers for each hazardous substance. Other names by which each hazardous substance is identified in other statutes and their implementing regulations are provided in the "Regulatory Synonyms" column. The "Statutory RQ" column lists the RQs for hazardous substances established by section 102 of CERCLA. The "Statutory Code" column indicates the statutory source for designating each substance as a CERCLA hazardous substance: "1" indicates that the statutory source is section 311(b)(4) of the Clean Water Act, "2" indicates that the source is section 307(a) of the Clean Water Act, "3" indicates that the source is section 112 of the Clean Air Act, and "4" indicates that the source is RCRA section 3001. The "RCRA Waste Number" column provides the waste identification numbers assigned to various substances by RCRA regulations. The column headed "Category" lists the code letters "X", "A", "B", "C", and "D", which are associated with reportable quantities of 1, 10, 100, 1000, and 5000 pounds, respectively. The "Pounds (kg)" column provides the proposed reportable quantity adjustment for each hazardous substance in pounds and kilograms.

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Acetaldehyde, trichloro-	75876	Chloral	1*	4	U034	D	5000 (2270)
Acetamide, N-(4-ethoxyphenyl)-	62442	Phenacetin	1*	4	U187	B	100 (45.4)
Acetamide, N-fluoren-2-yl-	53963	2-Acetylaminofluorene	1*	4	U005	A	10 (4.54)
Acetic acid, lead salt	301042	Lead acetate	5000	1,4	U144	A	10 (4.54)
2-Acetylaminofluorene	53963	Acetamide, N-fluoren-2-yl-	1*	4	U005	A	10 (4.54)
Acrylonitrile	107131	2-Propenenitrile	100	1,2,4	U009	A	10 (4.54)
Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-	148823	Melphalan	1*	4	U150	X	1 (0.454)
Aldrin	309002	1,2,3,4,10-10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene.	1	1,2,4	P004	X	1 (0.454)
2-Amino-1-methylbenzene	95534	o-Toluidine	1*	4	U328	B	100 (45.4)
4-Amino-1-methylbenzene	106490	p-Toluidine	1*	4	U353	B	100 (45.4)
Amitrole	61825	1H-1,2,4-Triazol-3-amine	1*	4	U011	A	10 (4.54)
Ammonium bichromate	7789095		1000	1		X	1 (0.454)
Ammonium chromate	7788989		1000	1		X	1 (0.454)
Aroclor 1016	12674112	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1221	11104282	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1232	11141165	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1242	53469219	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1248	12672296	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1254	11097691	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Aroclor 1260	11096825	Polychlorinated Biphenyls (PCBs)	10	1,2		X	1 (0.454)
Arsenic ††	7440382		1*	2,3		X	1 (0.454)
Arsenic acid	1327522 7778394		1*	4	P010	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Arsenic disulfide	1303328		5000	1		X	1 (0.454)
Arsenic (III) oxide	1327533	Arsenic trioxide	5000	1,4	P012	X	1 (0.454)
Arsenic (V) oxide	1303282	Arsenic pentoxide	5000	1,4	P011	X	1 (0.454)
Arsenic pentoxide	1303282	Arsenic (V) oxide	5000	1,4	P011	X	1 (0.454)
Arsenic trichloride	7784341		5000	1		X	1 (0.454)
Arsenic trioxide	1327533	Arsenic (III) oxide	5000	1,4	P012	X	1 (0.454)
Arsenic trisulfide	1303339		5000	1		X	1 (0.454)
Arsine, diethyl-	692422	Diethylarsine	1*	4	P038	X	1 (0.454)
Asbestos †††	1332214		1*	2,3		X	1 (0.454)
Auramine	492808	Benzenamine, 4,4'-carbonimidoylbis (N,N-dimethyl-.	1*	4	U014	B	100 (45.4)
Azaserine	115026	L-Serine, diazoacetate (ester)	1*	4	U015	A	10 (4.54)
Aziridine	151564	Ethylenimine	1*	4	P054	X	1 (0.454)
Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione,6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	50077	Mitomycin C	1*	4	U010	A	10 (4.54)
Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-.	56495	3-Methylcholanthrene	1*	4	U157	A	10 (4.54)
Benz[c]acridine	225514	3,4-Benzacridine	1*	4	U016	A	10 (4.54)
3,4-Benzacridine	225514	Benz[c]acridine	1*	4	U016	A	10 (4.54)
Benz[a]anthracene	56553	Benzo[a]anthracene 1,2-Benzanthracene	1*	2,4	U018	A	10 (4.54)
1,2-Benzanthracene	56553	Benz[a]anthracene Benzo[a]anthracene	1*	2,4	U018	A	10 (4.54)
1,2-Benzanthracene, 7,12-dimethyl-	57976	7,12-Dimethylbenz[a]anthracene	1*	4	U094	X	1 (0.454)
Benzenamine, 4,4'-carbonimidoylbis (N,N-dimethyl-.	492808	Auramine	1*	4	U014	B	100 (45.4)
Benzenamine, 4-chloro-2-methyl-, hydrochloride.	3165933	4-Chloro-o-toluidine, hydrochloride	1*	4	U049	B	100 (45.4)
Benzenamine, N,N-dimethyl-4-phenylazo-	60117	Dimethylaminoazobenzene	1*	4	U093	X	1 (0.454)
Benzenamine, 4,4'-methylenebis(2-chloro-.	101144	4,4'-Methylenebis(2-chloroaniline)	1*	4	U158	A	10 (4.54)
Benzenamine, 2-methyl-, hydrochloride	636215	o-Toluidine hydrochloride	1*	4	U222	B	100 (45.4)
Benzenamine, 2-methyl-5-nitro-	99558	5-Nitro-o-toluidine	1*	4	U181	B	100 (45.4)
Benzene	71432		1000	1,2,3,4	U019	A	10 (4.54)
Benzene, chloromethyl-	100447	Benzyl chloride	100	1,4	P028	B	100 (45.4)
Benzene, hexachloro-	118741	Hexachlorobenzene	1*	2,4	U127	A	10 (4.54)
Benzene, 1-methyl-2,4-dinitro-	121142	2,4-Dinitrotoluene	1000	1,2,4	U105	A	10 (4.54)
Benzene, 1-methyl-2,6-dinitro-	606202	2,6-Dinitrotoluene	1000	1,2,4	U106	B	100 (45.4)
Benzene, 1,2-methylenedioxy-4-allyl-	94597	Safrole	1*	4	U203	B	100 (45.4)
Benzene, 1,2-methylenedioxy-4-propenyl-	120581	Isosafrole	1*	4	U141	B	100 (45.4)
Benzene, 1,2-methylenedioxy-4-propyl-	94586	Dihydrosafrole	1*	4	U090	A	10 (4.54)
Benzene, pentachloronitro-	82688	Pentachloronitrobenzene	1*	4	U185	B	100 (45.4)
Benzene, (trichloromethyl)-	98077	Benzotrichloride	1*	4	U023	X	1 (0.454)
Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl-alpha-hydroxy-,ethyl ester.	510156	Ethyl 4,4'-dichlorobenzilate	1*	4	U038	A	10 (4.54)
1,2-Benzenedicarboxylic acid, [bis(2-ethylhexyl)] ester.	117817	Bis(2-ethylhexyl) phthalate	1*	2,4	U028	B	100 (45.4)
Benzidine	92875	(1,1'-Biphenyl)-4,4'diamine	1*	2,4	U021	X	1 (0.454)
1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts.	81072	Saccharin and salts	1*	4	U202	B	100 (45.4)
Benzo[a]anthracene	56553	Benz[a]anthracene 1,2-Benzanthracene	1*	2,4	U018	A	10 (4.54)
Benzo[b]fluoranthene	205992		1*	2		X	1 (0.454)
Benzo(k)fluoranthene	207089		1*	2		D	5000 (2270)
Benzo[a]pyrene	50328	3,4-Benzopyrene	1*	2,4	U022	X	1 (0.454)
3,4-Benzopyrene	50328	Benzo[a]pyrene	1*	2,4	U022	X	1 (0.454)
Benzotrichloride	98077	Benzene, (trichloromethyl)-	1*	4	U023	X	1 (0.454)
1,2-Benzphenanthrene	218019	Chrysene	1*	2,4	U050	A	10 (4.54)
Benzyl chloride	100447	Benzene, chloromethyl-	100	1,4	P028	B	100 (45.4)
Beryllium ††	7440417	Beryllium dust ††	1*	2,3,4	P015	A	10 (4.54)
Beryllium chloride	7787475		5000	1		X	1 (0.454)
Beryllium dust ††	7440417	Beryllium ††	1*	2,3,4	P015	A	10 (4.54)
Beryllium fluoride	7787497		5000	1		X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Beryllium nitrate	13597994		5000	1		X	1 (0.454)
	7787555						
alpha - BHC	319846		1*	2		A	10 (4.54)
beta - BHC	319857		1*	2		X	1 (0.454)
gamma - BHC	58899	Hexachlorocyclohexane (gamma isomer) ... Lindane	1	1,2,4	U129	X	1 (0.454)
2,2'-Bioxirane	1464535	1,2:3,4-Diepoxybutane	1*	4	U085	A	10 (4.54)
(1,1'-Biphenyl)-4,4'diamine	92875	Benzidine	1*	2,4	U021	X	1 (0.454)
(1,1'-Biphenyl)-4,4'diamine,3,3'dichloro-	91941	3,3'-Dichlorobenzidine	1*	2,4	U073	X	1 (0.454)
(1,1'-Biphenyl)-4,4'diamine,3,3'dimethoxy-	119904	3,3'-Dimethoxybenzidine	1*	4	U091	B	100 (45.4)
(1,1'Biphenyl)-4,4'-diamine,3,3'-dimethyl-	119937	3,3'-Dimethylbenzidine	1*	4	U095	B	100 (45.4)
Bis(2-chloroethyl) ether	111444	Dichloroethyl ether	1*	2,4	U025	A	10 (4.54)
Bis(chloromethyl) ether	542881	Ethane, 1,1'-oxybis[2-chloro- Methane, oxybis(chloro-	1*	4	P016	A	10 (4.54)
Bis(2-ethylhexyl) phthalate	117817	1,2-Benzenedicarboxylic acid, [bis(2-ethylhexyl)] ester.	1*	2,4	U028	B	100 (45.4)
1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87683	Hexachlorobutadiene	1*	2,4	U128	X	1 (0.454)
1-Butanamine, N-butyl-N-nitroso-	924163	N-Nitrosodi-n-butylamine	1*	4	U172	A	10 (4.54)
Butanoic acid, 4-[bis(2-chloroethyl) amino]benzene.	305033	Chlorambucil	1*	4	U035	A	10 (4.54)
Cacodylic acid	75605	Hydroxydimethylarsine oxide	1*	4	U136	X	1 (0.454)
Cadmium ††	7440439		1*	2		A	10 (4.54)
Cadmium acetate	543908		100	1		A	10 (4.54)
Cadmium bromide	7789426		100	1		A	10 (4.54)
Cadmium chloride	10108642		100	1		A	10 (4.54)
Calcium arsenate	7778441		1000	1		X	1 (0.454)
Calcium arsenite	52740166		1000	1		X	1 (0.454)
Calcium chromate	13765190	Chromic acid, calcium salt	1000	1,4	U032	X	1 (0.454)
Camphene, octachloro-	8001352	Toxaphene	1	1,2,4	P123	X	1 (0.454)
Carbamic acid, ethyl ester	51796	Ethyl carbamate (Urethan)	1*	4	U238	B	100 (45.4)
Carbamic acid, methylnitroso-, ethyl ester	615532	N-Nitroso-N-methylurethane	1*	4	U178	X	1 (0.454)
Carbamide, N-ethyl-N-nitroso-	759739	N-Nitroso-N-ethylurea	1*	4	U176	A	10 (4.54)
Carbamide, N-methyl-N-nitroso	684935	N-Nitroso-N-methylurea	1*	4	U177	X	1 (0.454)
Carbamide, thio-	62566	Thiourea	1*	4	U219	A	10 (4.54)
Carbamoyl chloride, dimethyl-	79447	Dimethylcarbamoyl chloride	1*	4	U097	X	1 (0.454)
Carbon tetrachloride	56235	Methane, tetrachloro-	5000	1,2,4	U211	A	10 (4.54)
Chloral	75876	Acetaldehyde, trichloro-	1*	4	U034	D	5000 (2270)
Chlorambucil	305033	Butanoic acid, 4-[bis(2-chloroethyl) amino]benzene.	1*	4	U035	A	10 (4.54)
Chlordane	57749	Chlordane, technical	1	1,2,4	U036	X	1 (0.454)
Chlordane, technical	57749	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro- Chlordane	1	1,2,4	U036	X	1 (0.454)
Chlornaphazine	494031	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro- 2-Naphthylamine, N,N-bis(2-chloroethyl)-	1*	4	U026	B	100 (45.4)
1-Chloro-2,3-epoxypropane	106898	Epichlorohydrin	1000	1,4	U041	B	100 (45.4)
Chloroform	67663	Oxirane, 2-(chloromethyl)- Methane, trichloro-	5000	1,2,4	U044	A	10 (4.54)
Chloromethyl methyl ether	107302	Methane, chloromethoxy-	1*	4	U046	A	10 (4.54)
4-Chloro-o-toluidine, hydrochloride	3165933	Benzenamine, 4-chloro-2-methyl-, hydrochloride.	1*	4	U049	B	100 (45.4)
Chromic acid	11115745		1000	1		X	1 (0.454)
	7738945						
Chromic acid, calcium salt	13765190	Calcium chromate	1000	1,4	U032	X	1 (0.454)
Chromium ††	7440473		1*	2		X	1 (0.454)
Chrysene	218019	1,2-Benzphenanthrene	1*	2,4	U050	A	10 (4.54)
COKE OVEN EMISSIONS	N.A.		1*	3		X	1 (0.454)
Creosote	8001589		1*	4	U051	X	1 (0.454)
Cupric acetoarsenite	12002038		100	1		X	1 (0.454)
1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-.	77474	Hexachlorocyclopentadiene	1	1,2,4	U130	A	10 (4.54)
Cyclophosphamide	50180	2H-1,3,2-Oxazaphosphorine,2-[bis(2-chloroethyl)amino]tetrahydro-2-oxide.	1*	4	U058	A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Daunomycin	20830813	5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-[3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranoxyl)oxyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-.	1*	4	U059	A	10 (4.54)
DDD	72548	Dichlorodiphenyl dichloroethane TDE 4,4'-DDD	1	1,2,4	U060	X	1 (0.454)
4,4'-DDD	72548	DDD Dichlorodiphenyl dichloroethane TDE	1	1,2,4	U060	X	1 (0.454)
DDE	72559	4,4'-DDE	1*	2		X	1 (0.454)
4,4'-DDE	72559	DDE	1*	2		X	1 (0.454)
DDT	50293	Dichlorodiphenyl trichloroethane 4,4'-DDT	1	1,2,4	U061	X	1 (0.454)
4,4'-DDT	50293	DDT Dichlorodiphenyl trichloroethane	1	1,2,4	U061	X	1 (0.454)
Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta-[c,d]-pentalen-2-one.	143500	Kepone	1	1,4	U142	X	1 (0.454)
Diallate	2303164	S-(2,3-Dichloroallyl) diisopropylthiocarbamate.	1*	4	U062	B	100 (45.4)
Diamine	302012	Hydrazine	1*	4	U133	X	1 (0.454)
Diaminotoluene	95807 496720 825405 25376458	Toluenediamine	1*	4	U221	A	10 (4.54)
Dibenz[a,h]anthracene	53703	Dibenzo[a,h]anthracene 1,2:5,6-Dibenzanthracene	1*	2,4	U063	X	1 (0.454)
1,2:5,6-Dibenzanthracene	53703	Dibenz[a,h]anthracene Dibenzo[a,h]anthracene	1*	2,4	U063	X	1 (0.454)
Dibenzo[a,h]anthracene	53703	Dibenz[a,h]anthracene 1,2:5,6-Dibenzanthracene	1*	2,4	U063	X	1 (0.454)
1,2:7,8-Dibenzopyrene	189559	Dibenz[a,i]pyrene	1*	4	U064	A	10 (4.54)
Dibenz[a,i]pyrene	189559	1,2:7,8-Dibenzopyrene	1*	4	U064	A	10 (4.54)
1,2-Dibromo-3-chloropropane	96128	Propane, 1,2-dibromo-3-chloro-	1*	4	U066	A	10 (4.54)
S-(2,3-Dichloroallyl) diisopropylthiocarbamate.	2303164	Diallate	1*	4	U062	B	100 (45.4)
3,3'-Dichlorobenzidine	91941	(1,1'-Biphenyl)-4,4'diamine,3,3'dichloro-	1*	2,4	U073	X	1 (0.454)
Dichlorodiphenyl dichloroethane	72548	DDD TDE 4,4'-DDD	1	1,2,4	U060	X	1 (0.454)
Dichlorodiphenyl trichloroethane	50293	DDT 4,4'-DDT	1	1,2,4	U061	X	1 (0.454)
1,2-Dichloroethane	107062	Ethane, 1,2-dichloro- Ethylene dichloride	5000	1,2,4	U077	B	100 (45.4)
1,1-Dichloroethylene	75354	Ethene, 1,1-dichloro- Vinylidene chloride	5000	1,2,4	U078	B	100 (45.4)
Dichloroethyl ether	111444	Bis(2-chloroethyl) ether	1*	2,4	U025	A	10 (4.54)
Dichlorophenylarsine	696286	Ethane, 1,1'-oxybis[2-chloro- Phenyl dichloroarsine	1*	4	P036	X	1 (0.454)
Dieldrin	60571	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene.	1	1,2,4	P037	X	1 (0.454)
1,2:3,4-Diepoxybutane	1464535	2,2'-Bioxirane	1*	4	U085	A	10 (4.54)
Diethylarsine	692422	Arsine, diethyl-	1*	4	P038	X	1 (0.454)
1,4-Diethylene dioxide	123911	1,4-Dioxane	1*	4	U108	B	100 (45.4)
N,N'-Diethylhydrazine	1615801	Hydrazine, 1,2-diethyl-	1*	4	U086	A	10 (4.54)
Diethylstilbestrol	56531	4,4'-Stilbenediol, alpha,alpha'-diethyl-	1*	4	U089	X	1 (0.454)
Dihydrosafrole	94586	Benzene, 1,2-methylenedioxy-4-propyl-	1*	4	U090	A	10 (4.54)
3,3'-Dimethoxybenzidine	119904	(1,1'-Biphenyl)-4,4'diamine,3,3'dimethoxy-	1*	4	U091	B	100 (45.4)
Dimethylaminoazobenzene	60117	Benzenamine, N,N-dimethyl-4-phenylazo-	1*	4	U093	X	1 (0.454)
7,12-Dimethylbenz[a]anthracene	57976	1,2-Benzanthracene, 7,12-dimethyl-	1*	4	U094	X	1 (0.454)
3,3'-Dimethylbenzidine	119937	(1,1'Biphenyl)-4,4'-diamine,3,3'-dimethyl-	1*	4	U095	B	100 (45.4)
Dimethylcarbamoyl chloride	79447	Carbamoyl chloride, dimethyl-	1*	4	U097	X	1 (0.454)
1,1-Dimethylhydrazine	57147	Hydrazine, 1,1-dimethyl-	1*	4	U098	A	10 (4.54)
1,2-Dimethylhydrazine	540738	Hydrazine, 1,2-dimethyl-	1*	4	U099	X	1 (0.454)
Dimethylnitrosamine	62759	N-Nitrosodimethylamine	1*	2,4	P082	A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Dimethyl sulfate	77781	Sulfuric acid, dimethyl ester	1*	4	U103	B	100 (45.4)
Dinitrotoluene	25321146		1000	1,2		A	10 (4.54)
3,4-Dinitrotoluene	610399						
2,4-Dinitrotoluene	121142	Benzene, 1-methyl-2,4-dinitro-	1000	1,2,4	U105	A	10 (4.54)
2,6-Dinitrotoluene	606202	Benzene, 1-methyl-2,6-dinitro-	1000	1,2,4	U106	B	100 (45.4)
1,4-Dioxane	123911	1,4-Diethylene dioxide	1*	4	U108	B	100 (45.4)
1,2-Diphenylhydrazine	122667	Hydrazine, 1,2-diphenyl-	1*	2,4	U109	A	10 (4.54)
Di-n-propylnitrosamine	621647	N-Nitrosodi-n-propylamine	1*	2,4	U111	A	10 (4.54)
Epichlorohydrin	106898	Oxirane, 2-(chloromethyl)-	1000	1,4	U041	B	100 (45.4)
		1-Chloro-2,3-epoxypropane					
Ethanamine, N-ethyl-N-nitroso-	55185	N-Nitrosodiethylamine	1*	4	U174	X	1 (0.454)
Ethane, 1,2-dibromo-	106934	Ethylene dibromide	1000	1,4	U067	X	1 (0.454)
Ethane, 1,2-dichloro-	107062	Ethylene dichloride	5000	1,2,4	U077	B	100 (45.4)
		1,2-Dichloroethane					
Ethane, 1,1,1,2,2,2-hexachloro-	67721	Hexachloroethane	1*	2,4	U131	B	100 (45.4)
Ethane, 1,1'-oxybis[2-chloro-	111444	Bis(2-chloroethyl) ether	1*	2,4	U025	A	10 (4.54)
		Dichloroethyl ether					
Ethane, pentachloro-	76017	Pentachloroethane	1*	4	U184	A	10 (4.54)
Ethane, 1,1,1,2-tetrachloro-	630206	1,1,1,2-Tetrachloroethane	1*	4	U208	B	100 (45.4)
Ethane, 1,1,2,2-tetrachloro-	79345	1,1,2,2-Tetrachloroethane	1*	2,4	U209	B	100 (45.4)
Ethanethioamide	62555	Thioacetamide	1*	4	U218	A	10 (4.54)
Ethane, 1,1,2-trichloro-	79005	1,1,2-Trichloroethane	1*	2,4	U227	B	100 (45.4)
Ethanol, 2,2'-(nitrosoimino)bis-	1116547	N-Nitrosodiethanolamine	1*	4	U173	X	1 (0.454)
Ethenamine, N-methyl-N-nitroso-	4549400	N-Nitrosomethylvinylamine	1*	4	P084	A	10 (4.54)
Ethene, chloro-	75014	Vinyl chloride	1*	2,3,4	U043	A	10 (4.54)
Ethene, 1,1-dichloro-	75354	Vinylidene chloride	5000	1,2,4	U078	B	100 (45.4)
		1,1-Dichloroethylene					
Ethene, 1,1,2,2-tetrachloro-	127184	Perchloroethylene	1*	2,4	U210	B	100 (45.4)
		Tetrachloroethene					
		Tetrachloroethylene					
2-Ethoxyethanol	110805	Ethylene glycol monoethyl ether	1*	4	U359	C	1000 (454)
Ethyl carbamate (Urethan)	51796	Carbamic acid, ethyl ester	1*	4	U238	B	100 (45.4)
Ethyl 4,4'-dichlorobenzilate	510156	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl-alpha-hydroxy-,ethyl ester.	1*	4	U038	A	10 (4.54)
Ethylene dibromide	106934	Ethane, 1,2-dibromo-	1000	1,4	U067	X	1 (0.454)
Ethylene dichloride	107062	Ethane, 1,2-dichloro-	5000	1,2,4	U077	B	100 (45.4)
		1,2-Dichloroethane					
Ethylene glycol monoethyl ether	110805	2-Ethoxyethanol	1*	4	U359	C	1000 (454)
Ethylene oxide	75218	Oxirane	1*	4	U115	A	10 (4.54)
Ethylenethiourea	96457	2-Imidazolidinethione	1*	4	U116	A	10 (4.54)
Ethylenimine	151564	Aziridine	1*	4	P054	X	1 (0.454)
Ethyl methanesulfonate	62500	Methanesulfonic acid, ethyl ester	1*	4	U119	X	1 (0.454)
Formaldehyde	50000	Methylene oxide	1000	1,4	U122	B	100 (45.4)
D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-.	18883664	Streptozotocin	1*	4	U206	X	1 (0.454)
Glycidylaldehyde	765344	1-Propanal, 2,3-epoxy-	1*	4	U126	A	10 (4.54)
Guanidine, N-nitroso-N-methyl-N'-nitro-	70257	N-Methyl-N'-nitro-N-nitrosoguanidine	1*	4	U163	A	10 (4.54)
Heptachlor	76448	4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-.	1	1,2,4	P059	X	1 (0.454)
Heptachlor epoxide	1024573		1*	2		X	1 (0.454)
Hexachlorobenzene	118741	Benzene, hexachloro-	1*	2,4	U127	A	10 (4.54)
Hexachlorobutadiene	87683	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	1*	2,4	U128	X	1 (0.454)
Hexachlorocyclohexane (gamma isomer)	58899	gamma - BHC	1	1,2,4	U129	X	1 (0.454)
		Lindane					
Hexachlorocyclopentadiene	77474	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-.	1	1,2,4	U130	A	10 (4.54)
1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene.	60571	Dieldrin	1	1,2,4	P037	X	1 (0.454)
Hexachloroethane	67721	Ethane, 1,1,1,2,2,2-hexachloro-	1*	2,4	U131	B	100 (45.4)
1,2,3,4,10-10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene.	309002	Aldrin	1	1,2,4	P004	X	1 (0.454)
Hydrazine	302012	Diamine	1*	4	U133	X	1 (0.454)
Hydrazine, 1,2-diethyl-	1615801	N,N'-Diethylhydrazine	1*	4	U086	A	10 (4.54)
Hydrazine, 1,1-dimethyl-	57147	1,1-Dimethylhydrazine	1*	4	U098	A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Hydrazine, 1,2-dimethyl-	540738	1,2-Dimethylhydrazine	1*	4	U099	X	1 (0.454)
Hydrazine, 1,2-diphenyl-	122667	1,2-Diphenylhydrazine	1*	2,4	U109	A	10 (4.54)
Hydroxydimethylarsine oxide	75605	Cacodylic acid	1*	4	U136	X	1 (0.454)
2-Imidazolidinethione	96457	Ethylenethiourea	1*	4	U116	A	10 (4.54)
Indeno[1,2,3-cd]pyrene	193395	1,10-(1,2-Phenylene)pyrene	1*	2,4	U137	B	100 (45.4)
Isocyanic acid, methyl ester	624839	Methyl isocyanate	1*	4	P064	X	1## (0.454)
Isosafrole	120581	Benzene, 1,2-methylenedioxy-4-propenyl-	1*	4	U141	B	100 (45.4)
Kepone	143500	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta-[c,d]-pentalen-2-one.	1	1,4	U142	X	1 (0.454)
Lasiocarpine	303344		1*	4	U143	A	10 (4.54)
Lead ††	7439921		1*	2		X	1# (0.454)
Lead acetate	301042	Acetic acid, lead salt	5000	1,4	U144	A	10 (4.54)
Lead arsenate	7784409 7645252 10102484		5000	1		X	1 (0.454)
Lead phosphate	7446277	Phosphoric acid, lead salt	1*	4	U145	A	10 (4.54)
Lead subacetate	1335326		1*	4	U146	B	100 (45.4)
Lindane	58899	gamma - BHC Hexachlorocyclohexane (gamma isomer)	1	1,2,4	U129	X	1 (0.454)
Lithium chromate	14307358		1000	1		X	1 (0.454)
Melphalan	148823	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-.	1*	4	U150	X	1 (0.454)
Methane, chloro	74873	Methyl chloride	1*	2,4	U045	B	100 (45.4)
Methane, chloromethoxy-	107302	Chloromethyl methyl ether	1*	4	U046	A	10 (4.54)
Methane, iodo-	74884	Methyl iodide	1*	4	U138	B	100 (45.4)
Methane, oxybis(chloro-	542881	Bis(chloromethyl) ether	1*	4	P016	A	10 (4.54)
Methane, tetrachloro-	56235	Carbon tetrachloride	5000	1,2,4	U211	A	10 (4.54)
Methane, trichloro-	67663	Chloroform	5000	1,2,4	U044	A	10 (4.54)
Methanesulfonic acid, ethyl ester	62500	Ethyl methanesulfonate	1*	4	U119	X	1 (0.454)
4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-.	76448	Heptachlor	1	1,2,4	P059	X	1 (0.454)
4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-.	57749	Chlordane Chlordane, technical	1	1,2,4	U036	X	1 (0.454)
Methyl chloride	74873	Methane, chloro	1*	2,4	U045	B	100 (45.4)
2-Methylaziridine	75558	1,2-Propylenimine	1*	4	P067	A	10 (4.54)
3-Methylcholanthrene	56495	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-.	1*	4	U157	A	10 (4.54)
4,4'-Methylenebis(2-chloroaniline)	101144	Benzenamine, 4,4'-methylenebis(2-chloro-.	1*	4	U158	A	10 (4.54)
Methylene oxide	50000	Formaldehyde	1000	1,4	U122	B	100 (45.4)
Methyl iodide	74884	Methane, iodo-	1*	4	U138	B	100 (45.4)
Methyl isocyanate	624839	Isocyanic acid, methyl ester	1*	4	P064	X	1## (0.454)
N-Methyl-N'-nitro-N-nitrosoguanidine	70257	Guanidine, N-nitroso-N-methyl-N'-nitro-	1*	4	U163	A	10 (4.54)
Methylthiouracil	56042	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-.	1*	4	U164	A	10 (4.54)
Mitomycin C	50077	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione,6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-.	1*	4	U010	A	10 (4.54)
5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-[3- amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranoxyl) oxyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-.	20830813	Daunomycin	1*	4	U059	A	10 (4.54)
2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'- dimethyl-(l,1'-biphenyl)-4,4'-diyl)-bis(azo)]bis(5-amino-4-hydroxy)-tetrasodium salt.	72571	Trypan blue	1*	4	U236	A	10 (4.54)
1-Naphthylamine	134327	alpha-Naphthylamine	1*	4	U167	B	100 (45.4)
2-Naphthylamine	91598	beta-Naphthylamine	1*	4	U168	A	10 (4.54)
alpha-Naphthylamine	134327	1-Naphthylamine	1*	4	U167	B	100 (45.4)
beta-Naphthylamine	91598	2-Naphthylamine	1*	4	U168	A	10 (4.54)
2-Naphthylamine, N,N-bis(2-chloroethyl)-	494031	Chlornaphazine	1*	4	U026	B	100 (45.4)
Nickel ††	7440020		1*	2		X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Nickel ammonium sulfate	15699180		5000	1		B	100 (45.4)
Nickel carbonyl	13463393	Nickel tetracarbonyl	1*	4	P073	A	10 (4.54)
Nickel chloride	7718549		5000	1		B	100 (45.4)
	37211055						
Nickel cyanide	557197	Nickel(II) cyanide	1*	4	P074	A	10 (4.54)
Nickel(II) cyanide	557197	Nickel cyanide	1*	4	P074	A	10 (4.54)
Nickel hydroxide	12054487		1000	1		A	10 (4.54)
Nickel nitrate	14216752		5000	1		B	100 (45.4)
Nickel sulfate	7786814		5000	1		B	100 (45.4)
Nickel tetracarbonyl	13463393	Nickel carbonyl	1*	4	P073	A	10 (4.54)
2-Nitropropane	79469	Propane, 2-nitro-	1*	4	U171	A	10 (4.54)
N-Nitrosodi-n-butylamine	924163	1-Butanamine, N-butyl-N-nitroso-	1*	4	U172	A	10 (4.54)
N-Nitrosodiethanolamine	1116547	Ethanol, 2,2'-(nitrosoimino)bis-	1*	4	U173	X	1 (0.454)
N-Nitrosodiethylamine	55185	Ethanamine, N-ethyl-N-nitroso-	1*	4	U174	X	1 (0.454)
N-Nitrosodimethylamine	62759	Dimethylnitrosamine	1*	2,4	P082	A	10 (4.54)
N-Nitrosodi-n-propylamine	621647	Di-n-propylnitrosamine	1*	2,4	U111	A	10 (4.54)
N-Nitroso-N-ethylurea	759739	Carbamide, N-ethyl-N-nitroso-	1*	4	U176	A	10 (4.54)
N-Nitroso-N-methylurea	684935	Carbamide, N-methyl-N-nitroso	1*	4	U177	X	1 (0.454)
N-Nitroso-N-methylurethane	615532	Carbamic acid, methylnitroso-, ethyl ester	1*	4	U178	X	1 (0.454)
N-Nitrosomethylvinylamine	4549400	Ethenamine, N-methyl-N-nitroso-	1*	4	P084	A	10 (4.54)
N-Nitrosopiperidine	100754	Pyridine, hexahydro-N-nitroso-	1*	4	U179	A	10 (4.54)
N-Nitrosopyrrolidine	930552	Pyrrole, tetrahydro-N-nitroso-	1*	4	U180	X	1 (0.454)
5-Nitro-o-toluidine	99558	Benzenamine, 2-methyl-5-nitro-	1*	4	U181	B	100 (45.4)
1,2-Oxathiolane, 2,2-dioxide	1120714	1,3-Propane sultone	1*	4	U193	A	10 (4.54)
2H-1,3,2-Oxazaphosphorine,2-[bis(2-chloroethyl) amino]tetrahydro-2-oxide.	50180	Cyclophosphamide	1*	4	U058	A	10 (4.54)
Oxirane	75218	Ethylene oxide	1*	4	U115	A	10 (4.54)
Oxirane, 2-(chloromethyl)-	106898	Epichlorohydrin 1-Chloro-2,3-epoxypropane	1000	1,4	U041	B	100 (45.4)
Parathion	56382	Phosphorothioc acid, O,O-diethyl O-(p-nitrophenyl) ester.	1	1,4	P089	A	10 (4.54)
Pentachloroethane	76017	Ethane, pentachloro-	1*	4	U184	A	10 (4.54)
Pentachloronitrobenzene	82688	Benzene, pentachloronitro-	1*	4	U185	B	100 (45.4)
Pentachlorophenol	87865	Phenol, pentachloro-	10	1,2,4	U242	A	10 (4.54)
Perchloroethylene	127184	Ethene, 1,1,2,2-tetrachloro- Tetrachloroethene Tetrachloroethylene	1*	2,4	U210	B	100 (45.4)
Phenacetin	62442	Acetamide, N-(4-ethoxyphenyl)-	1*	4	U187	B	100 (45.4)
Phenol, pentachloro-	87865	Pentachlorophenol	10	1,2,4	U242	A	10 (4.54)
Phenol, 2,4,5-trichloro-	95954	2,4,5-Trichlorophenol	10	1,2,4	U230	A	10 (4.54)
Phenol, 2,4,6-trichloro-	88062	2,4,6-Trichlorophenol	10	1,2,4	U231	A	10 (4.54)
Phenyl dichloroarsine	696286	Dichlorophenylarsine	1*	4	P036	X	1 (0.454)
1,10-(1,2-Phenylene)pyrene	193395	Indeno[1,2,3-cd]pyrene	1*	2,4	U137	B	100 (45.4)
Phosphoric acid, lead salt	7446277	Lead phosphate	1*	4	U145	A	10 (4.54)
Phosphorothioc acid, O,O-diethyl O-(p-nitrophenyl)ester.	56382	Parathion	1	1,4	P089	A	10 (4.54)
Polychlorinated Biphenyls (PCBs)	1336363		10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	12674112	Aroclor 1016	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	11104282	Aroclor 1221	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	11141165	Aroclor 1232	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	53469219	Aroclor 1242	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	12672296	Aroclor 1248	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	11097691	Aroclor 1254	10	1,2		X	1 (0.454)
Polychlorinated Biphenyls (PCBs)	11096825	Aroclor 1260	10	1,2		X	1 (0.454)
Potassium arsenate	7784410		1000	1		X	1 (0.454)
Potassium arsenite	10124502		1000	1		X	1 (0.454)
Potassium bichromate	7778509		1000	1		X	1 (0.454)
Potassium chromate	7789006		1000	1		X	1 (0.454)
1-Propanal, 2,3-epoxy-	765344	Glycidylaldehyde	1*	4	U126	A	10 (4.54)
Propane, 1,2-dibromo-3-chloro-	96128	1,2-Dibromo-3-chloropropane	1*	4	U066	A	10 (4.54)
Propane, 2-nitro-	79469	2-Nitropropane	1*	4	U171	A	10 (4.54)
1,3-Propane sultone	1120714	1,2-Oxathiolane, 2,2-dioxide	1*	4	U193	A	10 (4.54)
1-Propanol, 2,3-dibromo-, phosphate (3:1)	126727	Tris(2,3-dibromopropyl) phosphate	1*	4	U235	A	10 (4.54)
2-Propenenitrile	107131	Acrylonitrile	100	1,2,4	U009	A	10 (4.54)
1,2-Propylenimine	75558	2-Methylaziridine	1*	4	P067	A	10 (4.54)
Pyridine, hexahydro-N-nitroso-	100754	N-Nitrosopiperidine	1*	4	U179	A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	56042	Methylthiouracil	1*	4	U164	A	10 (4.54)
Pyrrole, tetrahydro-N-nitroso-	930552	N-Nitrosopyrrolidine	1*	4	U180	X	1 (0.454)
RADIONUCLIDES	N.A.		1*	3			§
Saccharin and salts	81072	1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts.	1*	4	U202	B	100 (45.4)
Safrole	94597	Benzene, 1,2-methylenedioxy-4-allyl-	1*	4	U203	B	100 (45.4)
Selenium disulfide	7488564	Sulfur selenide	1*	4	U205	A	10 (4.54)
L-Serine, diazoacetate (ester)	115026	Azaserine	1*	4	U015	A	10 (4.54)
Sodium arsenate	7631892		1000	1		X	1 (0.454)
Sodium arsenite	7784465		1000	1		X	1 (0.454)
Sodium bichromate	10588019		1000	1		X	1 (0.454)
Sodium chromate	7775113		1000	1		X	1 (0.454)
4,4'-Stilbenediol, alpha,alpha'-diethyl-	56531	Diethylstilbestrol	1*	4	U089	X	1 (0.454)
Streptozotocin	18883664	D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido).	1*	4	U206	X	1 (0.454)
Strontium chromate	7789062		1000	1		X	1 (0.454)
Sulfur selenide	7488564	Selenium disulfide	1*	4	U205	A	10 (4.54)
Sulfuric acid, dimethyl ester	77781	Dimethyl sulfate	1*	4	U103	B	100 (45.4)
TDE	72548	Dichlorodiphenyl dichloroethane DDD 4,4'-DDD	1	1,2,4	U060	X	1 (0.454)
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD).	1746016		1*	2		X	1 (0.454)
1,1,1,2-Tetrachloroethane	630206	Ethane, 1,1,1,2-tetrachloro-	1*	4	U208	B	100 (45.4)
1,1,2,2-Tetrachloroethane	79345	Ethane, 1,1,2,2-tetrachloro-	1*	2,4	U209	B	100 (45.4)
Tetrachloroethene	127184	Ethene, 1,1,2,2-tetrachloro- Perchloroethylene Tetrachloroethylene	1*	2,4	U210	B	100 (45.4)
Tetrachloroethylene	127184	Ethene, 1,1,2,2-tetrachloro- Perchloroethylene Tetrachloroethene	1*	2,4	U210	B	100 (45.4)
Thioacetamide	62555	Ethanethioamide	1*	4	U218	A	10 (4.54)
Thiourea	62566	Carbamide, thio-	1*	4	U219	A	10 (4.54)
Toluenediamine	95807 496720 823405 25376458	Diaminotoluene	1*	4	U221	A	10 (4.54)
o-Toluidine	95534	2-Amino-1-methylbenzene	1*	4	U328	B	100 (45.4)
p-Toluidine	106490	4-Amino-1-methylbenzene	1*	4	U353	B	100 (45.4)
o-Toluidine hydrochloride	636215	Benzenamine, 2-methyl-, hydrochloride	1*	4	U222	B	100 (45.4)
Toxaphene	8001352	Camphene, octachloro-	1	1,2,4	P123	X	1 (0.454)
1H-1,2,4-Triazol-3-amine	61825	Amitrole	1*	4	U011	A	10 (4.54)
1,1,2-Trichloroethane	79005	Ethane, 1,1,2-trichloro-	1*	2,4	U227	B	100 (45.4)
Trichloroethene	79016	Trichloroethylene	1000	1,2,4	U228	B	100 (45.4)
Trichloroethylene	79016	Trichloroethene	1000	1,2,4	U228	B	100 (45.4)
Trichlorophenol	25167822		10	1		A	10 (4.54)
2,3,4-Trichlorophenol	15950660						
2,3,5-Trichlorophenol	933788						
2,3,6-Trichlorophenol	933755						
2,4,5-Trichlorophenol	95954	Phenol,2,4,5-trichloro-					
2,4,6-trichlorophenol	88062	Phenol,2,4,6-trichloro-					
3,4,5-Trichlorophenol	609198						
2,4,5-Trichlorophenol	95954	Phenol, 2,4,5-trichloro-	10	1,4	U230	A	10 (4.54)
2,4,6-Trichlorophenol	88062	Phenol, 2,4,6-trichloro-	10	1,2,4	U231	A	10 (4.54)
Tris(2,3-dibromopropyl) phosphate	126727	1-Propanol, 2,3-dibromo-, phosphate (3:1)	1*	4	U235	A	10 (4.54)
Trypan blue	72571	2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'-diyl)-bis(azo)]bis(5-amino-4-hydroxy)-tetrasodium salt.	1*	4	U236	A	10 (4.54)
Unlisted Hazardous Wastes	N.A.						
Characteristic of EP Toxicity							
Arsenic	N.A.		1*	4	D004	X	1 (0.454)
Cadmium	N.A.		1*	4	D006	A	10 (4.54)
Chromium(VI)	N.A.		1*	4	D007	X	1 (0.454)
Lead	N.A.		1*	2,4	D008	B	100 (45.4)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Lindane	N.A.		1*	1,4	D013	X	1 (0.454)
Toxaphene	N.A.		1*	1,4	D015	X	1 (0.454)
Uracil, 5-[bis(2-chloroethyl)amino]-	66751	Uracil mustard	1*	4	U237	A	10 (4.54)
Uracil mustard	66751	Uracil, 5-[bis(2-chloroethyl)amino]-	1*	4	U237	A	10 (4.54)
Vinyl chloride	75014	Ethene, chloro-	1*	2,3,4	U043	A	10 (4.54)
Vinylidene chloride	75354	Ethene, 1,1-dichloro-	5000	1,2,4	U078	B	100 (45.4)
		1,1-Dichloroethylene					
F001			1*	4	F001	A	10 (4.54)
The following spent halogenated solvents used in degreasing and sludges from the recovery of these solvents in degreasing operations:							
(a) Tetrachloroethylene	127184		1*	2,4	U210	B	100 (45.5)
(b) Trichloroethylene	79016		1000	1,2,4	U228	B	100 (45.4)
(c) Methylene chloride	75092		1*	4		C	1000 (454)
(d) 1,1,1-Trichloroethane	71556		1*	2,4		C	1000 (454)
(e) Carbon tetrachloride	56235		5000	1,2,4	U211	A	10 (4.54)
(f) Chlorinated fluorocarbons	N.A.		1*	4		D	5000 (2270)
F002			1*	4	F002	B	100 (45.4)
The following spent halogenated solvents and the still bottoms from the recovery of these solvents:							
(a) Tetrachloroethylene	127184		1*	2,4	U210	B	100 (45.4)
(b) Methylene chloride	75092		1*	4		C	1000 (454)
(c) Trichloroethylene	79016		1000	1,2,4	U228	B	100 (45.4)
(d) 1,1,1-Trichloroethane	71556		1*	2,4		C	1000 (454)
(e) Chlorobenzene	108907		100			B	100 (45.4)
(f) 1,1,2-Trichloro-1,2,2-trifluoroethane	76131		1*	4		D	5000 (2270)
(g) o-Dichlorobenzene	95501		100			B	100 (45.4)
(h) Trichlorofluoromethane	75694		1*	4		D	5000 (2270)
F006			1*	4	F006	X	1 (0.454)
Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum,. (2) tin plating on carbon steel, ... (3) zinc plating (segregated basis) on carbon steel,. (4) aluminum or zinc-aluminum plating on carbon steel,. (5) cleaning /stripping associated with tin, zinc and aluminum plating on carbon steel, and. (6) chemical etching and milling of aluminum..							
F019			1*	4	F019	X	1 (0.454)
Wastewater treatment sludges from the chemical conversion coating of aluminum.							
F020			1*	4	F020	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process of tri- or tetrachlorophenol, or of intermediates) used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.).							
F021			1*	4	F021	X	1 (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.							
F022			1*	4	F022	X	1 (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical in- termediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.							
F023			1*	4	F023	X	1 (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.).							
F024			1*	4	F024	X	1 (0.454)
Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes, from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent dessicants(sic), wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in Section 261.32.).							
F026			1*	4	F026	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. F027			1*	4	F027	X	1 (0.454)
Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.). F028			1*	4	F028	X	1 (0.454)
Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027. K001			1*	4	K001	X	1 (0.454)
Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. K002			1*	4	K002	X	1 (0.454)
Wastewater treatment sludge from the production of chrome yellow and orange pigments. K003			1*	4	K003	X	1 (0.454)
Wastewater treatment sludge from the production of molybdate orange pigments. K004			1*	4	K004	X	1 (0.454)
Wastewater treatment sludge from the production of zinc yellow pigments. K005			1*	4	K005	X	1 (0.454)
Wastewater treatment sludge from the production of chrome green pigments. K006			1*	4	K006	X	1 (0.454)
Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). K007			1*	4	K007	X	1 (0.454)
Wastewater treatment sludge from the production of iron blue pigments. K008			1*	4	K008	X	1 (0.454)
Oven residue from the production of chrome oxide green pigments. K009			1*	4	K009	A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Distillation bottoms from the production of acetaldehyde from ethylene. K010			1*	4	K010	A	10 (4.54)
Distillation side cuts from the production of acetaldehyde from ethylene. K011			1*	4	K011	A	10 (4.54)
Bottom stream from the wastewater stripper in the production of acrylonitrile. K013			1*	4	K013	A	10 (4.54)
Bottom stream from the acetonitrile column in the production of acrylonitrile. K015			1*	4	K015	X	1 (0.454)
Still bottoms from the distillation of benzyl chloride. K016			1*	4	K016	X	1 (0.454)
Heavy ends or distillation residues from the production of carbon tetrachloride. K017			1*	4	K017	A	10 (4.54)
Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. K018			1*	4	K018	X	1 (0.454)
Heavy ends from the fractionation column in ethyl chloride production. K019			1*	4	K019	A	10 (4.54)
Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. K020			1*	4	K020	A	10 (4.54)
Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (Components of this waste are identical with those of K019, immediately preceding.) K021			1*	4	K021	A	10 (4.54)
Aqueous spent antimony catalyst waste from fluoromethanes production. K022			1*	4	K022	X	1 (0.454)
Distillation bottom tars from the production of phenol/acetone from cumene. K025			1*	4	K025	A	10 (4.54)
Distillation bottoms from the production of nitrobenzene by the nitration of benzene. K027			1*	4	K027	A	10 (4.54)
Centrifuge and distillation residues from toluene diisocyanate production. K028			1*	4	K028	A	10 (4.54)
Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. K029			1*	4	K029	A	10 (4.54)
Waste from the product steam stripper in the production of 1,1,1-trichloroethane. K030			1*	4	K030	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. K031			1*	4	K031	X	1 (0.454)
By-product salts generated in the production of MSMA and cacodylic acid. K032			1*	4	K032	A	10 (4.54)
Wastewater treatment sludge from the production of chlordane. K033			1*	4	K033	A	10 (4.54)
Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. K034			1*	4	K034	A	10 (4.54)
Filter solids from filtration of hexachlorocyclopentadiene in the production of chlordane. K035			1*	4	K035	X	1 (0.454)
Wastewater treatment sludges generated in the production of creosote. K038			1*	4	K038	A	10 (4.54)
Wastewater from the washing and stripping of phorate production. K040			1*	4	K040	A	10 (4.54)
Wastewater treatment sludge from the production of phorate. (Components of this waste are identical with those of K038, above.) K041			1*	4	K041	X	1 (0.454)
Wastewater treatment sludge from the production of toxaphene. K042			1*	4	K042	A	10 (4.54)
Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. K043			1*	4	K043	A	10 (4.54)
2,6-Dichlorophenol waste from the production of 2,4-D. K048			1*	4	K048	X	1 (0.454)
Dissolved air flotation (DAF) float from the petroleum refining industry. K049			1*	4	K049	X	1 (0.454)
Slop oil emulsion solids from the petroleum refining industry. K050			1*	4	K050	X	1 (0.454)
Heat exchanger bundle cleaning sludge from the petroleum refining industry. K051			1*	4	K051	X	1 (0.454)
API separator sludge from the petroleum refining industry. K060			1*	4	K060	X	1 (0.454)
Ammonia still lime sludge from coking operations. K061			1*	4	K061	X	1 (0.454)
Emission control dust/sludge from the primary production of steel in electric furnaces. K062			1*	4	K062	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Spent pickle liquor from steel finishing operations. K069			1*	4	K069	X	1 (0.454)
Emission control dust/sludge from secondary lead smelting. K073			1*	4	K073	A	10 (4.54)
Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. K084			1*	4	K084	X	1 (0.454)
Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. K085			1*	4	K085	A	10 (4.54)
Distillation or fractionation column bottoms from the production of chlorobenzenes. K086			1*	4	K086	X	1 (0.454)
Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. K095			1*	4	K095	B	100 (45.4)
Distillation bottoms from the production of 1,1,1-trichloroethane. K096			1*	4	K096	A	10 (4.54)
Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. K097			1*	4	K097	X	1 (0.454)
Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. K098			1*	4	K098	X	1 (0.454)
Untreated process wastewater from the production of toxaphene. K099			1*	4	K099	A	10 (4.54)
Untreated wastewater from the production of 2,4,-D. K100			1*	4	K100	X	1 (0.454)
Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (Components of this waste are identical with those of K069.) K101			1*	4	K101	X	1 (0.454)
Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo- arsenic compounds. K102			1*	4	K102	X	1 (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Proposed RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds							
K104			1*	4	K104	A	10 (4.54)
Combined wastewater streams generated from nitrobenzene/ aniline chlorobenzenes.							
K105			1*	4	K105	A	10 (4.54)
Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.							
K111			1*	4	K111	A	10 (4.54)
Product washwaters from the production of dinitrotoluene via nitration of toluene.							
K112			1*	4	K112	A	10 (4.54)
Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K113			1*	4	K113	A	10 (4.54)
Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K114			1*	4	K114	A	10 (4.54)
Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K115			1*	4	K115	A	10 (4.54)
Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K116			1*	4	K116	A	10 (4.54)
Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.							
K117			1*	4	K117	X	1 (0.454)
Wastewater from the reaction vent gas scrubber in the production of ethylene bromide via bromination of ethene.							
K118			1*	4	K118	X	1 (0.454)
Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide.							
K136			1*	4	K136	X	1 (0.454)
Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.							

† - indicates the statutory source as defined by 1, 2, 3, or 4 below
†† - No reporting of releases of this hazardous substance is required if the diameter of the pieces of the solid metal released is equal to or exceeds 100 micrometers (0.004 inches).
††† - The RQ for asbestos is limited to friable forms only.
1 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 311(b)(4)
2 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 307(a)
3 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CAA Section 112
4 - indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001

1* - indicates that the 1-pound RQ is a CERCLA statutory RQ
- indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed
- The Agency may adjust the RQ for methyl isocyanate in a future rulemaking; until then the statutory RQ applies.
§ - See the proposed rule on RQ adjustments for radionuclides published in today's **Federal Register**.

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CAS REG. NUMBER	Hazardous Substance
50000	Formaldehyde Methylene oxide
50077	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione,6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- Mitomycin C
50180	Cyclophosphamide 2H-1,3,2-Oxazaphosphorine,2-[bis(2-chloroethyl) amino]tetrahydro-2-oxide
50293	DDT Dichlorodiphenyl trichloroethane 4,4'-DDT
50328	Benzo[a]pyrene 3,4-Benzopyrene
51796	Carbamic acid, ethyl ester Ethyl carbamate (Urethan)
53703	Dibenz[a,h]anthracene Dibenzo[a,h]anthracene 1,2:5,6-Dibenzanthracene
53963	Acetamide, N-fluoren-2-yl- 2-Acetylaminofluorene
55185	Ethanamine, N-ethyl-N-nitroso- N-Nitrosodiethylamine
56042	Methylthiouracil 4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
56235	Carbon tetrachloride Methane, tetrachloro-
56382	Parathion Phosphorothioc acid, O,O-diethyl O-(p-nitrophenyl)ester
56495	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl- 3-Methylcholanthrene
56531	Diethylstilbestrol 4,4'-Stilbenediol, alpha,alpha'-diethyl-
56553	Benz[a]anthracene Benzo[a]anthracene 1,2-Benzanthracene
57147	Hydrazine, 1,1-dimethyl- 1,1-Dimethylhydrazine

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
57749	Chlordane Chlordane, technical 4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-
57976	1,2-Benzanthracene, 7,12-dimethyl- 7,12-Dimethylbenz[a]anthracene
58899	gamma - BHC Hexachlorocyclohexane (gamma isomer) Lindane
60117	Benzenamine, N,N-dimethyl-4-phenylazo- Dimethylaminoazobenzene
60571	Dieldrin 1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene
61825	Amitrole 1H-1,2,4-Triazol-3-amine
62442	Acetamide, N-(4-ethoxyphenyl)- Phenacetin
62500	Ethyl methanesulfonate Methanesulfonic acid, ethyl ester
62555	Ethanethioamide Thioacetamide
62566	Carbamide, thio- Thiourea
62759	Dimethylnitrosamine N-Nitrosodimethylamine
66751	Uracil mustard Uracil, 5-[bis(2-chloroethyl)amino]-
67663	Chloroform Methane, trichloro-
67721	Ethane, 1,1,1,2,2,2-hexachloro- Hexachloroethane
70257	Guanidine, N-nitroso-N-methyl-N'-nitro- N-Methyl-N'-nitro-N-nitrosoguanidine

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
71432	Benzene
72548	DDD Dichlorodiphenyl dichloroethane TDE 4,4'-DDD
72559	DDE 4,4'-DDE
72571	Trypan blue 2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'- dimethyl-(1,1'-biphenyl)-4,4'-diyl)-bis(azo)]bis(5-amino-4-hydroxy)-tetrasodium salt
74873	Methane, chloro Methyl chloride
74884	Methane, iodo- Methyl iodide
75014	Ethene, chloro- Vinyl chloride
75218	Ethylene oxide Oxirane
75354	Ethene, 1,1-dichloro- Vinylidene chloride 1,1-Dichloroethylene
75558	1,2-Propylenimine 2-Methylaziridine
75605	Cacodylic acid Hydroxydimethylarsine oxide
75876	Acetaldehyde, trichloro- Chloral
76017	Ethane, pentachloro- Pentachloroethane
76448	Heptachlor 4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
77474	Hexachlorocyclopentadiene 1,3-Cyclopentadiene,1,2,3,4,5,5-hexachloro-
77781	Dimethyl sulfate Sulfuric acid, dimethyl ester
79005	Ethane, 1,1,2-trichloro- 1,1,2-Trichloroethane

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
79016	Trichloroethene Trichloroethylene
79345	Ethane, 1,1,2,2-tetrachloro- 1,1,2,2-Tetrachloroethane
79447	Carbamoyl chloride, dimethyl- Dimethylcarbamoyl chloride
79469	Propane, 2-nitro- 2-Nitropropane
81072	Saccharin and salts 1,2-Benzisothiazolin-3-one,1,1-dioxide, and salts
82688	Benzene, pentachloronitro- Pentachloronitrobenzene
87683	Hexachlorobutadiene 1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
87865	Pentachlorophenol Phenol, pentachloro-
88062	Phenol, 2,4,6-trichloro- 2,4,6-Trichlorophenol
91598	beta-Naphthylamine 2-Naphthylamine
91941	(1,1'-Biphenyl)-4,4'diamine,3,3'dichloro- 3,3'-Dichlorobenzidine
92875	(1,1'-Biphenyl)-4,4'diamine Benzidine
94586	Benzene, 1,2-methylenedioxy-4-propyl- Dihydrosafrole
94597	Benzene, 1,2-methylenedioxy-4-allyl- Safrole
95534	o-Toluidine 2-Amino-1-methylbenzene
95807	Toluenediamine Diaminotoluene
95954	Phenol, 2,4,5-trichloro- 2,4,5-Trichlorophenol
96128	Propane, 1,2-dibromo-3-chloro- 1,2-Dibromo-3-chloropropane
96457	Ethylenethiourea 2-Imidazolidinethione
98077	Benzene, (trichloromethyl)- Benzotrichloride

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
99558	Benzenamine, 2-methyl-5-nitro- 5-Nitro-o-toluidine
100447	Benzene, chloromethyl- Benzyl chloride
100754	N-Nitrosopiperidine Pyridine, hexahydro-N-nitroso-
101144	Benzenamine, 4,4'-methylenebis(2-chloro- 4,4'-Methylenebis(2-chloroaniline)
106490	p-Toluidine 4-Amino-1-methylbenzene
106898	Epichlorohydrin Oxirane, 2-(chloromethyl)- 1-Chloro-2,3-epoxypropane
106934	Ethane, 1,2-dibromo- Ethylene dibromide
107062	Ethane, 1,2-dichloro- Ethylene dichloride 1,2-Dichloroethane
107131	Acrylonitrile 2-Propenenitrile
107302	Chloromethyl methyl ether Methane, chloromethoxy-
110805	Ethylene glycol monoethyl ether 2-Ethoxyethanol
111444	Bis(2-chloroethyl) ether Dichloroethyl ether Ethane, 1,1'-oxybis[2-chloro-
115026	Azaserine L-Serine, diazoacetate (ester)
117817	Bis(2-ethylhexyl) phthalate 1,2-Benzenedicarboxylic acid, [bis(2-ethylhexyl)] ester
118741	Benzene, hexachloro- Hexachlorobenzene
119904	(1,1'-Biphenyl)-4,4'diamine,3,3'dimethoxy- 3,3'-Dimethoxybenzidine
119937	(1,1'Biphenyl)-4,4'-diamine,3,3'-dimethyl- 3,3'-Dimethylbenzidine
120581	Benzene, 1,2-methylenedioxy-4-propenyl- Isosafrole
121142	Benzene, 1-methyl-2,4-dinitro- 2,4-Dinitrotoluene

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
122667	Hydrazine, 1,2-diphenyl- 1,2-Diphenylhydrazine
123911	1,4-Diethylene dioxide 1,4-Dioxane
126727	Tris(2,3-dibromopropyl) phosphate 1-Propanol, 2,3-dibromo-, phosphate (3:1)
127184	Ethene, 1,1,2,2-tetrachloro- Perchloroethylene Tetrachloroethene Tetrachloroethylene
134327	alpha-Naphthylamine 1-Naphthylamine
143500	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta- [c,d]-pentalen-2-one Kepone
148823	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L- Melphalan
151564	Aziridine Ethylenimine
189559	Dibenz[a,i]pyrene 1,2:7,8-Dibenzopyrene
193395	Indeno[1,2,3-cd]pyrene 1,10-(1,2-Phenylene)pyrene
205992	Benzo[b]fluoranthene
207089	Benzo(k)fluoranthene
218019	Chrysene 1,2-Benzphenanthrene
225514	Benz[c]acridine 3,4-Benzacridine
301042	Acetic acid, lead salt Lead acetate
302012	Diamine Hydrazine
303344	Lasiocarpine
305033	Butanoic acid, 4-[bis(2-chloroethyl) amino]benzene Chlorambucil
309002	Aldrin 1,2,3,4,10-10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
319846	alpha—BHC
319857	beta—BHC
492808	Auramine Benzenamine, 4,4'-carbonimidoylbis (N,N-dimethyl-
494031	Chlornaphazine 2-Naphthylamine, N,N-bis(2-chloroethyl)-
496720	Toluenediamine Diaminotoluene
510156	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenylalpha-hydroxy-ethyl ester Ethyl 4,4'-dichlorobenzilate
540738	Hydrazine, 1,2-dimethyl- 1,2-Dimethylhydrazine
542881	Bis(chloromethyl) ether Methane, oxybis(chloro-
543908	Cadmium acetate
557197	Nickel cyanide Nickel(II) cyanide
606202	Benzene, 1-methyl-2,6-dinitro- 2,6-Dinitrotoluene
609198	3,4,5-Trichlorophenol
610399	3,4-Dinitrotoluene
615532	Carbamic acid, methylnitroso-, ethyl ester N-Nitroso-N-methylurethane
621647	Di-n-propylnitrosamine N-Nitrosodi-n-propylamine
624839	Isocyanic acid, methyl ester Methyl isocyanate
630206	Ethane, 1,1,1,2-tetrachloro- 1,1,1,2-Tetrachloroethane
636215	Benzenamine, 2-methyl-, hydrochloride o-Toluidine hydrochloride
684935	Carbamide, N-methyl-N-nitroso N-Nitroso-N-methylurea
692422	Arsine, diethyl- Diethylarsine
696286	Dichlorophenylarsine Phenyl dichloroarsine

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
759739	Carbamide, N-ethyl-N-nitroso- N-Nitroso-N-ethylurea
765344	Glycidylaldehyde 1-Propanal, 2,3-epoxy-
823405	Toluenediame Diaminotoluene
924163	N-Nitrosodi-n-butylamine 1-Butanamine, N-butyl-N-nitroso-
930552	N-Nitrosopyrrolidine Pyrrole, tetrahydro-N-nitroso-
933755	2,3,6-Trichlorophenol
933788	2,3,5-Trichlorophenol
1024573	Heptachlor epoxide
1116547	Ethanol, 2,2'-(nitrosoimino)bis- N-Nitrosodiethanolamine
1120714	1,2-Oxathiolane, 2,2-dioxide 1,3-Propane sultone
1303282	Arsenic pentoxide Arsenic(V) oxide
1303328	Arsenic disulfide
1303339	Arsenic trisulfide
1327522	Arsenic acid
1327533	Arsenic trioxide Arsenic(III) oxide
1332214	Asbestos
1335326	Lead subacetate
1336363	Polychlorinated Biphenyls (PCBs)
1464535	1,2:3,4-Diepoxybutane 2,2'-Bioxirane
1615801	Hydrazine, 1,2-diethyl- N,N'-Diethylhydrazine
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
2303164	Diallate S-(2,3-Dichloroallyl) diisopropylthiocarbamate
3165933	Benzenamine, 4-chloro-2-methyl-, hydrochloride 4-Chloro-o-toluidine, hydrochloride
4549400	Ethenamine, N-methyl-N-nitroso- N-Nitrosomethylvinylamine

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
7439921	Lead
7440020	Nickel
7440382	Arsenic
7440417	Beryllium Beryllium dust
7440439	Cadmium
7440473	Chromium
7446277	Lead phosphate Phosphoric acid, lead salt
7488564	Selenium disulfide Sulfur selenide
7631892	Sodium arsenate
7645252	Lead arsenate
7718549	Nickel chloride
7738945	Chromic acid
7775113	Sodium chromate
7778394	Arsenic acid
7778441	Calcium arsenate
7778509	Potassium bichromate
7784341	Arsenic trichloride
7784409	Lead arsenate
7784410	Potassium arsenate
7784465	Sodium arsenite
7786814	Nickel sulfate
7787475	Beryllium chloride
7787497	Beryllium fluoride
7787555	Beryllium nitrate
7788989	Ammonium chromate
7789006	Potassium chromate
7789062	Strontium chromate
7789095	Ammonium bichromate
7789426	Cadmium bromide
8001352	Camphene, octachloro- Toxaphene

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
8001589	Creosote
10102484	Lead arsenate
10108642	Cadmium chloride
10124502	Potassium arsenite
10588019	Sodium bichromate
11096825	Aroclor 1260 Polychlorinated Biphenyls (PCBS)
11097691	Aroclor 1254 Polychlorinated Biphenyls (PCBs)
11104282	Aroclor 1221 Polychlorinated Biphenyls (PCBs)
11115745	Chromic acid
11141165	Aroclor 1232 Polychlorinated Biphenyls (PCBs)
12002038	Cupric acetoarsenite
12054487	Nickel hydroxide
12672296	Aroclor 1248 Polychlorinated Biphenyls (PCBs)
12674112	Aroclor 1016 Polychlorinated Biphenyls (PCBs)
13463393	Nickel carbonyl Nickel tetracarbonyl
13597994	Beryllium nitrate
13765190	Calcium chromate Chromic acid, calcium salt
14216752	Nickel nitrate
14307358	Lithium chromate
15699180	Nickel ammonium sulfate
15950660	2,3,4-Trichlorophenol
18883664	D-Glucopyranose, 2-deoxy-2-(3-methyl-3- nitrosoureido)- Streptozotocin

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
20830813	Daunomycin 5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-[3- amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranoxyl) oxyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy
25167822	Trichlorophenol
25321146	Dinitrotoluene

APPENDIX A—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CAS REG. NUMBER	Hazardous Substance
25376458	Toluenediamine Diaminotoluene
37211055	Nickel chloride
52740166	Calcium arsenite
53469219	Aroclor 1242 Polychlorinated Biphenyls (PCBs)

PART 117—DESIGNATION, REPORTABLE QUANTITIES AND NOTIFICATION

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

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and Executive Order 11735.

2. Section 117.3 is amended by revising the Note to Table 117.3 and placing it before the table heading and by revising Table 117.3 to read as follows:

Note: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

TABLE 117.3—REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES

Material	Category	RQ in pounds (kilograms)
Acetaldehyde	C	1,000 (454)
Acetic acid	D	5,000 (2,270)
Acetic anhydride	D	5,000 (2,270)
Acetone cyanohydrin	A	10 (4.54)
Acetyl bromide	D	5,000 (2,270)
Acetyl chloride	D	5,000 (2,270)
Acrolein	X	1 (0.454)
Acrylonitrile	A	10 (4.54)
Adipic acid	D	5,000 (2,270)
Aldrin	X	1 (0.454)
Allyl alcohol	B	100 (45.4)
Allyl chloride	C	1,000 (454)
Aluminum sulfate	D	5,000 (2,270)
Ammonia	B	100 (45.4)
Ammonium acetate	D	5,000 (2,270)
Ammonium benzoate	D	5,000 (2,270)
Ammonium bicarbonate	D	5,000 (2,270)
Ammonium bichromate	X	1 (0.454)
Ammonium bifluoride	B	100 (45.4)
Ammonium bisulfite	D	5,000 (2,270)
Ammonium carbamate	D	5,000 (2,270)
Ammonium carbonate	D	5,000 (2,270)
Ammonium chloride	D	5,000 (2,270)
Ammonium chromate	X	1 (0.454)
Ammonium citrate	D	5,000 (2,270)
Ammonium fluoborate	D	5,000 (2,270)
Ammonium fluoride	B	100 (45.4)
Ammonium hydroxide	C	1,000 (454)

TABLE 117.3—REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

Material	Category	RQ in pounds (kilograms)
Ammonium oxalate	D	5,000 (2,270)
Ammonium silicofluoride	C	1,000 (454)
Ammonium sulfamate	D	5,000 (2,270)
Ammonium sulfide	B	100 (45.4)
Ammonium sulfite	D	5,000 (2,270)
Ammonium tartrate	D	5,000 (2,270)
Ammonium thiocyanate	D	5,000 (2,270)
Ammonium thiosulfate	D	5,000 (2,270)
Amyl acetate	D	5,000 (2,270)
Aniline	D	5,000 (2,270)
Antimony pentachloride	C	1,000 (454)
Antimony potassium tartrate	B	100 (45.4)
Antimony tribromide	C	1,000 (454)
Antimony trichloride	C	1,000 (454)
Antimony trifluoride	C	1,000 (454)
Antimony trioxide	C	1,000 (454)
Arsenic disulfide	X	1 (0.454)
Arsenic pentoxide	X	1 (0.454)
Arsenic trichloride	X	1 (0.454)
Arsenic trioxide	X	1 (0.454)
Arsenic trisulfide	X	1 (0.454)
Barium cyanide	A	10 (4.54)
Benzene	A	10 (4.54)
Benzoic acid	D	5,000 (2,270)
Benzonitrile	D	5,000 (2,270)
Benzoyl chloride	C	1,000 (454)
Benzyl chloride	B	100 (45.4)
Beryllium chloride	X	1 (0.454)
Beryllium fluoride	X	1 (0.454)
Beryllium nitrate	X	1 (0.454)
Butyl acetate	D	5,000 (2,270)
Butylamine	C	1,000 (454)
n-Butyl phthalate	A	10 (4.54)
Butyric acid	D	5,000 (2,270)
Cadmium acetate	A	10 (4.54)
Cadmium bromide	A	10 (4.54)
Cadmium chloride	A	10 (4.54)
Calcium arsenate	X	1 (0.454)
Calcium arsenite	X	1 (0.454)
Calcium carbide	A	10 (4.54)
Calcium chromate	X	1 (0.454)
Calcium cyanide	A	10 (4.54)
Calcium dodecylbenzenesulfonate	C	1,000 (454)
Calcium hypochlorite	A	10 (4.54)
Captan	A	10 (4.54)
Carbaryl	B	100 (45.4)
Carbofuran	A	10 (4.54)
Carbon disulfide	B	100 (45.4)
Carbon tetrachloride	A	10 (4.54)
Chlordane	X	1 (0.454)
Chlorine	A	10 (4.54)
Chlorobenzene	B	100 (45.4)
Chloroform	A	10 (4.54)
Chlorosulfonic acid	C	1,000 (454)
Chlorpyrifos	X	1 (0.454)
Chromic acetate	C	1,000 (454)
Chromic acid	X	1 (0.454)
Chromic sulfate	C	1,000 (454)
Chromous chloride	C	1,000 (454)
Cobaltous bromide	C	1,000 (454)
Cobaltous formate	C	1,000 (454)
Cobaltous sulfamate	C	1,000 (454)
Coumaphos	A	10 (4.54)
Cresol	C	1,000 (454)
Crotonaldehyde	B	100 (45.4)
Cupric acetate	B	100 (45.4)
Cupric acetoarsenite	X	1 (0.454)
Cupric chloride	A	10 (4.54)
Cupric nitrate	B	100 (45.4)

TABLE 117.3—REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

Material	Category	RQ in pounds (kilograms)
Cupric oxalate	B	100 (45.4)
Cupric sulfate	A	10 (4.54)
Cupric sulfate ammoniated	B	100 (45.4)
Cupric tartrate	B	100 (45.4)
Cyanogen chloride	A	10 (4.54)
Cyclohexane	C	1,000 (454)
2,4-D Acid	B	100 (45.4)
2,4-D Esters	B	100 (45.4)
DDT	X	1 (0.454)
Diazinon	X	1 (0.454)
Dicamba	C	1,000 (454)
Dichlobenil	B	100 (45.4)
Dichlone	X	1 (0.454)
Dichlorobenzene	B	100 (45.4)
Dichloropropane	C	1,000 (454)
Dichloropropene	B	100 (45.4)
Dichloropropene-Dichloropropane Mixture	B	100 (45.4)
2,2-Dichloropropionic acid	D	5,000 (2,270)
Dichlorvos	A	10 (4.54)
Dieldrin	X	1 (0.454)
Diethylamine	B	100 (45.4)
Dimethylamine	C	1,000 (454)
Dinitrobenzene	B	100 (45.4)
Dinitrophenol	A	10 (45.4)
Dinitrotoluene	A	10 (4.54)
Diquat	C	1,000 (454)
Disulfoton	X	1 (0.454)
Diuron	B	100 (45.4)
Dodecylbenzenesulfonic acid	C	1,000 (454)
Endosulfan	X	1 (0.454)
Endrin	X	1 (0.454)
Epichlorohydrin	B	100 (45.4)
Ethion	A	10 (4.54)
Ethylbenzene	C	1,000 (454)
Ethylenediamine	D	5,000 (2,270)
Ethylene dibromide	X	1 (0.454)
Ethylene dichloride	B	100 (45.4)
EDTA	D	5,000 (2,270)
Ferric ammonium citrate	C	1,000 (454)
Ferric ammonium oxalate	C	1,000 (454)
Ferric chloride	C	1,000 (454)
Ferric fluoride	B	100 (45.4)
Ferric nitrate	C	1,000 (454)
Ferric sulfate	C	1,000 (454)
Ferrous ammonium sulfate	C	1,000 (454)
Ferrous chloride	B	100 (45.4)
Ferrous sulfate	C	1,000 (454)
Formaldehyde	B	100 (45.4)
Formic acid	D	5,000 (2,270)
Fumaric acid	D	5,000 (2,270)
Furfural	D	5,000 (2,270)
Guthion	X	1 (0.454)
Heptachlor	X	1 (0.454)
Hexachlorocyclopentadiene	A	10 (4.54)
Hydrochloric acid	D	5,000 (2,270)
Hydrofluoric acid	B	100 (45.4)
Hydrogen cyanide	A	10 (4.54)
Hydrogen sulfide	B	100 (45.4)
Isoprene	B	100 (45.4)
Isopropanolamine dodecylbenzenesulfonate.	C	1,000 (454)
Kelthane	A	10 (4.54)
Kepone	X	1 (0.454)
Lead acetate	A	10 (4.54)
Lead arsenate	X	1 (0.454)
Lead chloride	B	100 (45.4)
Lead fluoborate	B	100 (45.4)
Lead fluoride	B	100 (45.4)
Lead iodide	B	100 (45.4)

TABLE 117.3—REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

Material	Category	RQ in pounds (kilograms)
Lead nitrate	B	100 (45.4)
Lead stearate	D	5,000 (2,270)
Lead sulfate	B	100 (45.4)
Lead sulfide	D	5000 (2,270)
Lead thiocyanate	B	100 (45.4)
Lindane	X	1 (0.454)
Lithium chromate	X	1 (0.454)
Malathion	B	100 (45.4)
Maleic acid	D	5,000 (2,270)
Maleic anhydride	D	5,000 (2,270)
Mercaptodimethur	A	10 (4.54)
Mercuric cyanide	X	1 (0.454)
Mercuric nitrate	A	10 (4.54)
Mercuric sulfate	A	10 (4.54)
Mercuric thiocyanate	A	10 (4.54)
Mercurous nitrate	A	10 (4.54)
Methoxychlor	X	1 (0.454)
Methyl mercaptan	B	100 (45.4)
Methyl methacrylate	C	1,000 (454)
Methyl parathion	B	100 (45.4)
Mevinphos	A	10 (4.54)
Mexacarbate	C	1,000 (454)
Monoethylamine	B	100 (45.4)
Monomethylamine	B	100 (45.4)
Naled	A	10 (4.54)
Naphthalene	B	100 (45.4)
Naphthenic acid	B	100 (45.4)
Nickel ammonium sulfate	B	100 (45.4)
Nickel chloride	B	100 (45.4)
Nickel hydroxide	A	10 (4.54)
Nickel nitrate	B	100 (45.4)
Nickel sulfate	B	100 (45.4)
Nitric acid	C	1,000 (454)
Nitrobenzene	C	1,000 (454)
Nitrogen dioxide	A	10 (4.54)
Nitrophenol	B	100 (45.4)
Nitrotoluene	C	1,000 (454)
Paraformaldehyde	C	1,000 (454)
Parathion	A	10 (4.54)
Pentachlorophenol	A	10 (4.54)
Phenol	C	1,000 (454)
Phosgene	A	10 (4.54)
Phosphoric acid	D	5,000 (2,270)
Phosphorus	X	1 (0.454)
Phosphorus oxychloride	C	1,000 (454)
Phosphorus pentasulfide	B	100 (45.4)
Phosphorus trichloride	C	1,000 (454)
Polychlorinated biphenyls	X	1 (0.454)
Potassium arsenate	X	1 (0.454)
Potassium arsenite	X	1 (0.454)
Potassium bichromate	X	1 (0.454)
Potassium chromate	X	1 (0.454)
Potassium cyanide	A	10 (4.54)
Potassium hydroxide	C	1,000 (454)
Potassium permanganate	B	100 (45.4)
Propargite	A	10 (4.54)
Propionic acid	D	5,000 (2,270)
Propionic anhydride	D	5,000 (2,270)
Propylene oxide	B	100 (45.4)
Pyrethrins	X	1 (0.454)
Quinoline	D	5,000 (2,270)
Resorcinol	D	5,000 (2,270)
Selenium oxide	A	10 (4.54)
Silver nitrate	X	1 (0.454)
Sodium	A	10 (4.54)
Sodium arsenate	X	1 (0.454)
Sodium arsenite	X	1 (0.454)
Sodium bichromate	X	1 (0.454)
Sodium bifluoride	B	100 (45.4)

TABLE 117.3—REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

Material	Category	RQ in pounds (kilograms)
Sodium bisulfite	D	5,000 (2,270)
Sodium chromate	X	1 (0.454)
Sodium cyanide	A	10 (4.54)
Sodium dodecylbenzenesulfonate	C	1,000 (454)
Sodium fluoride	C	1,000 (454)
Sodium hydrosulfide	D	5,000 (2,270)
Sodium hydroxide	C	1,000 (454)
Sodium hypochlorite	B	100 (45.4)
Sodium methylate	C	1,000 (454)
Sodium nitrite	B	100 (45.4)
Sodium phosphate, dibasic	D	5,000 (2,270)
Sodium phosphate, tribasic	D	5,000 (2,270)
Sodium selenite	B	100 (45.4)
Strontium chromate	X	1 (0.454)
Strychnine	A	10 (4.54)
Styrene	C	1,000 (454)
Sulfuric acid	C	1,000 (454)
Sulfur monochloride	C	1,000 (454)
2,4,5-T acid	C	1,000 (454)
2,4,5-T amines	D	5,000 (2,270)
2,4,5-T esters	C	1,000 (454)
2,4,5-T salts	C	1,000 (454)
TDE	X	1 (0.454)
2,4,5-TP acid	B	100 (45.4)
2,4,5-TP acid esters	B	100 (45.4)
Tetraethyl lead	A	10 (4.54)
Tetraethyl pyrophosphate	A	10 (4.54)
Thallium sulfate	B	100 (45.4)
Toluene	C	1,000 (454)
Toxaphene	X	1 (0.454)
Trichlorfon	B	100 (45.4)
Trichloroethylene	B	100 (45.4)
Trichlorophenol	A	10 (4.54)
Triethanolamine dodecylbenzenesulfonate	C	1,000 (454)
Triethylamine	D	5,000 (2,270)
Trimethylamine	B	100 (45.4)
Uranyl acetate	B	100 (45.4)
Uranyl nitrate	B	100 (45.4)
Vanadium pentoxide	C	1,000 (454)
Vanadyl sulfate	C	1,000 (454)
Vinyl acetate	D	5,000 (2,270)
Vinylidene chloride	B	100 (45.4)
Xylene	C	1,000 (454)
Xylenol	C	1,000 (454)
Zinc acetate	C	1,000 (454)
Zinc ammonium chloride	C	1,000 (454)
Zinc borate	C	1,000 (454)
Zinc bromide	C	1,000 (454)
Zinc carbonate	C	1,000 (454)
Zinc chloride	C	1,000 (454)
Zinc cyanide	A	10 (4.54)
Zinc fluoride	C	1,000 (454)
Zinc formate	C	1,000 (454)
Zinc hydrosulfite	C	1,000 (454)
Zinc nitrate	C	1,000 (454)
Zinc phenolsulfonate	D	5,000 (2,270)
Zinc phosphide	B	100 (45.4)
Zinc silicofluoride	D	5,000 (2,270)
Zinc sulfate	C	1,000 (454)
Zirconium nitrate	D	5,000 (2,270)
Zirconium potassium fluoride	C	1,000 (454)
Zirconium sulfate	D	5,000 (2,270)
Zirconium tetrachloride	D	5,000 (2,270)

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40 CFR Part 302

[FR-3122-7]

Reportable Quantity Adjustment—Radionuclides

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Sections 103(a) and 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, require that persons in charge of vessels or facilities from which a hazardous substance has been released in quantities equal to or greater than its reportable quantity (RQ) immediately notify the National Response Center of the release. Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, except those for which RQs have been established pursuant to section 311(b)(4) of the Clean Water Act (CWA).

Section 102(a) authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to adjust RQs for hazardous substances and to designate as hazardous substances those substances which, when released into the environment, may present substantial danger to the public health or welfare or the environment. The RQ for radionuclides established by CERCLA is one pound and has not been adjusted by regulation. EPA recognizes that this RQ may not be appropriate because releases of much less than one pound of radionuclides may present a substantial threat to public health or welfare or the environment. This proposed rule adjusts the RQ for radionuclides established under section 102(b). This RQ adjustment is intended to allow EPA to focus its resources on the most serious releases and to protect public health and welfare and the environment more effectively.

DATES: Comments must be received on or before May 15, 1987.

ADDRESSES: The toll-free telephone number of the National Response Center is 1–800/424–8802; in the Washington, DC metropolitan area the number is 1–202/426–2675.

Comments: Comments should be submitted in triplicate to: Emergency Response Division, Docket Clerk, Attention: Docket Number 102RQ–RN, Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are kept in Room LG–100 at the above address. The docket is available for inspection between 9:00 a.m. and 4:30 p.m. Monday through Friday, excluding federal holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Hostage, Project Officer Response Standards and Criteria Branch, Emergency Response Division (WH–548B) U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460

or the

RCRA/Superfund Hotline, 1–800/424–9346; in Washington, DC, 1–202/382–3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction.
- A. Statutory Authority.
- B. Background of this Rulemaking.

II. Releases Covered by this Notice.
- A. Hazardous Substances Subject to this Notice.
- B. Definition of Releases Subject to this Notice and Statutory Exemptions.

III. Duplicate Reporting/Regulatory Consistency.

IV. Reportable Quantity Adjustments for Radionuclides.
- A. Introduction and Previous RQ Adjustment Methodology.
- B. Options Considered and Radionuclide RQ Methodology.
- C. Alternative Approaches.
- D. Reporting Requirements for Mixtures of Radionuclides.
- E. Other Issues.

V. Summary of Supporting Analyses.

I. Introduction

A. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510), 42 U.S.C. 9601 et seq. (Superfund, CERCLA, or the Act), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499) (SARA), establishes broad federal authority to respond to releases or threats of releases of hazardous substances from vessels and facilities. Section 101(14) of the Act defines the term "hazardous substances" by reference to other environmental statutes. Section 102 of CERCLA gives the Environmental Protection Agency (EPA) authority to designate additional hazardous substances. Currently, there are 717 CERCLA hazardous substances.

Section 103 of the Act requires the person in charge of a vessel or facility [1] to notify the National Response Center immediately when there is a release of a hazardous substance in an amount equal to or greater than the reportable quantity (RQ) for that substance.[2] Section 102(b) of CERCLA establishes RQs for releases of hazardous substances at one pound, except for those substances for which RQs were established pursuant to section 311 of the Clean Water Act (CWA). Section 102(a) of CERCLA authorizes EPA to adjust all of these RQs by regulation.

A major purpose of the section 103 (a) and (b) notification requirement is to alert the appropriate government officials to releases of hazardous substances that may require a federal response to protect public health and welfare and the environment. Under section 104 of the Act, the federal government may respond whenever there is a release or a substantial threat of a release of a hazardous substance into the environment. Response activities are to be taken, to the extent practicable, in accordance with the National Contingency Plan (NCP) (40 CFR Part 300), which was developed originally under the CWA and which has been revised to reflect the responsibilities and authority created by CERCLA.[3] EPA emphasizes that a hazardous substance release notification is merely a trigger for informing the government of a release so that the appropriate federal personnel can evaluate the need for a federal removal or remedial action and undertake any necessary action in a timely fashion. Federal personnel will evaluate all reported releases, but will not necessarily initiate a removal or remedial action in response to all reported releases, because the release of an RQ will not necessarily pose a hazard to public health or welfare or the environment in all circumstances. Government personnel will assess each reported release on a case-by-case basis to determine the appropriate action. In

[1] For this proposed rule on radionuclides, it is important to consider the CERCLA definition of "facility" in section 101(9). A number of consumer products such as watches and smoke detectors may contain (and at some point release) radionuclides. The CERCLA definition of "facility" specifically excludes any consumer product in consumer use; thus any release of radionuclides from such products when in consumer use are not subject to the notification requirements discussed in this proposed rule.

[2] A release into the environment of a substance which is not listed as a CERCLA hazardous substance but which rapidly forms a CERCLA hazardous substance upon release is subject to the notification requirements of section 103. If the amount of the hazardous substance formed as such a reaction product equals or exceeds the RQ for that substance, the release must be reported to the National Response Center.

[3] The NCP is being revised presently to ensure that responses to releases of radionuclides also will be undertaken consistent with the Federal Radiological Emergency Response Plan (FRERP).

certain limited situations, when direct reporting to the National Response Center is not practicable, the person in charge may report to the nearest Coast Guard- or EPA-predesignated On-Scene Coordinator (OSC). If it is not possible to notify the National Response Center or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit, provided that the person in charge notifies the National Response Center as soon as possible (40 CFR § 300.63(b) and 33 CFR § 153.203).

Section 103(b) of CERCLA authorizes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed RQs. Section 109 of SARA amends section 103(b) of CERCLA, increasing the maximum penalties and years of imprisonment. Any person who, as soon as that person has knowledge of a reportable release, fails to report the release immediately pursuant to section 103(b) or who submits any information which he knows to be false or misleading, shall, upon conviction, be fined in accordance with the applicable provisions of Title 18, United States Code (not more than $250,000 or $500,000, depending upon whether the violator is an individual or an organization), or imprisoned for not more than three years (or not more than five years for second and subsequent convictions), or both. Notifications received under section 103(b) or information obtained by exploitation of such notifications cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement. Section 109 of SARA also provides for a system of administrative penalties for violations of CERCLA section 103(b), enforceable through civil proceedings.

B. Background of this Rulemaking

On May 25, 1983, EPA proposed a rule (48 FR 23552) to clarify procedures for reporting releases and to adjust RQs for 387 of the then 696 CERCLA hazardous substances. That Notice of Proposed Rulemaking (NPRM) also listed, for the first time, the "hazardous substances" designated by section 101(14) of CERCLA. The NPRM discussed in detail the CERCLA notification provisions including the persons required to notify the National Response Center of a release, the substances for which notification is required, the types of releases subject to the notification requirements, the exemptions from these notification requirements, the methodology and criteria used to adjust the RQ levels, and the adjustments proposed under section 102 of CERCLA and under section 311 of the CWA. These issues were discussed further in the preamble to a rule making final 340 of the 387 proposed RQs, published on April 4, 1985 (50 FR 13456). They will be discussed again in this preamble only to the extent that EPA needs to provide additional explanation of these issues in the specific context of adjusting RQs for releases of radionuclides.

It should be noted that other provisions of CERCLA may apply even where the statute does not require notification. Therefore, nothing in this rulemaking should be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act. For example, unless specifically exempted under CERLCA, a party responsible for a release is liable for the costs of cleaning up that release and for any natural resource damages caused by the release, even if the release is not subject to the notification requirements of sections 103 (a) and (b). Similarly, proper reporting of a release in accordance with sections 103 (a) and (b) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is properly reported or that it is not subject to the notification requirements of sections 103 (a) and (b) will not prevent EPA or other governmental agencies from taking response actions under section 104, seeking reimbursement from responsible parties under section 107, or pursuing an enforcement action against responsible parties under section 106. Note also that this proposed rule does not affect hazardous substance reporting requirements imposed by other regulations and statutes.

II. Releases Covered by This Notice

A. Hazardous Substances Subject to this Notice

Congress incorporated six lists of substances, identified primarily under other environmental statutes, in the definition of hazardous substances under section 101(14) of CERCLA. These lists are:

(1) Substances designated pursuant to section 311 of the Clean Water Act (CWA);
(2) Hazardous wastes under section 3001 of the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act or "RCRA"), but excluding wastes the regulation of which has been suspended by Congress;
(3) Toxic pollutants listed under CWA section 307(a);
(4) Hazardous air pollutants listed under section 112 of the Clean Air Act;
(5) Imminently hazardous chemicals or mixtures for which EPA has taken action under section 7 of the Toxic Substances Control Act; and
(6) Substances designated pursuant to section 102 of CERCLA.

Radionuclides, the subject of this proposed rule, are considered hazardous substances under CERCLA because they were designated generically as hazardous air pollutants pursuant to section 112 of the Clean Air Act. Even though the source of their listing is the Clean Air Act, releases of radionuclides to all media are covered under section 103 of CERCLA and the provisions of this rule.

A radionuclide is a particular form (isotope) of an element which is unstable. To achieve a more stable configuration, the nucleus releases energy in the form of particles or electromagnetic radiation by a process of decay called radioactivity. Each radionuclide decays at a different rate and, as a result, a pound of each of two different radionuclides could represent significantly different levels of radioactivity. The principal health concern associated with a radionuclide release is carcinogenicity. There are approximately 1,800 different radionuclides and, because they are listed generically as a hazardous air pollutant under the Clean Air Act, all 1,800 are considered CERCLA hazardous substances. Until adjusted by EPA under section 102(a) of CERCLA, all radionuclides have a statutory RQ of one pound.

Uranyl acetate and uranyl nitrate, which are specifically listed as CERCLA hazardous substances because they are included under section 311 of the Clean Water Act, have a final adjusted RQ of 100 pounds based on their chemical toxicity (51 FR 34534, September 29, 1986). These compounds are composed of approximately 66 percent uranium, most generally uranium-238. Because 100 pounds of uranium-238 is approximately 0.015 curie, a proposed RQ based on radiological hazard could be higher than the final adjusted RQ based on chemical toxicity. Therefore, the final adjusted RQ for uranyl acetate and uranyl nitrate will remain 100 pounds if the RQ based on radiological hazard is greater than 0.015 curie.

B. Definition of Releases Subject to this Notice and Statutory Exemptions

Congress defined the term "release" to include within its scope virtually all ways that substances may enter the environment:

"release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant) (section 101(22) as amended by section 101(c) of SARA).

Four types of releases are specifically excluded from the definition of release in CERCLA section 101(22) and thus do not need to be reported under section 103:

(1) Releases which result in exposures to persons solely within a workplace for which claims against the employer or other persons are available;
(2) Emissions from engine exhaust from a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engines;
(3) Releases of source, byproduct, or special nuclear material [4] from a nuclear incident subject to requirements of the Nuclear Regulatory Commission for financial protection under section 170 of the Atomic Energy Act; [5] and
(4) The normal applications of fertilizers.

Radionuclide releases may be excluded from reporting requirements because they fall under any of these four provisions. For example, exposure of persons to radionuclide releases solely within a workplace and radionuclide releases resulting from the normal application of fertilizer containing radionuclides are both possible. The exclusion for radionuclides most likely to be of greatest importance, however, is for releases of source, byproduct, or special nuclear material from a nuclear incident. Nuclear reactors are the primary type of facility subject to the referenced section 170 of the Atomic Energy Act. Section 170 essentially requires certain licensees, as a condition of receiving a license, to have and maintain certain financial protection to cover public liability claims.

In addition, there are three types of statutory exemptions from the notification requirements for releases of hazardous substances:

(1) Federally permitted releases as defined in section 101(10), (section 103(a));
(2) Application of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), (section 103(e)); and
(3) Certain releases of hazardous wastes which are required to be reported (or specifically exempted from a requirement for reporting) under the provisions of RCRA and which are reported to the National Response Center (section 103(f)(1)).

While radionuclides conceivably could be present in low levels in some pesticides, the pesticide exemption is not significant for radionuclides. RCRA includes under its jurisdiction hazardous wastes containing naturally occurring and accelerator-produced radioactive material (NARM), and therefore, NARM releases reported under RCRA are exempt from CERCLA's reporting requirements. However, because RCRA does not cover source, byproduct, and special nuclear materials other than in mixtures with other hazardous wastes, and does not cover NARM releases other than in wastes, the RCRA reporting exemption does not apply to releases of these materials.

The federally permitted release exemption is based on a lengthy statutory definition of "federally permitted release" in section 101(10) of the Act that includes a reference to radioactive material:

(10) "federally permitted release" means . . . (K) any release of source, special nuclear, or byproduct material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issued pursuant to the Atomic Energy Act of 1954.

EPA plans to clarify the provisions of CERCLA section 101(10) in a future rulemaking. The preamble to that regulation will contain some general discussion of the federally permitted release exemption, including the provision referenced above, and a response to comments received on the May 25, 1983 NPRM (48 FR 23552) which first discussed the federally permitted release exemptions. The following discussion is a more detailed explanation of the federally permitted release exemption as it applies to radionuclides.

The Nuclear Regulatory Commission is responsible for many activities under the Atomic Energy Act. Licenses and permits may be issued by the Nuclear Regulatory Commission or by states to whom the authority to regulate radiation-related activities has been relinquished under an agreement with the Nuclear Regulatory Commission (i.e., Agreement States). Releases in compliance with licenses and permits issued by Agreement States under an agreement with the Nuclear Regulatory Commission are federally permitted releases. These licensing and permitting activities generally cover production, transfer, receipt, acquisition, use, delivery, and ownership by any person of source, special nuclear, or byproduct material. They include activities regulated in conformance with Environmental Radiation Protection Standards for Nuclear Powered Operations (40 CFR Part 190) and Environmental Standards for Uranium and Thorium Mill Tailings (40 CFR Part 192) issued by EPA under the Atomic Energy Act. Facilities typically handling source materials include uranium mills and uranium processing facilities. Byproduct materials are used at a wide variety of facilities including radiopharmaceutical manufacturers, hospitals and clinics, sealed source manufacturers, and laboratories. Special nuclear material is primarily used as fuel for nuclear reactors and in the production of nuclear weapons.

Regulations issued by the Nuclear Regulatory Commission specifically exempt certain facilities from the Commission's licensing, permitting, and regulatory requirements. Generally, these include facilities operated under Nuclear Regulatory Commission contracts; transport carriers of source, byproduct, or special nuclear material; those using "unimportant quantities" of source material; and certain production and utilization facilities operated by or for the Department of Defense (see 10 CFR Parts 30, 40, 50 and 70). Because of their specific exemption from licensing, permitting, and regulatory requirements of the Commission, the Agency does not consider releases of radionuclides from these facilities to be "federally permitted." Therefore, such releases would not fall under the reporting exemption defined in section 101(10) of CERCLA.

Administration of the Atomic Energy Act does not reside solely with the Nuclear Regulatory Commission. To the

[4] Source material is defined as (1) natural uranium, thorium, or any combination thereof or (2) ores which contain 0.05 percent (by weight) of uranium or thorium (section 11(z) of the Atomic Energy Act, and Nuclear Regulatory Commission regulations in 10 CFR Part 40). Byproduct material is (1) any material made radioactive by exposure to radiation in the process of producing or using special nuclear material or (2) the wastes produced by the extraction or concentration of uranium or thorium from ore (section 11(e) of the Atomic Energy Act). Special nuclear material is defined as plutonium, or uranium enriched in the U-235 or U-233 isotope (Atomic Energy Act section 11(aa)). All of these materials are licensed by the Nuclear Regulatory Commission and its Agreement States.

[5] A release of source, byproduct, or special nuclear material from a processing site designated under sections 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is not a "release" for purposes of response actions under CERCLA, but is subject to the notification requirements of sections 103 (a) and (b) (see section 101(22)) and liability under section 107.

extent releases from sources are in accordance with licenses, permits, orders, or regulations issued under the Atomic Energy Act through provisions *not* administered by the Commission, they also would be considered federally permitted releases. This would include orders issued under the Department of Energy's Atomic Energy Act authority.

Other aspects of the federally permitted release exemption also could apply in the case of radionuclides. The exemption generally covers discharges and emissions in compliance with permits and control regulations under various environmental statutes. Radionuclides are, for example, regulated by EPA as a hazardous air pollutant under section 112 of the Clean Air Act. Any radionuclide release subject to a specific emission limitation or control regulation established under that section would be exempt as federally permitted, if the release were in compliance with the applicable Clean Air Act limit. If the release, however, exceeded the permitted level by an RQ or more, the release would be subject to the CERCLA reporting requirements. This issue will be clarified further in the separate rulemaking for the federally permitted release reporting exemption.

In addition to the statutory exemptions from the RQ notification requirements for releases of hazardous substances, section 103(f)(2) of the Act provides a reduced reporting requirement for releases that are "continuous" and "stable in quantity and rate." Such releases only need to be reported annually or when there is a statistically significant increase in the quantity of the hazardous substance released. Therefore, releases of radionuclides that are "continuous" and "stable in quantity and rate" may qualify for this reduced reporting requirement. The Agency plans to clarify the language and the notification requirements for continuous releases in a future rulemaking.

In summary, releases of radionuclides that do not fall within one of the four specifically-listed exclusions under CERCLA section 101(22) and do not fall under one of the three statutory exemptions under CERCLA section 103, would be subject to this Notice of Proposed Rulemaking.

III. Duplicate Reporting/Regulatory Consistency

Several federal agencies have existing requirements to report radionuclide releases, including the Nuclear Regulatory Commission and the Departments of Transportation and Energy. EPA may also require reporting under the Toxic Substances Control Act (TSCA). The relevant reporting requirements of each agency are briefly summarized in this section.

The Nuclear Regulatory Commission controls the handling of source, byproduct, and special nuclear materials through an extensive licensing and regulatory program. This program includes several different requirements for responsible parties to report releases of radionuclides immediately in certain cases of material loss or where a release may have caused or threatens to cause certain dose or intake levels to individuals (see 10 CFR Parts 20, 30, 40, and 70). In addition to these requirements, the Commission has several other requirements to report within a specified time after a release, but not immediately (e.g., within 24 hours or within 30 days for releases involving potential for lower levels of exposure and lower radioactive concentrations).

The Department of Transportation (DOT) is responsible for regulating safety in the transportation of all hazardous materials. Accordingly, DOT has promulgated the Hazardous Materials Regulations (49 CFR Parts 171–177) to govern the transportation of hazardous materials, including radioactive materials, and the reporting of releases associated with transport. Reporting is required for each incident occurring during the course of transportation, including death, injury, property damage exceeding $50,000, or spillage or suspected contamination. DOT defines radioactive material as any material having a specific activity greater than 0.002 microcuries per gram. According to a Memorandum of Understanding (44 FR 38690, July 2, 1979) between DOT and the Nuclear Regulatory Commission, DOT will promptly notify the Commission of any accidents, incidents, and instances of actual or suspected leakage involving radioactive material packages if such an event occurs in transit. DOT also has the responsibility of encouraging the non-Agreement States to impose incident reporting requirements for radioactive materials on shippers and receivers subject to the states' jurisdiction.

The Department of Energy (DOE) plays two entirely different roles in the area of radionuclide releases. In the first role, there are many established requirements for DOE or its contractors and other members of the regulated community to report radionuclide releases immediately, generally to a DOE regional operation office, which may in turn report the release to DOE Headquarters. Many of these requirements are self-imposed and are spelled out in several different internal orders written under the authority of the Atomic Energy Act. Their purposes include environmental protection, safety, and health protection. In its second role, DOE, through the Federal Radiological Monitoring and Assessment Plan, provides expertise, guidance, and assistance in response to radiological hazards created by others. DOE is generally exempt from licensing by the Nuclear Regulatory Commission through the Atomic Energy Act, and is thus exempt from the Commission's reporting requirements discussed above. However, as a matter of policy, DOE requires reporting to external organizations to keep them apprised of important events at DOE facilities.

Section 8(e) of the Toxic Substances Control Act (TSCA) also may require reporting where CERCLA does not. Pursuant to a Statement of Interpretation published March 16, 1978 (43 FR 11110), all emergency incidents of environmental contamination that present a "substantial risk of injury to health or the environment" must be reported to EPA under TSCA section 8(e). Section 8(e) could require notification even where no CERCLA hazardous substances or RQs have been released. Persons subject to the notification requirement include both natural persons and business entities engaged in the manufacturing, processing, or commercial distribution of chemical substances or mixtures. No notification is required if the manufacturer, processor, or distributor knows that EPA has been informed of the risk presented by the incident. For radionuclide releases subject to CERCLA, a single notification to the National Response Center will satisfy both CERCLA and TSCA section 8(e) reporting requirements; the Agency will ensure that section 8(e) reports are passed to the proper authorities.

CERCLA reporting requirements remain applicable and mandatory despite occasional overlap with the reporting requirements noted above under other statutes and authorities. At most, the duplication that exists may require that more than one telephone call concerning a release be made by the releaser and recorded by government agencies. The releaser's responsibility to notify other federal agencies is not affected by this proposed rule. EPA will be continuing its efforts to coordinate its regulation of radionuclides and cooperate with other federal agencies.

IV. Reportable Quantity Adjustments for Radionuclides

A. Introduction and Previous RQ Adjustment Methodology

The primary purpose of the CERCLA notification requirements is to ensure that releasers notify the government so that the need for a federal response can be evaluated and any necessary response undertaken in a timely fashion.

With this purpose in mind, EPA has to date promulgated two final rules, adjusting a total of 442 of the statutory RQs for CERCLA hazardous substances (50 FR 13456, April 4, 1985; 51 FR 34534, September 29, 1986). All of these RQ adjustments are based on specific scientific and technical criteria that relate to the potential toxicological and chemical effects of a hazardous substance. The adjusted RQs do not reflect a determination that a release of a substance will be hazardous at the RQ level and not hazardous below that level. EPA has not attempted to make such a determination because the actual hazard will vary with the unique circumstances of the release, and extensive data and analysis would be necessary to determine the hazard presented by each substance in a number of possible circumstances. Instead, the RQs reflect the Agency's judgment of which releases should trigger mandatory notification to the federal government so that the government may assess to what extent, if any, a federal removal or remedial action may be necessary.

The RQ adjustments made to date have been designed to:

(1) Protect public health and the environment more effectively;

(2) Improve EPA's ability to concentrate its attention and resources on the releases that potentially are most threatening to public health or welfare or the environment; and

(3) Reduce the burdens of reporting on the regulated community.

The selected strategy used for adjusting RQs in previous rulemakings begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each designated hazardous substance. The intrinsic properties examined—called "primary criteria"—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. (For the purposes of this rule, chronic toxicity is defined as toxicity resulting from repeated or continuous exposure to either a single release or multiple releases of a hazardous substance.)

The Agency generally ranks each intrinsic property on a five-tier scale, associating a specified range of values on each scale with a particular RQ value. Thus, each substance receives several tentative RQ values based on its particular properties. The lowest of all of the tentative RQs becomes the "primary criteria RQ" for that substance.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes. These natural degradative processes are biodegradation, hydrolysis, and photolysis, or "BHP." If the analysis indicates that a substance degrades relatively rapidly to a less harmful compound through one or more of these processes when it is released into the environment, the primary criteria RQ is raised one level. The single RQ assigned to each substance on the basis of the primary criteria and BHP becomes the adjusted RQ for that substance.

For purposes of RQ adjustments using the primary criteria noted above under CERCLA, (other than potential carcinogenicity—see the separate NPRM published in today's **Federal Register**), EPA has adopted the five RQ levels of 1, 10, 100, 1000, and 5000 pounds originally established pursuant to CWA section 311 (see 40 CFR Part 117). The Agency adopted the CWA five-level system primarily because (1) it has been used successfully pursuant to the CWA, (2) the regulated community is already familiar with these five levels, and (3) it distinguishes the broad range of potential harm posed by CERCLA hazardous substances.

Even though EPA will continue to use this established five-level system for most RQ adjustments, the Agency does not believe that it represents an appropriate approach for radionuclides in either the choice of levels or the unit of measurement (pounds). A one-pound RQ for radionuclides, the lowest currently available, would not trigger timely reporting or response for releases of many radionuclides. In many cases, releases of radionuclides that are several orders of magnitude smaller than one pound can represent a health and environmental threat that merits reporting to the National Response Center. A one-pound RQ also does not conform to accepted units for radiation protection. The commonly accepted units for radiation protection are (1) rem (or sieverts) which measure the amount of biological damage resulting from exposure to ionizing radiation, and (2) curies (or becquerels) which measure the rate of radioactive decay and thus the rate at which radiation is given off by a substance (activity level). Finally, a one-pound RQ level would differ significantly from reporting requirements for radionuclides under other regulations issued by EPA and other agencies. For these reasons, EPA is proposing a different approach for radionuclides (see discussion of the selected option in Section IV.B. of this preamble).

Section 102(a) of CERCLA authorizes, and the legislative history encourages, the Administrator to set a single RQ for any hazardous substance, regardless of the medium into which that substance is released. In order to develop simple and practical notification provisions, the Agency has to date established a single RQ for each hazardous substance. If multiple RQs which vary in accordance with the environmental media into which the substance is released were established, it would be more difficult for the regulated community to comply with the reporting requirements. Because releases often occur into more than one medium, the releaser, under a multi-RQ format, would be uncertain which RQ would apply. EPA is proposing, therefore, to continue the single-RQ approach for each radionuclide.

B. Options Considered and Radionuclide RQ Methodology

EPA formed an interagency work group consisting of representatives of the Nuclear Regulatory Commission, the U.S. Coast Guard, the U.S. Departments of Energy and Transportation, and several offices within EPA to discuss issues and alternative approaches for adjusting the radionuclide RQ. The work group evaluated a number of options before selecting the approach chosen in this proposal. The following principal options were rejected:

Option 1: Leaving the radionuclide RQ at one pound

The Agency considered establishing an adjusted RQ for radionuclides equal to the statutory RQ of one pound. As discussed above in section IV.A. of this preamble, a one-pound RQ level would allow numerous potentially significant releases of many radionuclides to go unreported. Many such releases well below one pound could represent a potential health and environmental threat. In addition, a one-pound RQ does not conform to commonly accepted units or accepted levels for radiation protection, and it would differ significantly from reporting requirements under other radionuclide regulations issued by EPA and other agencies. Finally, one pound translates

into a different amount of radioactivity, and thus a different hazard level, for each radionuclide.

Option 2: Establishing a dose-equivalent level as the radionuclide RQ

A dose-equivalent level, in units of rem or sieverts, is a measure of the amount of biological damage resulting from exposure to ionizing radiation. Dose-equivalent limits are frequently established in groups, such as 25 millirem to the whole body and 75 millirem to the thyroid gland. Radionuclides could be considered as a class with a dose-equivalent level, or a set of dose-equivalent levels (e.g., whole body and thyroid gland separately) could be assigned to the entire class.

Estimating a dose-equivalent level can be quite complicated. The dose equivalent may vary substantially for different release circumstances, even if the same quantity of radionuclide is released. In addition, estimating dose-equivalent levels requires making numerous assumptions, and the level of dose may vary drastically under different assumptions. Because of all the judgments and assumptions required to estimate dose equivalents, the estimated dose equivalent for two different releases with the same level of activity of the same radionuclide may vary drastically under different assumptions. This potential variability makes it difficult to (1) assure that the government will be notified of all radionuclide releases that it deems necessary; and (2) enforce an RQ in dose-equivalent units.

A dose-equivalent level is also more difficult to estimate quickly during an actual release event than an activity level. The Agency determined that an RQ in terms of dose equivalent (rem) would leave a significant amount of judgment to the person in charge of the facility or vessel. The person in charge would be required to estimate the quantity released, the potential routes of exposure, the period of exposure, and the most vulnerable organ of the body potentially affected by the release. In essence, if the RQ were to be established in units of rem, the person in charge of the vessel or facility would be placed in a position of determining whether the release posed a threat to public health or welfare or the environment. CERCLA establishes that role for the federal government, not for the person in charge of the vessel or facility.

Option 3: Considering radionuclides as a class with a single activity level

Activity level is measured in units of curies or becquerels, and is an accepted unit of radiation measurement. The Agency considered establishing one RQ in units of curies for the entire class of radionuclides.

This option has the advantage of being simple, and curies are relatively easy to measure quickly during a release. It does not, however, account for the varying degrees of hazard posed by the same activity level of different radionuclides. The same level of radioactivity (i.e., the same number of curies) of two different radionuclides may yield two entirely different dose levels. Therefore, while simplicity in reporting must be sought, it should not be accomplished by glossing over substantial differences among individual radionuclides. It would be extremely difficult to derive an RQ that is a single level of activity and that would provide timely reporting of the most hazardous radionuclides while not requiring too many reports for others. A single level of activity could, however, be an appropriate RQ if it were only applied to a group of similar radionuclides (see Option 4 below).

Option 4: Grouping radionuclides into categories with an activity level assigned to each of the separate categories

Radionuclides may be separated into various groups in such a way that a single level of activity may be an appropriate RQ for all the radionuclides within a given group. One RQ, which would assure timely reporting for releases of the most hazardous radionuclide(s), could then be assigned to the overall group. For example, radionuclides could be grouped into "half-life categories" with progressively higher RQs for those categories having shorter half lives. Another example is to separate radionuclides into groups of alpha, beta, and gamma emitters. The RQs for non-radioactive substances have been established in a similar fashion, with different RQs for different groups of chemicals that exhibit similar chemical properties.

The Agency chose not to adopt this option with either of the above methods of categorizing radionuclides. The Agency believes that radionuclides grouped into "half-life categories" with progressively higher RQs for those categories having shorter half lives may not be protective of human health and the environment. For radionuclide releases which deliver the same total radiation dose, radionuclides with shorter half lives will emit radiation at a higher rate. Therefore, for radionuclides with relatively short half lives, the federal government may wish to receive notification of relatively small releases of such radionuclides to determine whether a response action is necessary, even if the radiation danger is relatively short lived. With regard to categorizing radionuclides on the basis of whether they are primarily alpha, beta, or gamma emitters, the actual threat to human health is less dependent on the nature of the emission than on the route of exposure. In addition, there are numerous radionuclides that fall into each of these categories, and a single activity-level RQ for the group may not be appropriate for all the individual group members.

The Selected Approach.—The EPA-preferred option begins with a decision to establish an RQ in terms of activity (measured in units of curies) for individual radionuclides. The primary advantages of this strategy are:

- A level of radioactivity generally is much easier to measure than dose equivalent, would be easier to confirm, and would provide more timely reporting than an RQ in terms of dose equivalent.
- Establishing RQs for radionuclides individually would allow consideration of individual radionuclide characteristics.

This regulation proposes to revise RQs for all of the approximately 1,800 currently known radionuclides. A large majority of these, however, are listed as a generic class with a single RQ.

To develop individual RQs in units of curies, the Agency relied heavily on the health data and human intake limits published by the International Commission on Radiation Protection (ICRP), particularly as reflected in its Publication 30 (Pergamon 1982). Data were available for 757 radionuclides and so analysis of individual radionuclides was limited to this universe. The Commission does not claim that this list is comprehensive, but it does represent all radionuclides for which data needed by EPA to evaluate the effects of a radionuclide release are available.

Thus, EPA is today proposing to establish individual RQs for 757 radionuclides. Because of the inadequacy of available data for all other radionuclides, they are proposed to be treated as a generic class with a single RQ for the entire class.

Radionuclide RQ Adjustment Methodology.—The development of the individual proposed RQs begins with the Annual Limitations of Intake (ALIs) developed by the International Commission on Radiation Protection. The ALIs:

are the annual intakes of given radionuclides by 'Reference Man' which would result in either (1) a committed effective dose

equivalent [6] of 5 rem to the whole body (stochastic ALI), or (2) a committed dose equivalent [7] of 50 rem to any organ or tissue (non-stochastic ALI).

The ICRP has presented ALIs for both oral ingestion and inhalation. The ALIs, which are in units of microcuries, are considered to produce harm comparable to that of receiving a uniform whole body dose-equivalent radiation exposure of 5 rem. It is important to clarify that the ALIs represent quantities of radionuclides taken into the body, not quantities released to the environment. These curie levels were adjusted by EPA to reflect (1) the difference between intake levels and release levels, and (2) a lower dose equivalent of 500 millirem (0.5 rem), a more protective limitation. Federal Radiation Protection Guidance recommends 500 millirem as an upper bound on exposure to individual members of the general public. The Agency currently is considering making a recommendation to lower this limit. In anticipation of this action, the Agency is considering two alternative bases for the calculation of radionuclide RQs. These alternatives range between 25 millirem per year and 100 millirem per year dose equivalent. A 25 millirem per year dose equivalent would result in RQs of ½₀ the value of RQs in today's notice. A 100 millirem per year dose equivalent would result in RQs of ⅕ the value of RQs in today's notice. The 25 millirem limit reflects the standards in existing regulations promulgated by EPA. For example, rules which apply to high-level radioactive waste disposal (46 CFR Part 191) limit exposure to the general public to 25 millirem per year. National Emission Standards for Hazardous Air Pollutants (NESHAP) set under the Clean Air Act (40 CFR Part 61) also limit exposure to the general public to 25 millirem per year. The higher endpoint of the range, 100 millirem, is believed to be a reasonable option for the revision of the Federal Radiation Protection Guidance.

For purposes of this rulemaking, the Agency used conservative assumptions regarding different releases to air and water, and analyzed exposure through inhalation, ingestion, and direct exposure. The Agency then estimated the smallest number of curies of a radionuclide which, if released to the environment, would be likely to result in a person being exposed to a dose equivalent of 500 millirem.

[6] The total whole body dose equivalent resulting from intakes of radionuclides in one year

[7] The total dose equivalent averaged throughout a tissue in the 50 years after intake of a radionuclide into the body.

In developing proposed RQs, the Agency does not account for radioactive decay explicitly in its models. This is a conservative approach resulting in lower RQs for some short-lived radionuclides because some short-lived radionuclides decay prior to causing a dose equivalent of 500 millirem. The Agency took this conservative approach to simplify the analysis and because few radionuclide releases are expected to be affected by this approach. EPA seeks comment on the appropriateness of incorporating explicitly radiological decay in the models developed for the exposure pathways discussed below. If radionuclide half lives are incorporated explicitly into the model calculations, the RQs for some short-lived radionuclides would increase.

Separate equations were derived to adjust the ALIs to determine release values in curies for both the inhalation and ingestion pathways. A third set of equations was derived to develop release values on the basis of direct exposure to a radionuclide release. All of these equations are discussed briefly below and in more detail in the Technical Background Document to Support Proposed Rulemaking Pursuant to Section 102 of CERCLA: Radionuclides (hereinafter Technical Background Document), available for inspection at Room LG-100 U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. As noted earlier, use of an activity level in curies rather than a dose equivalent was selected because it is easier to measure and confirm, and would provide more timely reporting than an RQ in terms of dose equivalent.

Inhalation.—The inhalation equation derives a Release Value for each radionuclide. Release Values are in units of curies and represent the activity level of each radionuclide which, if released under conservative circumstances, could result in an exposed individual receiving a dose equivalent of 500 millirem (0.5 rem). The Release Values are derived by dividing the ALI for inhalation presented in the ICRP Publication 30 by the product of several factors:

$$\text{Inhalation Release Value} = \frac{\text{ALI}}{10(R)(X/Q)(BR)(1\times10^{6})}$$

Where:
ALI = Annual limitations of intake for inhalation (microcuries);
10 = Conversion factor between 5 rem and 500 millirem;
R = Release Fraction;
X/Q = Atmospheric Relative Concentration Value;
BR = Breathing Rate; and
1×10^{6} = Conversion factor between microcuries and curies.

For the ALI, previously described, where more than one inhalation ALI is given by ICRP for a particular radionuclide, the lowest one was used. This approach assures that the possible release of the most hazardous chemical form is taken into consideration.

The release fraction describes the portion of radioactive materials that could become airborne and be of respirable size (10 microns in diameter or less).

The atmospheric relative concentration value corresponds to a ground-level relative concentration 30 meters downwind from a ground-level release under stable meteorological conditions. Thirty meters was chosen because cordons around a release of a chemical hazardous substance at a transportation incident are generally 30 meters in radius. At fixed facilities, the distance to unrestricted areas is likely to be greater than 30 meters; therefore 30 meters will result in a conservative estimate for exposure. For restricted areas at fixed facilities, 30 meters would be a reasonable cordoned-off zone. A ground-level release under stable (Class D) meteorological conditions leads to higher ground-level concentrations than above-ground releases in more turbulent conditions, and thus a lower, more protective RQ.

The breathing rate of "Reference Man" is taken to be 2.3×10^{7} cubic centimeters per day. The Agency requests comments and data pertaining to the assumptions underlying the inhalation exposure model.

Ingestion.—The ingestion equation used for RQ development is based on a release of a radionuclide to ground water using an advection-dispersion ground-water model, combined with conservative estimates for such parameters as ground-water flow velocities and transverse and longitudinal dispersion. The resulting equation, like the one for inhalation, derives a Release Value by dividing the ALI for ingestion by the product of several factors, here an assumed dilution factor, contact time, and water consumption rate, as well as numerical factors.

Radionuclides can be ingested through the consumption of contaminated foodstuffs or contaminated drinking water. The common pathway for

radionuclides to reach the food chain is following an atmospheric radioactive release, e.g., in the release from the Chernobyl nuclear power plant many European countries had great concern regarding the safety of food crops and milk. The Agency evaluated each of the 757 radionuclides for which the ICRP developed ALIs and calculated Release Values for two ingestion exposure routes: food crop and drinking water. For the majority of radionuclides, the drinking water exposure route resulted in lower Release Values (i.e., was a more critical route of exposure). Further, for the radionuclides for which the food crop pathway produced lower Release Values, the Agency determined that in the vast majority of cases either inhalation or direct exposure was even more critical than food crop ingestion. Therefore, the Agency has chosen to proceed with development of a Release Value for ingestion based on consumption of contaminated drinking water. In addition, to be most protective, a ground-water exposure route was selected over surface water exposure. Based on our modeling assumptions, a release of radionuclides into a river or lake would likely result in larger dilution factors than a release to an aquifer and subsequently into a drinking water well. This large dilution factor would result in lower concentrations of radionuclides in the drinking water and lower levels of radioactive contamination. The Technical Background Document has further detail on the food crop, ground water, and surface water exposure routes. The Agency requests comments and data pertaining to all exposure scenarios.

The equation which EPA has adopted for the calculation of Release Values based on consumption of contaminated ground water is:

$$\text{Ingestion Release Value} = \frac{\text{ALI}}{10(\text{DF})(\text{CT})(\text{WC})(1\times10^{6})}$$

where:

ALI = Lowest Ingestion ALI given in the ICRP Publication 30;
10 = Conversion factor between 5 rem and 500 millirem;
DF = Dilution Factor (1/liter);
CT = Contact time (days);
WC = Water consumption of "Reference Man" (2 liters/day); and
1×10^{6} = Conversion factor between microcuries and curies.

The maximum concentration in a plume 30 meters downgradient from a point source release is calculated using ground-water advection-dispersion modeling equations which take into account sorption of the radionuclides in the aquifer. This maximum concentration is reflected in the Dilution Factor (DF). Thirty meters is chosen for consistency with the atmospheric model.

Contact time, calculated using the advection-dispersion ground-water model, is the total time a contaminant plume will be in contact with a well located 30 meters (in this case) from the source. Contact time will vary by radionuclide and will be related to the sorption coefficient discussed above. The daily water consumption estimate is assumed by the ICRP to be 2 liters and is used here.

Direct Exposure.—An equation with the same parameters—the quantity of radiation intercepted by "Reference Man" (ICRP Publication 23, Pergamon, 1975) at a distance of 30 meters from a release and limiting the exposure to 500 millirem—also was developed to calculate a value for a third route of exposure, direct exposure to a point source release of a radionuclide. The direct exposure Release Values represent the amount of radionuclide, in curies, necessary to provide a gamma ray dose of 500 millirad, the same as a dose equivalent of 500 millirem, to an individual 30 meters from a point source release of radioactive material. Gamma rays alone are considered in this equation because the mean free path of alpha and beta particles with energies lower than 10 MeV is less than 30 meters. The Direct Exposure Release Value equation is presented below:

$$\text{Direct Exposure Release Value} = \frac{(6.41\times10^{-5})(\text{Dn})(\text{S}^{2})}{(\text{E}_{\text{i}})(u_{a})(\text{T})(\exp(-u_{a}\text{S}))}$$

where:

Dn = Dose equivalent (0.5 rem);
S = Distance from the release (30 m);
E_i = Summation of the product of the gamma ray energies (MeV) and the gamma ray fractions for each radionuclide;
u_a = Linear absorption coefficient for gamma rays in air (cm^{-1});
T = Duration of exposure (24 hours); and
$\exp(-u_a S)$ = Atmospheric attenuation from the point of release to the receptor.

The factor 6.41×10^{-5} is a constant which relates gamma ray energy to exposure, and is discussed in more detail in the Technical Background Document. The Agency requests comments on this exposure scenario.

The Agency is also considering an alternative method of calculating direct exposure Release Values, using specific gamma ray constants rather than the direct exposure Release Value equation discussed above. The gamma ray constants are derived empirically and are available only for a subset of radionuclides. The Agency requests comment on the appropriateness of using the gamma ray constants whenever available, and using the equation discussed above for the calculation of Release Values for radionuclides when the constants are not available.

A separate direct exposure equation was developed for submersion in a radioactive cloud of noble gas because submersion in a radioactive cloud results in an integrated dose from all directions at varying distances from the body, unlike direct exposure to a point source. Ingestion and inhalation are not significant exposure pathways for noble gases as a result of their inertness, and ALIs for ingestion and inhalation are not presented by the ICRP for most noble gases.

The direct exposure Release Values for submersion in a radioactive cloud of noble gas are derived for argon, krypton, and xenon through the following equation:

$$\text{Direct Exposure Release Value} = \frac{83(\text{DAC})(\text{T})}{10(\text{X/Q})(1\times10^{6})}$$

where:

DAC = Derived Airborne Concentration (microcuries/cm^3);
T = Duration of exposure (1 day);
10 = Conversion factor between 5 rem and 500 millirem;
X/Q = Atmospheric Relative Concentration Value at 30 meters (8.4×10^{-13} day/cm^3); and
1×10^{6} = Conversion factor between microcuries and curies.

The DAC value specifies the airborne concentration that would result in a 5 rem whole body dose equivalent for a 2000 hour exposure period. To adjust the airborne concentration from a 2000 hour exposure period to a 24 hour exposure period, we multiply the DAC value by 83 (2000 hours ÷ 24 hours). X/Q is the ground-level concentration value 30 meters from the release point. The Agency requests comments and data on this exposure scenario.

Establishing the RQ.—For each radionuclide, therefore, three values are

derived. The Agency has selected the lowest of the three values for each specific radionuclide with the intent of choosing an RQ that is the most protective of human health and the environment. This is comparable to the methodology used to adjust chemical RQs in previous rulemakings which evaluates six intrinsic properties or "primary criteria" for each hazardous substance. After assigning tentative RQs for the various properties, the lowest tentative RQ becomes the "primary criteria RQ" for that substance. A detailed explanation of the methodology used to derive proposed radionuclide RQs can be found in Chapter 4 of the Technical Background Document.

To simplify administration and implementation of RQ reporting for the 757 separate radionuclides, EPA has decided to place each radionuclide in one of seven groups, each group assigned a single specific proposed RQ. The Technical Background Document discusses this assignment of RQs in greater detail. The proposed RQs for the seven radionuclide groups are as follows:

Proposed adjusted RQ (in curies)	Lowest release value range (in curies)	Number of radionuclides
0.001	0.001–0.0099	6 (0.8%)
0.01	0.01–0.099	25 (3.3%)
0.1	0.1–0.99	24 (3.2%)
1	1–9.99	35 (4.6%)
10	10–99.99	342 (45.2%)
100	100–999.99	236 (31.2%)
1000	1000 and greater	89 (11.8%)

All known radionuclides not listed by the ICRP have been assigned a proposed final RQ of one curie. Available information on these radionuclides is insufficient for any meaningful analysis by the Agency of the appropriateness of any particular RQ for individual radionuclides in this group or the group as a whole. A proposed RQ of one curie was selected because it is the middle RQ category, and the majority of radionuclides (93 percent) examined individually have proposed RQs at least at this level. The Agency expects that releases of an RQ or more of any of these radionuclides would be rare. Therefore, EPA is proposing a group RQ that it believes is sufficiently protective of public health and welfare and the environment without posing an unreasonable burden on the regulated community.

Assignment of the individually calculated RQ to one of the seven groups and placement of other radionuclides in the generic RQ group should not be interpreted to mean that all radionuclides in any given group represent the same threat or danger to public health and welfare and the environment. Two or more radionuclides with the same proposed RQ do not reflect a determination that a release of one will be as hazardous as the release of another, or even that the release of one will be hazardous at the proposed RQ level and not hazardous below that level. The actual hazard will vary with the unique circumstances of the release, and extensive scientific data and analysis would be necessary to determine the hazard presented by each substance under a number of possible circumstances. The proposed RQs are designed to be a trigger for notification and reflect the Agency's judgment that the federal government should be notified of certain releases to which a federal response might be necessary. The RQs represent a determination only of possible or potential harm, not that releases of a particular amount of a hazardous substance necessarily will be harmful to public health or welfare or the environment.

C. Alternative Approaches

In addition to the method and assumptions used to develop the RQ adjustments proposed today, EPA is soliciting comments on the underlying assumptions discussed above and also is considering other methodologies for developing RQs for radionuclides. These approaches are described below. EPA requests public comment on whether one of these approaches or a related approach would be more appropriate for establishing the RQ adjustments in the final rule than that used for today's proposal.

1. Use Similar Pathway-Based Methodology, but with Different Assumptions

In the method used to develop today's proposed RQs, EPA has chosen to model the pathways that could be taken by released radionuclides, using three exposure scenarios for each of the 757 radionuclides for which intake limits are available. Under this approach, the assumptions governing exposure scenarios are critical to the outcome. While EPA believes the scenarios used were reasonable, there could be circumstances where an actual release results in a dose equivalent higher than 500 millirem. Therefore, the Agency is considering the use of different assumptions, which could result in different RQs for many radionuclides.

EPA recognizes that, when using modeling techniques such as the three selected exposure scenarios, there will be instances in which the facts of a particular situation may vary from the assumptions relied upon in the model. For example, the three exposure scenarios incorporate the assumption that the distance between the release and the point of exposure is 30 meters. It is possible, however, that an exposed individual may be located nearer to the release. A different assumed distance would result in different calculated Release Values for these pathways, and different resulting RQs in some cases. EPA is considering and soliciting comments on whether a shorter distance (perhaps as low as one meter) may be more appropriate.

EPA also is considering whether other assumptions used in the three exposure scenarios are sufficiently protective of public health, such as the period for direct exposure. Exposure to an unreported release could continue longer than the 24-hour period used in the scenario. Therefore, an assumption of six months or one year of exposure may be more appropriate than a 24-hour exposure period. The Agency solicits public comment and data on this general issue and suggestions for the most appropriate choices for exposure scenarios for the development of RQs.

2. Establish RQs as a Multiple of the ALIs

EPA also is soliciting comment on alternative methodologies for calculating RQs. For inhalation and ingestion, one method under consideration is to multiply the lowest ALI for each radionuclide by a selected numerical constant. EPA is considering numerical constants such as 5. For the very worst case of exposure, i.e., ingestion or inhalation of 100 percent of a release by a single individual, an amount of 5 times the ALI would result in a radiation dose of 25 rem, a dose at which measurable immediate effects are first observed. Because the numerical constant of 5 is related to an assumption that may be overly conservative, EPA also is considering higher numerical constants which might be justified by considering exposures less conservative than the very worst case. EPA also is considering lower numerical constants to reflect a lower acceptable dose equivalent. EPA requests comment on this approach, on a suitable choice for the numerical constant, and on a rationale for the numerical constant chosen.

D. Reporting Requirements for Mixtures of Radionuclides

Some releases of radioactive substances are likely to consist of mixtures of radionuclides. These releases will be one of two general types: mixtures of known composition or mixtures of unknown composition.

Mixtures of Known Composition

The Agency is proposing the following method for evaluating mixtures of known composition. This method is different from the mixture rule for other hazardous substances established under the Clean Water Act (see 50 FR 13456, April 4, 1985).

Reporting requirements for releases involving mixtures of known composition can be obtained directly from the proposed RQs for individual constituents of the mixture. If the identity and quantity (in curies) of each radionuclide involved in a release event is known, the decision whether to report a release must be made in the following manner: for each radionuclide in the mixture, determine the ratio between the quantity released in curies and the RQ for the radionuclide. If the sum of the ratios for all radionuclides is less than 1, the release need not be reported. If the sum is equal to or greater than 1, the release must be reported to the National Response Center.

For example, if radionuclides "a", "b", and "c" are present in quantities Qa, Qb, and Qc curies in a mixture, and if the proposed RQs are RQa, RQb, and RQc, respectively, then the quantity released for the mixture does not equal or exceed the proposed RQ and the release need not be reported to the National Response Center if (Qa/RQa+Qb/RQb+Qc/RQc) is less than 1. This convention for handling releases of radionuclide mixtures is recommended by the ICRP and presently is used in existing federal regulations (e.g., 10 CFR Part 20).

Mixtures of Unknown Composition

Reporting requirements for mixtures, where either the amount or identity of the radionuclides in the mixture are unknown, cannot be based on the determination of quantities released. There are three possibilities: (1) The identity of the radionuclides involved is known, but the amounts released of each is unknown, (2) the identity of the radionuclides (or one of the radionuclides) in the mixture is unknown, but the amount released is known in total curies per unit volume or weight, or (3) the identity of the radionuclides involved is unknown and the amount of radionuclides released in the mixture is unknown. For these cases, EPA proposes that the decision to report a release be made as follows:

(1) *Identity known, but amount unknown.*
If the identity of each radionuclide in the mixture is known but the amount of one or more of the radionuclides is unknown, the RQ for the mixture shall be the lowest RQ of any radionuclide in the mixture.

This method for determining the RQ of a mixture assures a report to the National Response Center if the total number of curies involved in a release is equal to or greater than the RQ in curies of the substance with the lowest proposed RQ in the mixture.

(2) and (3) *Identity of radionuclide(s) in the release is unknown.*
If the identity of a radionuclide in a release is unknown or if the identity of one or more radionuclides in the release of a mixture of radionuclides is unknown, the release must be reported to the National Response Center if the total release is equal to or greater than 1 curie, or if the total release is equal to or greater than the lowest RQ of any known radionuclide in the mixture, whichever is lower.

Establishing an RQ of 1 curie for a release in which the identity of the radionuclide or radionuclides involved is unknown is consistent with the 1 curie RQ for the class of radionuclides for which insufficient data exist to establish individual RQs. This mixture rule requires reporting if the release equals or exceeds 1 curie, or, if some component of the mixture is known and its RQ is less than 1 curie, then the total release must be reported if it equals or exceeds the RQ of the known component. The Agency also is considering establishing an RQ for unknown mixtures at 0.001 curie, the lowest proposed RQ level. This is based upon the assumption that the release may be of the most dangerous radionuclide. This approach assures that the government has the opportunity to evaluate all uncertain but potentially dangerous radionuclide releases and respond, if necessary.

Common Radionuclide Mixtures

The Agency today also is proposing to establish RQs for two common radionuclide mixtures: radium-226 in equilibrium with its daughters, and natural uranium. The Agency is proposing these RQs for the convenience of persons frequently handling these mixtures. The RQs are developed directly from the mixture rule discussed above.

Radium-226 has a half life of 1,600 years, substantially greater than the half lives of its daughters. After a sufficient period of time, however, a state of equilibrium is established in the mixture, such that the quantity of activity present for each daughter product and the parent radium is equal. When radium and its daughters reach this state of equilibrium, the RQ of the mixture is 0.43 curie, in contrast to the 1 curie RQ for radium-226.

Natural uranium is composed of the isotopes uranium-238 (99.27 percent by weight), uranium-234 (0.0057 percent by weight), and uranium-235 (0.72 percent by weight). Because we know the composition by weight of natural uranium, we can derive the activity levels of each of its components. The proposed RQ for natural uranium, derived through the mixture rule, is 0.1 curie, the same as the RQ for the 3 isotopes in the mixture.

Mixed fission products are also recognized by the Agency as an important and common radionuclide mixture. However, the Agency today is proposing RQs only for the individual radionuclide components within mixed fission products because an RQ for this mixture would have to be time-dependent. That is, at different times, the concentration of the different components of this mixture will be different. In addition, the composition of mixed fission products depends upon the type of reactor which produces the mixed fission product. Thus, different RQs would need to be presented for different mixed fission products.

E. Other Issues

Estimating the Effects of Radiation

The harmful effects of radiation on humans have been the focus of most of the research efforts concerning radiation exposure in the past. EPA, of course, also is concerned with the broader problem of potentially deleterious effects to the environment, as well as to humans. In adjusting radionuclide RQs, the Agency's goal is to ensure, to the extent possible, ample protection for the most sensitive species of flora and fauna. To identify the most sensitive species, the Agency reviewed the existing literature and determined that present information indicates that RQs chosen to provide adequate protection of the human species would be sufficiently protective of the environment as well. The Agency has determined, therefore, that RQ adjustments developed with the goal of protecting public health also will adequately protect the environment.

EPA solicits public comments on this approach.

Individual RQs

EPA is interested in receiving public comment on the selected methodology and on whether RQs for individual radionuclides are believed to be too low or too high. EPA would be interested in suggestions and data regarding what criteria the Agency should consider in technically or administratively adjusting a proposed RQ for an individual radionuclide.

Concentration Cutoff

Under this proposed rule, releases of large volumes of dilute material, which present little or no immediate danger to public health, could be reportable. Therefore, EPA is considering whether a concentration cutoff (expressed in curies per gram), below which the RQs for radionuclides would not apply (similar in principle to that used by DOT in defining radioactive material (see section III of this notice)) would be appropriate to eliminate unnecessary and excessive reporting.

The basis of the DOT concentration cutoff is to avoid regulation of natural objects for which the application of transportation regulations governing radioactive materials is not intended. EPA is considering a similar concentration cutoff because there may be no benefit in requiring reports of releases of radioactive materials in such low concentrations. However, if a large quantity of low concentration material is released, the release may represent a threat to public health, welfare, and the environment to which the federal government may want to respond.

EPA requests comments on the appropriateness of having a concentration cutoff and on what that cutoff should be. In particular, the Agency requests comment on using 0.002 microcuries per gram (the DOT value) as a cutoff.

V. Summary of Supporting Analyses

Rulemaking protocol under Executive Order 12291 requires that proposed regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

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

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

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

The Economic Impact Analysis for the Proposed Reportable Quantities Adjustments for Radionuclides under section 102 of CERCLA (Economic Impact Analysis), available for inspection at Room LG–100, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, shows that today's proposed regulation is non-major, because adoption of the proposed rule will result in an estimated total annual cost of $178,000 to the government and the regulated community, with the latter's share being less than $27,300 annually.

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." EPA certifies that this regulation will not have a significant impact on a substantial number of small entities. See Chapter Six of the Economic Impact Analysis.

EPA requires an Information Impact Analysis to be carried out for all rules that impose a paperwork burden on the public. This analysis estimates the burden imposed on parties outside EPA for activities such as recordkeeping or notification. It is anticipated that RQ adjustments will change the paperwork burden imposed on the regulated community for information collection associated with reporting releases. As estimated in Chapter Six of the Economic Impact Analysis, the paperwork burden of notification and recordkeeping on private parties will be approximately 43 additional notifications annually.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this proposed rule have been submitted for approval to OMB under section 3504(h) of the Paperwork Reduction Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

List of Subjects in 40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Source, byproduct and special nuclear materials, Mineral mining, Radioactive materials, Radionuclide, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control.

Dated: December 31, 1986.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

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

Authority: Sec. 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9602; secs. 311 and 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

2. In Section 302.4, Table 302.4 is amended by revising the entry for "Radionuclides" under the "Final RQ" column for "Pounds (kg)" to read: "§."

3. In Section 302.4, Table 302.4 is amended by revising the footnote at the end of the table explaining "§" to read:

"§—the adjusted RQs for radionuclides may be found in Appendix B to this table."

4. In Section 302.4, Table 302.4 is amended by adding the following table as Appendix B:

APPENDIX B—RADIONUCLIDES

Radionuclide	Atomic Number	Proposed RQ (Ci)
RADIONUCLIDES		1&
Actinium-224	89	100
Actinium-225	89	1
Actinium-226	89	10
Actinium-227	89	0.001
Actinium-228	89	10
Aluminum-26	13	10
Americium-237	95	100
Americium-238	95	10
Americium-239	95	100
Americium-240	95	10
Americium-241	95	0.01
Americium-242m	95	0.01
Americium-242	95	100
Americium-243	95	0.01
Americium-244m	95	1000
Americium-244	95	10
Americium-245	95	1000
Americium-246m	95	10
Americium-246	95	10
Antimony-115	51	10
Antimony-116m	51	10
Antimony-116	51	10
Antimony-117	51	100
Antimony-118m	51	10
Antimony-119	51	100
Antimony-120 (16 min)	51	1000

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Antimony-120 (5.76 day).	51	10
Antimony-122	51	10
Antimony-124m	51	1000
Antimony-124	51	10
Antimony-125	51	10
Antimony-126m	51	10
Antimony-126	51	10
Antimony-127	51	10
Antimony-128 (10.4 min).	51	10
Antimony-128 (9.01 hr)	51	10
Antimony-129	51	10
Antimony-130	51	10
Antimony-131	51	10
Argon-39	18	1000
Argon-41	18	10
Arsenic-69	33	1000
Arsenic-70	33	10
Arsenic-71	33	100
Arsenic-72	33	10
Arsenic-73	33	100
Arsenic-74	33	10
Arsenic-76	33	10
Arsenic-77	33	100
Arsenic-78	33	10
Astatine-207	85	10
Astatine-211	85	1
Barium-126	56	100
Barium-128	56	100
Barium-131m	56	100
Barium-131	56	10
Barium-133m	56	100
Barium-133	56	100
Barium-135m	56	100
Barium-139	56	100
Barium-140	56	100
Barium-141	56	10
Barium-142	56	10
Berkelium-245	97	100
Berkelium-246	97	10
Berkelium-247	97	0.01
Berkelium-249	97	1
Berkelium-250	97	10
Beryllium-7	4	100
Beryllium-10	4	1
Bismuth-200	83	10
Bismuth-201	83	10
Bismuth-202	83	100
Bismuth-203	83	10
Bismuth-205	83	10
Bismuth-206	83	10
Bismuth-207	83	10
Bismuth-210m	83	0.1
Bismuth-210	83	10
Bismuth-212	83	100
Bismuth-213	83	100
Bismuth-214	83	10
Bromine-74m	35	10
Bromine-74	35	10
Bromine-75	35	10
Bromine-76	35	10
Bromine-77	35	100
Bromine-80m	35	1000
Bromine-80	35	100
Bromine-82	35	10
Bromine-83	35	1000
Bromine-84	35	10

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Cadmium-104	48	100
Cadmium-107	48	1000
Cadmium-109	48	10
Cadmium-113m	48	1
Cadmium-113	48	1
Cadmium-115m	48	10
Cadmium-115	48	10
Cadmium-117m	48	10
Cadmium-117	48	10
Calcium-41	20	1000
Calcium-45	20	100
Calcium-47	20	10
Californium-244	98	1000
Californium-246	98	10
Californium-248	98	0.1
Californium-249	98	0.01
Californium-250	98	0.01
Californium-251	98	0.01
Californium-252	98	0.1
Californium-253	98	10
Californium-254	98	0.1
Carbon-11	6	10
Carbon-14	6	10
Cerium-134	58	100
Cerium-135	58	10
Cerium-137m	58	1000
Cerium-137	58	1000
Cerium-139	58	100
Cerium-141	58	10
Cerium-143	58	100
Cerium-144	58	1
Cesium-125	55	100
Cesium-127	55	100
Cesium-129	55	100
Cesium-130	55	100
Cesium-131	55	1000
Cesium-132	55	10
Cesium-134m	55	1000
Cesium-134	55	10
Cesium-135m	55	10
Cesium-135	55	100
Cesium-136	55	10
Cesium-137	55	10
Cesium-138	55	10
Chlorine-36	17	100
Chlorine-38	17	10
Chlorine-39	17	10
Chromium-48	24	10
Chromium-49	24	100
Chromium-51	24	1000
Cobalt-55	27	10
Cobalt-56	27	10
Cobalt-57	27	100
Cobalt-58m	27	1000
Cobalt-58	27	10
Cobalt-60m	27	1000
Cobalt-60	27	10
Cobalt-61	27	100
Cobalt-62m	27	10
Copper-60	29	10
Copper-61	29	100
Copper-64	29	100
Copper-67	29	100
Curium-238	96	1000
Curium-240	96	1
Curium-241	96	10
Curium-242	96	1
Curium-243	96	0.01

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Curium-244	96	0.01
Curium-245	96	0.01
Curium-246	96	0.01
Curium-247	96	0.01
Curium-248	96	0.001
Curium-249	96	1000
Dysprosium-155	66	10
Dysprosium-157	66	100
Dysprosium-159	66	100
Dysprosium-165	66	100
Dysprosium-166	66	10
Einsteinium-250	99	10
Einsteinium-251	99	100
Einsteinium-253	99	10
Einsteinium-254m	99	1
Einsteinium-254	99	0.1
Erbium-161	68	10
Erbium-165	68	1000
Erbium-169	68	100
Erbium-171	68	100
Erbium-172	68	10
Europium-145	63	10
Europium-146	63	10
Europium-147	63	10
Europium-148	63	10
Europium-149	63	1000
Europium-150 (12.6 hr)	63	1000
Europium-150 (34.2 yr)	63	10
Europium-152m	63	100
Europium-152	63	10
Europium-154	63	10
Europium-155	63	10
Europium-156	63	10
Europium-157	63	10
Europium-158	63	10
Fermium-252	100	10
Fermium-253	100	10
Fermium-254	100	100
Fermium-255	100	10
Fermium-257	100	1
Fluorine-18	9	1000
Francium-222	87	100
Francium-223	87	100
Gadolinium-145	64	10
Gadolinium-146	64	10
Gadolinium-147	64	10
Gadolinium-148	64	0.001
Gadolinium-149	64	100
Gadolinium-151	64	100
Gadolinium-152	64	0.001
Gadolinium-153	64	10
Gadolinium-159	64	100
Gallium-65	31	10
Gallium-66	31	10
Gallium-67	31	100
Gallium-68	31	1000
Gallium-70	31	1000
Gallium-72	31	10
Gallium-73	31	100
Germanium-66	32	100
Germanium-67	32	100
Germanium-68	32	10
Germanium-69	32	10
Germanium-71	32	1000
Germanium-75	32	1000
Germanium-77	32	10
Germanium-78	32	100
Gold-193	79	100

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Gold-194	79	10
Gold-195	79	100
Gold-198m	79	10
Gold-198	79	10
Gold-199	79	100
Gold-200m	79	10
Gold-200	79	100
Gold-201	79	1000
Hafnium-170	72	10
Hafnium-172	72	1
Hafnium-173	72	100
Hafnium-175	72	100
Hafnium-177m	72	10
Hafnium-178m	72	0.1
Hafnium-179m	72	10
Hafnium-180m	72	10
Hafnium-181	72	10
Hafnium-182m	72	10
Hafnium-182	72	0.1
Hafnium-183	72	10
Hafnium-184	72	100
Holmium-155	67	100
Holmium-157	67	100
Holmium-159	67	100
Holmium-161	67	1000
Holmium-162m	67	10
Holmium-162	67	100
Holmium-164m	67	1000
Holmium-164	67	1000
Holmium-166m	67	1
Holmium-166	67	1000
Holmium-167	67	100
Hydrogen-3	1	100
Indium-109	49	100
Indium-110 (69.1 min)	49	10
Indium-110 (4.9 hr)	49	10
Indium-111	49	10
Indium-112	49	100
Indium-113m	49	100
Indium-114m	49	10
Indium-115m	49	100
Indium-115	49	0.1
Indium-116m	49	10
Indium-117m	49	10
Indium-117	49	10
Indium-119m	49	1000
Iodine-120m	53	10
Iodine-120	53	10
Iodine-121	53	100
Iodine-123	53	10
Iodine-124	53	0.1
Iodine-125	53	0.1
Iodine-126	53	0.1
Iodine-128	53	100
Iodine-129	53	0.01
Iodine-130	53	1
Iodine-131	53	0.1
Iodine-132m	53	10
Iodine-132	53	10
Iodine-133	53	1
Iodine-134	53	10
Iodine-135	53	10
Iridium-182	77	10
Iridium-184	77	10
Iridium-185	77	10
Iridium-186	77	10
Iridium-187	77	100
Iridium-188	77	10

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Iridium-189	77	100
Iridium-190m	77	1000
Iridium-190	77	10
Iridium-192m	77	100
Iridium-192	77	10
Iridium-194m	77	10
Iridium-194	77	10
Iridium-195m	77	100
Iridium-195	77	100
Iron-52	26	100
Iron-55	26	1000
Iron-59	26	10
Iron-60	26	1
Krypton-74	36	10
Krypton-76	36	10
Krypton-77	36	10
Krypton-79	36	100
Krypton-81	36	1000
Krypton-83m	36	1000
Krypton-85m	36	100
Krypton-85	36	100
Krypton-87	36	10
Krypton-88	36	10
Lanthanum-131	57	100
Lanthanum-132	57	10
Lanthanum-135	57	1000
Lanthanum-137	57	10
Lanthanum-138	57	1
Lanthanum-140	57	10
Lanthanum-141	57	100
Lanthanum-142	57	10
Lanthanum-143	57	100
Lead-195m	82	10
Lead-198	82	100
Lead-199	82	10
Lead-200	82	100
Lead-201	82	10
Lead-202m	82	10
Lead-202	82	10
Lead-203	82	100
Lead-205	82	100
Lead-209	82	1000
Lead-210	82	0.1
Lead-211	82	100
Lead-212	82	10
Lead-214	82	100
Lutetium-169	71	10
Lutetium-170	71	10
Lutetium-171	71	10
Lutetium-172	71	10
Lutetium-173	71	100
Lutetium-174m	71	100
Lutetium-174	71	10
Lutetium-176m	71	100
Lutetium-176	71	1
Lutetium-177m	71	10
Lutetium-177	71	100
Lutetium-178m	71	100
Lutetium-178	71	100
Lutetium-179	71	100
Magnesium-28	12	10
Manganese-51	25	1000
Manganese-52m	25	10
Manganese-52	25	10
Manganese-53	25	1000
Manganese-54	25	10
Manganese-56	25	10
Mendelevium-257	101	100

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Mendelevium-258	101	1
Mercury-193m	80	10
Mercury-193	80	10
Mercury-194	80	1
Mercury-195m	80	100
Mercury-195	80	100
Mercury-197m	80	100
Mercury-197	80	100
Mercury-199m	80	100
Mercury-203	80	10
Molybdenum-90	42	10
Molybdenum-93m	42	10
Molybdenum-93	42	100
Molybdenum-99	42	100
Molybdenum-101	42	10
Neodymium-136	60	100
Neodymium-138	60	1000
Neodymium-139m	60	10
Neodymium-139	60	100
Neodymium-141	60	1000
Neodymium-147	60	100
Neodymium-149	60	10
Neodymium-151	60	10
Neptunium-232	93	10
Neptunium-233	93	1000
Neptunium-234	93	10
Neptunium-235	93	1000
Neptunium-236 (1.2 E 5 yr).	93	0.1
Neptunium-236 (22.5 hr).	93	100
Neptunium-237	93	0.01
Neptunium-238	93	10
Neptunium-239	93	100
Neptunium-240	93	10
Nickel-56	28	10
Nickel-57	28	10
Nickel-59	28	1000
Nickel-63	28	1000
Nickel-65	28	10
Nickel-66	28	100
Niobium-88	41	10
Niobium-89 (66 min)	41	10
Niobium-89 (122 min)	41	10
Niobium-90	41	1
Niobium-93m	41	100
Niobium-94	41	10
Niobium-95m	41	100
Niobium-95	41	10
Niobium-96	41	10
Niobium-97	41	10
Niobium-98	41	100
Osmium-180	76	1000
Osmium-181	76	10
Osmium-182	76	10
Osmium-185	76	10
Osmium-189m	76	1000
Osmium-191m	76	100
Osmium-191	76	100
Osmium-193	76	100
Osmium-194	76	1
Palladium-100	46	100
Palladium-101	46	100
Palladium-103	46	1000
Palladium-107	46	100
Palladium-109	46	1000
Phosphorus-32	15	1
Phosphorus-33	15	10

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Platinum-186	78	10
Platinum-188	78	100
Platinum-189	78	100
Platinum-191	78	100
Platinum-193m	78	100
Platinum-193	78	1000
Platinum-195m	78	100
Platinum-197m	78	100
Platinum-197	78	100
Platinum-199	78	100
Platinum-200	78	10
Plutonium-234	94	1000
Plutonium-235	94	1000
Plutonium-236	94	0.1
Plutonium-237	94	1000
Plutonium-238	94	0.01
Plutonium-239	94	0.01
Plutonium-240	94	0.01
Plutonium-241	94	1
Plutonium-242	94	0.01
Plutonium-243	94	1000
Plutonium-244	94	0.01
Plutonium-245	94	100
Polonium-203	84	10
Polonium-205	84	10
Polonium-207	84	10
Polonium-210	84	0.1
Potassium-40	19	100
Potassium-42	19	100
Potassium-43	19	10
Potassium-44	19	10
Potassium-45	19	10
Praseodymium-136	59	10
Praseodymium-137	59	1000
Praseodymium-138m	59	10
Praseodymium-139	59	100
Praseodymium-142m	59	1000
Praseodymium-142	59	100
Praseodymium-143	59	100
Praseodymium-144	59	1000
Praseodymium-145	59	1000
Praseodymium-147	59	10
Promethium-141	61	10
Promethium-143	61	100
Promethium-144	61	10
Promethium-145	61	100
Promethium-146	61	10
Promethium-147	61	10
Promethium-148m	61	10
Promethium-148	61	10
Promethium-149	61	1000
Promethium-150	61	10
Promethium-151	61	100
Protactinium-227	91	100
Protactinium-228	91	10
Protactinium-230	91	10
Protactinium-231	91	0.01
Protactinium-232	91	10
Protactinium-233	91	100
Protactinium-234	91	10
Radium-223	88	1
Radium-224	88	10
Radium-225	88	1
Radium-226	88	1
Radium-227	88	100
Radium-228	88	1
Radon-220	86	0.1
Radon-222	86	0.1

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Rhenium-177	75	10
Rhenium-178	75	10
Rhenium-181	75	10
Rhenium-182 (12.7 hr)	75	10
Rhenium-182 (64.0 hr)	75	10
Rhenium-184m	75	100
Rhenium-184	75	10
Rhenium-186m	75	10
Rhenium-186	75	100
Rhenium-187	75	1000
Rhenium-188m	75	1000
Rhenium-188	75	100
Rhenium-189	75	100
Rhodium-99m	45	10
Rhodium-99	45	10
Rhodium-100	45	10
Rhodium-101m	45	100
Rhodium-101	45	100
Rhodium-102m	45	10
Rhodium-102	45	10
Rhodium-103m	45	1000
Rhodium-105	45	100
Rhodium-106m	45	10
Rhodium-107	45	100
Rubidium-79	37	10
Rubidium-81m	37	100
Rubidium-81	37	10
Rubidium-82m	37	10
Rubidium-83	37	10
Rubidium-84	37	10
Rubidium-86	37	100
Rubidium-87	37	1000
Rubidium-88	37	10
Rubidium-89	37	10
Ruthenium-94	44	10
Ruthenium-97	44	100
Ruthenium-103	44	10
Ruthenium-105	44	10
Ruthenium-106	44	1
Samarium-141m	62	10
Samarium-141	62	10
Samarium-142	62	100
Samarium-145	62	100
Samarium-146	62	0.01
Samarium-147	62	0.01
Samarium-151	62	10
Samarium-153	62	1000
Samarium-155	62	100
Samarium-156	62	100
Scandium-43	21	100
Scandium-44m	21	10
Scandium-44	21	10
Scandium-46	21	10
Scandium-47	21	100
Scandium-48	21	10
Scandium-49	21	1000
Selenium-70	34	100
Selenium-73m	34	100
Selenium-73	34	10
Selenium-75	34	100
Selenium-79	34	100
Selenium-81m	34	1000
Selenium-81	34	1000
Selenium-83	34	10
Silicon-31	14	100
Silicon-32	14	1
Silver-102	47	10
Silver-103	47	10

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Silver-104m	47	10
Silver-104	47	100
Silver-105	47	10
Silver-106m	47	10
Silver-106	47	10
Silver-108m	47	10
Silver-110m	47	10
Silver-111	47	100
Silver-112	47	10
Silver-115	47	100
Sodium-22	11	100
Sodium-24	11	1
Strontium-80	38	10
Strontium-81	38	10
Strontium-83	38	100
Strontium-85m	38	100
Strontium-85	38	10
Strontium-87m	38	100
Strontium-89	38	10
Strontium-90	38	1
Strontium-91	38	10
Strontium-92	38	10
Sulfur-35	16	10
Tantalum-172	73	10
Tantalum-173	73	100
Tantalum-174	73	10
Tantalum-175	73	10
Tantalum-176	73	10
Tantalum-177	73	100
Tantalum-178	73	100
Tantalum-179	73	1000
Tantalum-180m	73	1000
Tantalum-180	73	10
Tantalum-182m	73	100
Tantalum-182	73	10
Tantalum-183	73	10
Tantalum-184	73	10
Tantalum-185	73	100
Tantalum-186	73	10
Technetium-93m	43	10
Technetium-93	43	10
Technetium-94m	43	10
Technetium-94	43	10
Technetium-96m	43	1000
Technetium-96	43	10
Technetium-97m	43	100
Technetium-97	43	1000
Technetium-98	43	10
Technetium-99m	43	100
Technetium-99	43	100
Technetium-101	43	100
Technetium-104	43	10
Tellurium-116	52	100
Tellurium-121m	52	100
Tellurium-121	52	10
Tellurium-123m	52	100
Tellurium-123	52	100
Tellurium-125m	52	100
Tellurium-127m	52	100
Tellurium-127	52	1000
Tellurium-129m	52	100
Tellurium-129	52	100
Tellurium-131m	52	10
Tellurium-131	52	100
Tellurium-132	52	100
Tellurium-133m	52	100
Tellurium-133	52	10
Tellurium-134	52	10

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Terbium-147	65	10
Terbium-149	65	10
Terbium-150	65	10
Terbium-151	65	10
Terbium-153	65	100
Terbium-154	65	10
Terbium-155	65	100
Terbium-156m (5.0 hr)	65	1000
Terbium-156m (24.4 hr)	65	1000
Terbium-156	65	10
Terbium-157	65	100
Terbium-158	65	10
Terbium-160	65	10
Terbium-161	65	1000
Thallium-194m	81	10
Thallium-194	81	10
Thallium-195	81	10
Thallium-197	81	100
Thallium-198m	81	10
Thallium-198	81	10
Thallium-199	81	100
Thallium-200	81	10
Thallium-201	81	1000
Thallium-202	81	10
Thallium-204	81	100
Thorium-226	90	100
Thorium-227	90	1
Thorium-228	90	0.01
Thorium-229	90	0.001
Thorium-230	90	0.01
Thorium-231	90	100
Thorium-232	90	0.001
Thorium-234	90	1000
Thulium-162	69	10
Thulium-166	69	10
Thulium-167	69	100
Thulium-170	69	10
Thulium-171	69	100
Thulium-172	69	10
Thulium-173	69	10
Thulium-175	69	10
Tin-110	50	100
Tin-111	50	100

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Tin-113	50	100
Tin-117m	50	100
Tin-119m	50	100
Tin-121m	50	100
Tin-121	50	1000
Tin-123m	50	100
Tin-123	50	100
Tin-125	50	100
Tin-126	50	10
Tin-127	50	10
Tin-128	50	10
Titanium-44	22	1
Titanium-45	22	100
Tungsten-176	74	100
Tungsten-177	74	10
Tungsten-178	74	100
Tungsten-179	74	1000
Tungsten-181	74	1000
Tungsten-185	74	100
Tungsten-187	74	10
Tungsten-188	74	10
Uranium-230	92	0.1&
Uranium-231	92	100&
Uranium-232	92	0.01&
Uranium-233	92	0.1&
Uranium-234	92	0.1&
Uranium-235	92	0.1&
Uranium-236	92	0.1&
Uranium-237	92	10&
Uranium-238	92	0.1&
Uranium-239	92	1000&
Uranium-240	92	10&
Vanadium-47	23	1000
Vanadium-48	23	10
Vanadium-49	23	1000
Xenon-120	54	10
Xenon-121	54	10
Xenon-122	54	100
Xenon-123	54	10
Xenon-125	54	100
Xenon-127	54	10
Xenon-129m	54	1000
Xenon-131m	54	1000

APPENDIX B—RADIONUCLIDES—Continued

Radionuclide	Atomic Number	Proposed RQ (Ci)
Xenon-133m	54	100
Xenon-133	54	100
Xenon-135m	54	10
Xenon-135	54	10
Xenon-138	54	10
Ytterbium-162	70	100
Ytterbium-166	70	10
Ytterbium-167	70	100
Ytterbium-169	70	100
Ytterbium-175	70	100
Ytterbium-177	70	100
Ytterbium-178	70	100
Yttrium-86m	39	100
Yttrium-86	39	10
Yttrium-87	39	10
Yttrium-88	39	10
Yttrium-90m	39	10
Yttrium-90	39	100
Yttrium-91m	39	10
Yttrium-91	39	10
Yttrium-92	39	100
Yttrium-93	39	100
Yttrium-94	39	10
Yttrium-95	39	10
Zinc-62	30	10
Zinc-63	30	100
Zinc-65	30	10
Zinc-69m	30	10
Zinc-69	30	1000
Zinc-71m	30	10
Zinc-72	30	10
Zirconium-86	40	100
Zirconium-88	40	10
Zirconium-89	40	100
Zirconium-93	40	1
Zirconium-95	40	10
Zirconium-97	40	10

& The adjusted RQ of one curie applies to all radionuclides not otherwise listed, except uranyl nitrate and uranyl acetate whose final adjusted RQs are 100 pounds.

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federal register

Monday
March 16, 1987

Part III

Federal Home Loan Bank Board

12 CFR Part 563

Federal Savings and Loan Insurance Corporation; Direct Investment; Final Rule and Proposed Rule

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 87-215]

Regulation of Direct Investment by Insured Institutions

Dated: February 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is amending its regulation governing investments by institutions the accounts of which are insured by the FSLIC ("insured institutions") in equity securities, real estate, service corporations, and operating subsidiaries ("direct investments").

As amended, the applicable threshold for aggregate direct investment by insured institutions which meet their minimum capital requirements and have tangible capital less than 6 percent of total liabilities is the greater of 3 percent of assets or two and one-half times tangible capital. Institutions meeting their regulatory capital requirement and having tangible capital equal to or greater than 6 percent of total liabilities may invest up to three times tangible capital without prior Principal Supervisory Agent ("PSA") approval. Institutions that fail to meet their minimum capital requirements shall make direct investments only with prior supervisory review and approval. The final rule also makes technical modifications to the waiver provision and requires insured institutions to provide notice for aggregate direct investments in excess of 20 percent of assets.

EFFECTIVE DATE: April 16, 1987.

FOR FURTHER INFORMATION CONTACT: Christina M. Gattuso, Staff Attorney, (202) 377-6649; Karen Knopp O'Konski, Deputy Director, (202) 377-7240; Regulations and Legislation Division, Office of General Counsel; Joseph A. McKenzie, Director, Policy Analysis Division, (202) 377-6763; or Donald J. Bisenius, Financial Economist, (202) 377-6766; Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On January 31, 1985, the Board adopted a new regulation governing direct investments by insured institutions. Board Res. No. 85-79-A, 50 FR 6912 (Feb. 19, 1985) (codified at 12 CFR 563.9-8). The regulation created a process of supervisory review and approval by the Board's PSAs of certain types of direct investment and of aggregate direct investment above certain threshold amounts. The regulation includes qualitative criteria for investment by institutions in equity securities, as well as diversification requirements applicable to investment in any one issuer of securities or in any one real estate project. The direct investment regulation was designed to allow institutions the flexibility to exercise their investment powers, as independently authorized by applicable law, in a manner that would expose neither the institutions themselves nor the FSLIC insurance fund to an unacceptable level of risk. At the same time, the Board sought to ensure that these institutions continued to fulfill their obligations to provide economical home financing.

Because of the complexity of the problems the rule sought to address, the Board believed it important to assess, after sufficient experience with the rule, whether the approach taken was effective in controlling risk and whether further regulatory action was required. 50 FR at 6927. Therefore, by its own terms, the direct investment rule was to expire on January 1, 1987.

On September 11, 1986, the Board proposed to amend the direct investment rule to defer its expiration from January 1, 1987 to January 1, 1989. Board Res. No. 86-962, 51 FR 32925 (Sept. 17, 1986). ("September proposal"). The comment period ended on October 17, 1986.

On December 18, 1986, the Board adopted an interim final rule to defer the expiration date of the direct investment rule to March 15, 1987, and voted to reopen the comment period on the September proposal through February 6, 1987. Board Res. No. 86-1260, 51 FR 47061 (Dec. 30, 1986). In response to requests by commenters, the Board also voted to hold a two-day public hearing at which it would receive oral comments on the September proposal. Board Res. No. 86-1291, 52 FR 80 (Jan. 2, 1987). On February 2, 1987, the Board extended the comment period from February 6, 1987 through February 13, 1987. Board Res. No. 87-114, 52 FR 3669 (Feb. 5, 1987).

The Board invited commenters and participants in the hearing to address all aspects of the September proposal and, in addition, specifically solicited comment with regard to the following areas:

1. The degree to which the current paragraph (g) waiver provision of the rule and its implementation thus far provided adequate flexibility for institutions to obtain the benefits of direct investment opportunities. Commenters were especially invited to apprise the Board of actual examples known to them of instances where the 30-day review delay has hampered an institution in making direct investments.

2. To what extent it was feasible or desirable to amend the rule to require in the future that institutions provide notice to the PSAs of all direct investments on a transactional basis.

3. To what extent it was appropriate or desirable to amend the supervisory review threshold to provide that insured institutions, having regulatory capital equal to the higher of 6 percent of liabilities or their fully phased-in regulatory capital requirement, could invest without limitation in direct investments at a higher level than 10 percent of assets without obtaining prior PSA approval but subject to the notice requirement referred to in number 2 above and to the capital regulation applicable to direct investments discussed in number 5 below.

4. Alternatively, to what extent it was desirable or feasible to amend or delete the threshold requirement of the current rule, possibly in conjunction with establishing a different measure of capital to support different levels of direct investment. For example, a new capital measure for unlimited or increased direct investment with prior supervisory review could be a percentage of "tangible capital" (capital that excludes intangible assets such as goodwill).

5. To what extent the Board's new capital requirements, effective January 1, 1987, would reduce the need for prior supervisory review at the asset levels established in the current regulation. The Board encouraged commenters to address this question in the context of both (1) the incremental capital requirements for direct investment and (2) the fact that the new rule, which targets a ratio requiring maintenance of 6 percent of capital to total liabilities, was unlikely to take full effect for a period of at least 6 to 12 years.

6. In view of recent studies and proposals by the Federal Reserve Board ("FRB") [1] and the Federal Deposit Insurance Corporation ("FDIC"),[2] the

[1] In December, 1986, the FRB adopted a proposal which would authorize bank holding companies to invest in limited real estate activities, with an investment "cap" of 5 percent of the bank holding company's consolidated primary capital. 52 FR 543 (Jan. 7, 1987).

[2] *See* 50 FR 23964 (June 7, 1985).

Board specifically solicited comment on whether the current supervisory review threshold should be reduced to a lower level of assets, or a level reflecting a percentage of capital rather than a percentage of assets. Similarly, in view of 12 U.S.C 1464(c)(4)(B), limiting investment by Federal associations in service corporations to 3 percent of assets, the Board solicited comment on whether the rule should be amended to establish a 3 percent of assets supervisory review threshold for all insured institutions.

7. The experience of insured institutions with paragraph (f), the grandfathering provision of the rule, and whether this provision required clarification or modification.

Thirty-one industry representatives participated in the public hearing which was held on January 29, and 30, 1987. Of the thirty-one participants, ten represented insured institutions, eight represented industry trade associations, five were economic consultants, two were real estate developers, two were public interest groups, two were from the Federal Home Loan Banks ("FHLBank"), one was a law firm, and one was a state savings and loan regulator. Nine participants supported the extension of the direct investment regulation. Twenty-two participants generally opposed the regulation. Remarks by participants in the hearing transcript are summarized below as a part of the public comment summary.

Related Regulatory Action

The Board also is adopting today an interim rule extending the effective date of the January, 1985 direct investment regulation to April 15, 1987, and proposed amendments to the revised rule adopted today affecting the definition of direct investment and diversification requirements applicable to direct investment. Board Res. No. 87–215–A, 87–215–B.

Discussion of Comments

The Board received a total of 155 public comments in response to the September proposal, including written statements submitted at the public hearings in January.[3] The majority of comments (97) were submitted by insured institutions. Of the remainder, 13 were submitted by economic consultants, 11 by industry trade associations, 9 by law firms representing insured institutions, 3 by state banking or legislative authorities, 2 by public interest groups and 23 by members of Congress.

Sixty-six commenters expressed support for the proposal while 31 commenters opposed the proposal. Both supporters and opponents suggested various substantive and technical modifications to the proposal. The remaining comments represented requests for a hearing on the proposed rule and requests for an extension of the original comment period on the September proposal. These comments were fully discussed in the preamble to the interim rule. *See* Board Res. No. 86–1260, 51 FR 47061 (Dec. 30, 1986).

Although the comment period ended on February 13, 1987, the Board has considered late-filed letters in an effort to maximize public participation in the rulemaking. After carefully considering the issues raised by the commenters, which are discussed more fully below, the Board has determined to adopt the proposal with certain modifications and clarifications.

Statutory Authority

A number of commenters addressed the Board's statutory authority to promulgate the direct investment rule. Of these commenters, most thought that the rule was a legally impermissible exercise of the Board's authority; one believed that the rule was within the Board's statutory authority.

Those who thought that the rule was beyond the Board's authority focused primarily on its application to state-chartered, FSLIC-insured institutions. The Board, they said, is legally without the power to restrict such institutions' investment decisions. Commenters relied on various arguments to support this position. Two submitted technical legal arguments raising the following points: (1) The direct investment rule is an unconstitutional invasion of state sovereignty, as guaranteed by the Tenth Amendment, because the Board has not demonstrated that it is reasonably necessary to achieve a constitutionally permissible end; (2) the Board has no express statutory authority to restrict the investment powers of state-chartered institutions; (3) even if Congress attempted to authorize restraints on direct investment, its delegation of regulatory authority is unconstitutional because it issued no statutory policy guidelines for the Board's exercise of that authority; (4) Congress has clearly indicated its intent to maintain a dual, state-federal system of financial institutions; (5) given that clear expression of intent, the Board may not preempt state regulation of state-chartered institutions' investment powers in the absence of explicit Congressional authorization to do so; (6) Congress has not explicitly authorized preemption in this area; and (7) the direct investment regulation violates the present administration's clear policy on federalism. Given that policy, the commenters asserted the Board should err on the side of less, rather than more, intrusion into areas regulated by the states.

Several other commenters also asserted that the direct investment rule impermissibly restricts states' authority to regulate institutions' investment powers. These commenters urged the Board to "respect" states' authority and the dual banking system. One commenter, a state-chartered savings and loan association, dismissed the federalism argument as unpersuasive in view of the fact that it is a federal deposit insurance agency that must absorb the losses generated by state-chartered, FSLIC-insured institutions that fail as a consequence of imprudent, but state-authorized, investments.

Many of these same issues were raised by commenters with respect to the promulgation of the direct investment rule and were fully addressed by the Board in the preamble to the reproposed rule and the final direct investment regulation.[4] *See* Board Res. No. 84–715, 49 FR 48743 (Dec. 14, 1984), Board Res. No. 85–79–A, 50 FR 6912 (Feb. 19, 1985). As explained at length in the preamble to both the 1984 December Reproposal and the final rule, the Board believes that these commenters take an unduly restrictive view of the Board's authority and

[3] In order to solicit additional views, the Board's staff arranged a roundtable discussion by a group of outside economists which was held on January 28, 1987. This roundtable discussion was requested by Board Member Lawrence J. White. In addition to Board Member White and agency staff, other participants in the roundtable included: George Benston (University of Rochester), John Kareken (University of Minnesota), Andrew Carron (First Boston Corporation), Paul Horvitz (University of Houston), Stuart Greenbaum (Northwestern University) and R. Dan Brumbaugh (Independence Savings and Loan of California, formerly on the Board's staff). While all are very knowledgable about the thrift industry, only Benston and Brumbaugh had previous close involvement with the direct investment issue. The remaining four were invited to participate because they had not been identified with either side of the issue. Comments by the roundtable participants are included generally in the discussion of comments. A transcript of the roundtable discussion is included in the public record on this resolution.

[4] The Board initially proposed the direct investment rule for comment on May 10, 1984. *See* Board Res. No. 84–227, 49 FR 20719 (May 16, 1984). On the basis of comments received, the Board modified the May proposal and issued a reproposed rule on direct investment. *See* Board Res. 84–715, 49 FR 48743 (Dec. 14, 1984) (the "December Reproposal"). On January 31, 1985, the Board adopted the final direct investment rule. *See* Board Res. No. 85–79–A, 50 FR 6912 (Feb. 19, 1985).

responsibility to carry out the purpose of Title IV of the National Housing Act ("NHA") (12 U.S.C. 1724–30) and the Federal Home Loan Bank Act ("Bank Act") (12 U.S.C. 1421–29). Among the most important purposes of these two Acts is the development and maintenance of a system of sound and economical home financing. An additional, closely related purpose of the NHA is the protection of the FSLIC fund from undue risk. The Board continues to believe that the direct investment regulation enables the Board to carry out both of these objectives without intruding upon the regulatory power of the states. For a more detailed discussion of the Board's statutory authority to adopt this proposal, see 50 FR at 6913–14 and 49 FR at 48745–46. The Board hereby incorporates the discussion of statutory authority that appears in those documents.

The Board, however, wishes to respond specifically to two of the arguments raised at the public hearing and summarized above.

Bruce Fein, representing the Coalition for America, argued that the direct investment rule violates the non-delegation doctrine because Congress's delegation of authority to the Board is impermissibly non-specific. The Board has authority under both the Home Owner's Loan Act of 1933, as amended, ("HOLA") and the NHA to promulgate the direct investment rule. The Board's regulatory authority over federally chartered institutions under Section 5(a) of the HOLA, 12 U.S.C. 1464(a), has been described by the Supreme Court as "plenary". *Fidelity Federal Savings and Loan Association* v. *De La Cuesta*, 458 U.S. 141, 164 (1984).

The Board, as the operating head of the FSLIC, also has authority to regulate state-chartered savings and loan associations under the NHA. Section 402(a) of the NHA, 12 U.S.C. 1725(a), authorizes the Board to prescribe rules and regulations "for carrying out the purposes" of the NHA. Some of the purposes include the development and maintenance of a system of sound and economical home financing and the protection of the insurance fund from undue risk. The Board has statutory authority consistent with these purposes to issue the direct investment rule, and courts have uniformly interpreted grants of authority similar to that contained in 12 U.S.C. 1725(a) as permitting agency regulation in conformity with the purposes of an agency's authorizing statute. *See, e.g., American Trucking Assoc.*, 344 U.S. 298 (1953). In addition, one purpose of the Bank Act is the development and maintenance of a system of sound and economical home financing. That statute also provides the Board with broad authority to regulate state-chartered institutions that are members of the Federal Home Loan Bank System. Thus, a general grant of authority is a sufficient basis upon which an administrative agency can promulgate rules carrying out the purposes of its statutes.

Where the statutes are silent or ambiguous with regard to specific issues, it is up to the agency to fill the gap. The question for a reviewing court is whether the agency's solution is based on a permissible construction of applicable statutes. *Chevron USA, Inc.* v. *National Resources Defense Council, Inc.*, 467 U.S. 837 (1984). The agency's rule may also be declared unlawful by a court upon judicial review if they are found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law". 5 U.S.C. 706(2)(A), (C). Thus, even if Congress expressly delegates rulemaking authority, the Administrative Procedures Act prohibits an agency from acting in excess of that authority.

Mr. Fein and Rex. E. Lee, on behalf of Lincoln Savings and Loan Association, argued that the Board lacks authority to issue the direct investment rule for reasons of federalism. This argument was rejected in *Fidelity Federal Savings and Loan Association* v. *De La Cuesta*, 458 U.S. 141 (1984), a case involving the preemptive effect of a Board regulation permitting federal savings and loan associations to use "due-on-sale" clauses in their mortgage contracts. There, although there was no preemption provision in the HOLA, the Supreme Court upheld the regulation stating: "A preemptive regulation's force does not depend on express authorization to displace state law." *Id.* at 154. Preemption may be "in the statute's language or implicitly contained in its structure and purpose." *Id* at 153, quoting *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525 (1977). In any event, this rule does not preempt states' chartering authority but merely creates a process of supervisory review and approval by the Board's Principal Supervisory Agents of certain types of direct investment and of aggregate direct investment above certain threshold amounts.

Economic and Factual Basis for the Rule

A. Empirical Support for the Rule

Nine commenters asserted that there is no empirical evidence to support the proposition that direct investments lead to thrift failure or that such investments are the primary cause of losses to the FSLIC. Some of these commenters contended that the problem is not direct investments, but poor management at individual thrifts and the Board's failure to minimize FSLIC losses by moving with sufficient speed to close thrifts that have exhausted their "real capital". These commenters argued that financially troubled thrifts are more apt to engage in "plunging"; *i.e.*, as a thrift's financial position becomes more precarious, management of a troubled thrift may follow a strategy that is designed to forestall failure by placing that thrift's funds in risky investments with potentially large returns. Consequently, if the expected returns fail to materialize, the FSLIC bears the loss.

Conversely, twenty-one commenters argued that ample evidence exists to show that direct investments for thrifts are risky and, unless controlled rigorously, represent a threat to the FSLIC. These commenters contended that the Board studies support the proposition that there is a positive relationship between the level of direct investment in a failed institution and the cost to the FSLIC. One commenter asserted that the data indicated that the very high yield of direct investments reflect their riskiness and that, on a stand alone basis, direct investments pose a greater risk of loss than secured, under 100 percent loan-to-value lending on the same asset.

As discussed in the preamble to the 1986 September proposal, the Board believes that the Barth (86) Study[5] indicates that the level of direct investment in failed institutions is positively related to the FSLIC's case resolution costs. The Barth (86) Study shows that direct investment by failed institutions increases FSLIC costs between 60 and 85 cents for each additional dollar for direct investment. The Barth (86) Study was based on what was at the time the most comprehensive set of available data, and its results with respect to direct investment are significant at the 95 percent confidence level. Moreover, the Board's supervisory experience persuasively suggests that the misclassification of direct investments as acquisition, development and construction ("ADC") loans causes empirical studies to understate substantially the effect of direct investment on FSLIC costs.

Several commenters argued that the proposal is unsupported by the Barth

[5] *See* Barth, Brumbaugh & Sauerhaft, *Failure Costs of Government-Related Financial Firms: The Case of Thrift Institutions*, OPER Working Paper #123 (June 1986) (hereinafter "Barth (86) Study").

(86) Study cited in the 1986 September proposal and is demonstrably in conflict with relevant available statistical data. These commenters challenged the Barth (86) Study, contending that other economic analyses reached conclusions contrary to those contained in the study.

Several commenters contended that the Barth (86) Study appears to indicate that increased amounts of direct investment by failed institutions resulted in higher costs to the FSLIC, but that the study was limited because it only examined failed institutions and did not address the benefits of direct investment. These commenters also asserted that there were no studies that have addressed whether direct investments by well capitalized institutions are beneficial or potentially harmful to the FSLIC or insured institutions or whether such direct investments contribute to thrift failures.

One commenter, relying upon the Benston (86) Study[6] asserted that direct investments are beneficial to thrifts and that the relationships among an institution's level of direct investment, its likelihood of failure, and the cost of such failure to the FSLIC are such that broad limitations on direct investments are not likely to minimize FSLIC losses and may in fact produce additional thrift failures. Similarly, one commenter contended that the Benston (86) Study shows that direct investments tend to increase industry profitability and to increase, or are positively associated with, higher net worth and serve to prevent failures and protect the FSLIC fund.

Several commenters contended that both the Benston (86) and Barth (87)[7] Studies demonstrate that the level of direct investment is independent of the probability of failure; i.e., institutions that make direct investments are no more likely to fail (and cause loss to the FSLIC) than are institutions that do not make direct investments. This commenter concluded that the evidence suggests either that direct investments do not fail more often than traditional investments or that institutions that make direct investments are more financially sound than institutions with no direct investments.

One commenter alleged that the Barth (86) Study was biased because the "actual cost" to the FSLIC of the failures studied is the FSLIC's estimate of costs based on its valuation of the assets and liabilities of failed institutions. This commenter based its conclusion on the assumption that the FSLIC estimators are predisposed to believe that direct investments are inherently risky and of relatively less value than other more traditional assets of thrifts and, therefore, that any examination of such "actual costs" by the estimators would tend to identify direct investments as a significant contributor to the cost of failure.

One commenter asserted that the Barth (86) Study showed a positive relationship between FSLIC costs and the period of time that passes before the Board acts to close an insolvent institution. This commenter argued that there is an interrelationship between the time an insolvent thrift is allowed to operate and the level and quality of its direct investments. They asserted that the management of an insolvent thrift is likely to undertake more risky investments, including direct investments of questionable quality and, consequently, when the thrift is finally closed the FSLIC must absorb the costs of these direct investments. The commenter thus concluded that the real problem is the lack of prompt action on the part of the FSLIC and not direct investments.

As part of its ongoing research regarding the factors that influence FSLIC losses, the Office of Policy and Economic Research ("OPER") conducted two follow-up studies to the Barth (86) Study. The Wang (87) Study[8] performed an analysis to determine whether the link between direct investment and the cost to the FSLIC for failed institutions that was found by the Barth (86) Study was due to a small subset of the data. The Wang (87) Study first replicated the results of the Barth (86) Study. Wang (87) verified the finding of a positive and significant relationship between FSLIC's losses and direct investment in failed institutions. The Wang (87) Study further found that the significance of the failure-cost link in the Barth (86) Study was strongly influenced by five institutions, four of which failed due to asset problems of substantial dimension—San Marino S&LA, Empire S&LA, State S&LA (Salt Lake City), and Bell Savings Bank of Texas.

A second study, the Thompson (87) Study,[9] explores further the failure-cost relationship. The Thompson (87) Study examined whether a relationship continues to exist between the FSLIC's estimated resolution costs in failed institutions and the direct investment activities in those institutions. The study used data on estimated FSLIC losses from 354 problem institutions. The time period covered was from 1980 through 1986. The study used the model specifications suggested both in the Barth (86) Study and in a comment letter by Professor Benston.[10]

The conclusions of the Thompson (87) Study are consistent with the findings of the Barth (86) Study and contradict the Benston (86) and Benston (87) Studies. Specifically, in 7 of the 9 regressions, direct investments are positively and significantly associated with FSLIC losses. The coefficient on direct investment ranges from approximately 0.60 using the Barth (86) Study specification, to 0.68 using the Benston (87) Study specification. Thus, using the most comprehensive data available, the Thompson (87) Study suggests that even when the model is specified in a manner recommended by the Benston (87) Study, direct investment in problem institutions increase FSLIC's losses by approximately 68 cents on the dollar.

Another study conducted by the OPER also lends support to the proposition that high levels of direct investments in failed institutions are positively related to costs to the FSLIC. The McKenzie-Bisenius (86) Study[11] was undertaken to pursue further the performance and current condition of the institutions examined by Professor Benston in a 1984 study. In Professor Benston's October 31, 1984, letter to OPER regarding the proposed direct investment rule, he presented the results of a statistical study that he contended supported unlimited direct investments for insured institutions. One aspect of his study was to identify the institutions that as of December 1983 had direct

[6] In his publication, Professor Benston reports that he studied all institutions that failed between January 1, 1981 and August 31, 1985, analyzed in detail those failed institutions that had five percent or more of their assets in direct investments, and examined all FSLIC insured institutions over the period from June 30, 1981 through June 30, 1984. *See* Benston, *An Analysis of the Cause of Saving and Loan Association Failures*, Salomon Brothers Center for Study of Financial Institutions/Graduate School of Business Administration, New York University, Monograph Series in Finance and Economics, Monograph 1985–4/5 (1986) (hereinafter "Benston (86) Study").

[7] *See* Barth, Brumbaugh, Sauerhaft & Wang, *Thrift Institutions Failures: Estimating the Regulator's Closure Rule*, (January 1987) (hereinafter "Barth (87) Study").

[8] *See* Memorandum for Robert J. Sahadi from G. Wang and M. Hill Re: Reexamination of Failure Cost Study and Influential Observation (Feb. 11, 1987) (hereinafter "Wang (87) Study").

[9] *See* Memorandum for Robert J. Sahadi from F. Thompson, G. Wang and D. Bisenius Re: Results from our Research on the Effect of Direct Investments on FSLIC's Cost of Resolving Failed Institutions (Feb. 12, 1987) (hereinafter "Thompson (87) Study").

[10] *See* Benston, *Direct Investment and Losses to the FSLIC*, (Feb. 13, 1987) (hereinafter "Benston (87) Study").

[11] *See* Memorandum for Robert Sahadi from J. McKenzie and D. Bisenius Re: Performance of Institutions with Direct Investments Above Ten Percent of Assets in December 1983 (October 31, 1986) (hereinafter "McKenzie-Bisenius (86) Study").

investments in excess of ten percent of assets. Professor Benston contended that the data showed that these institutions had considerable net worth and were quite profitable.

The McKenzie-Bisenius (86) Study determined that there were 37 institutions with direct investments in excess of ten percent of assets in December 1983 (Professor Benston had specifically identified 34 in his 1984 study). The weighted average net worth ratio of the 37 institutions, as a percent of liabilities, was 4.3 percent in 1983. By June 30, 1986, that ratio had declined by 96 percent, from 4.3 percent to 0.23 percent. By way of comparison, the industry's weighted average net worth ratios were 4.18 percent in 1983 and 4.66 percent in June of 1986.

Since 1983, 21 of these 37 institutions have either failed, become FSLIC cases, or are currently considered significant supervisory cases by the Bank Board's Office of Regulatory, Policy, Oversight and Supervision ("ORPOS").[12] Ten of the 21 institutions are currently in the FSLIC caseload. They have assets of $6.3 billion, and the estimated cost to the FSLIC to resolve them is $2 billion. The current return on assets for these ten institutions is a negative 1,007 basis points. Another eight of the 21 cases are in the ORPOS significant supervisory caseload. These institutions have assets of $3.75 billion and the FSLIC estimates the cost of resolving them will be approximately $1.2 billion. These eight institutions currently have a negative return on assets of 408 basis points.

Finally, three of the 21 institutions referred to above have been closed by the FSLIC. These three institutions had assets of $703 million, and the cost of resolution to the FSLIC was approximately $350 million. These three institutions had, at the time of closure, a negative return on assets of 916 basis points. In June, 1986, the other 16 institutions in the study had an average return on assets of 30 basis points, which was far below the average return on assets of 108 basis points for 79 percent of the industry that reported positive net income.

In the Benston (87) Study, Professor Benston attempted to refute the McKenzie-Bisenius (86) Study. He contended that his review of the financial statements of the 21 problem cases indicated that direct investments mitigated rather than imposed losses on the FSLIC for the insured institutions that failed or are considered to be significant supervisory cases.

The OPER also conducted a follow-up study on the McKenzie-Bisenius (86) Study. The Bisenius-Sahadi (87)[13] Study has two parts. The first part of the study compares the average performance of the group of 37 with the industry's average performance and with the average performance of institutions from the respective 12 states of the group of 37.[14]

The results indicate that while the group of 37 had significantly more direct investments than did the industry in 1983, their average net-worth ratio and average profitability ratio were not significantly different from the industry's average ratios. By 1986, however, the remaining 31 (6 had failed) had significantly lower net-worth and profitability ratios. A comparison of the performance of the California institutions from the group of 37 with the rest of the California institutions gives similar results. The other subgroups did not significantly deviate from their respective peer groups.

The second part of the Bisenius-Sahadi (87) Study summarizes the case studies of the 21 institutions (out of the original 37) currently characterized as problem institutions. Benston had argued "that direct investments (by these institutions) mitigated rather than imposed losses on the FSLIC." The case studies, however, suggest that in at least 16 of the 21 problem cases, direct investments contributed to FSLIC's losses. For example, in one institution where the Benston (87) Study claimed that direct investments benefited the institution, the Bisenius-Sahadi (87) Study documents that the institution has estimated losses of $5.6 million on its $15 million of direct investments. In another case where the Benston (87) Study claimed that direct investments benefited the institution, the FSLIC stands to lose $58 million on a $115 million direct investment portfolio. In only one of the 21 institutions did direct investments appear to reduce the FSLIC's losses. The total expected losses to the FSLIC from direct investments in these 21 institutions is conservatively estimated at between $500 million and $1 billion. Thus, in contrast to the Benston (87) Study assertion, the projected losses resulting from direct investments suggest that direct investments significantly contributed to the problems in these institutions.

In the Board's view, the results of the Thompson (87) and Barth (86) Studies refute the Benston (86) and Bentson (87) Studies and convincingly demonstrate a link between direct investments and FSLIC losses from failed institutions. Furthermore, the results of the McKenzie-Bisenius (86) Study and the Bisenius-Sahadi (87) Study support the Board's concern that high concentrations of direct investments may be associated with an increased risk of financial difficulties. While the studies do not demonstrate that direct investments automatically cause failures (since statistical studies cannot demonstrate causality), the Board believes that they offer persuasive evidence that a supervisory review process is justified where an institution wishes to exceed a certain threshold in direct investments and that such a review process serves to reduce the risk of loss to the FSLIC.

Some commenters argued that the problems associated with direct investment are really reflective of broader regional problems, such as the present economic difficulties in Texas, and are not indicative of the attributes of all direct investments. In order to isolate the regional distress problems from the problems associated with direct investment, the OPER reviewed in December 1986, the performance of California state-chartered, FSLIC-insured institutions that had direct investments in excess of five percent in December 1983.[15] The Hjerpe (86) Study focused on California thrifts because the state of California has one of the most liberal laws regarding direct investment and it has not suffered regional economic distress as have certain other states with liberal direct investment laws.

The results of the Hjerpe (86) Study indicate that, of the 33 institutions that held greater than 5 percent of assets in direct investments at year end 1983, 20 are now problem cases. The estimated cost to the FSLIC to resolve these 20 institutions is over $3 billion. In December 1983, the average ratio of regulatory capital to liabilities for the 33

[12] A failed institution is one in which FSLIC action has been taken to resolve an insolvency. A FSLIC case is an institution currently under consideration by the FSLIC for final resolution. A significant supervisory case is an institution determined by the ORPOS to be within 6 to 12 months of insolvency. [Collectively hereinafter referred to as "problem cases"].

[13] *See* Memorandum for the Board from D. Bisenius & R. Sahadi Re: A Review of the Performance of Institutions with Direct Investments Greater than Ten Percent of Assets in December 1983 (Feb. 12, 1987) (hereinafter "Bisenius Sahadi (87) Study").

[14] The states included in the Bisenius-Sahadi (87) Study were California, Texas, Arizona, Florida, Illinois, Louisiana, Maryland, Mississippi, New York, Ohio, Oregon and Washington.

[15] *See* Memorandum for Robert Sahadi from E. Hjerpe Re: Status of California Thrift Institutions that held Direct Investments or ADL Loans on December 31, 1983 (Dec. 17, 1986) (hereinafter "Hjerpe (86) Study").

institutions was 3.08 percent; in September 1986, that ratio had decreased to a negative 0.304 percent.

Conversely, those California institutions with direct investments of less than 5 percent of assets are currently earning, on average, over 85 basis points on assets. Only 18 of the 148 California institutions with direct investments of less than 5 percent of assets as of December 1983, are currently problem cases. Estimated costs to the FSLIC for these 18 institutions are $1.1 billion. The average regulatory capital for the 148 institutions has increased from 4.69 percent of liabilities in 1983 to 5.35 percent in September 1986.

In the Benston (87) Study, Benston argued that the results of the Hjerpe (86) Study are inconsistent with the hypothesis that direct investments cause a decrease in net worth; to the contrary, he alleged that direct investments provided resources that strengthened the financial condition of all but a few California institutions.

Michael F. Koehn, an economist for Analysis Group, Inc., also conducted a study that focused on California thrifts and addressed the economic effects of direct investment on an institution's risk (hereinafter "Koehn Study"). At the outset, Koehn noted that the FSLIC's current system of uniform premiums, as opposed to risk-based premiums, gives all managers an incentive to undertake riskier investments and to shift the risk to the FSLIC as a means of attempting to increase the value of shareholder equity. He asserted that, while direct investments are one vehicle managers can use to do this, it does not mean that direct investments are undesirable *per se*. He contended that there are three conditions that can cause an institution making direct investments to become excessively risky: the level of direct investment undertaken relative to total assets, the riskiness of the particular direct investment, and the financial status of the institution.

Koehn contended that insured institutions have two incentives to invest excessively in risky assets: (1) The absence of risk-based premiums, and (2) the attempt to increase the value of shareholder equity by investing in assets that shift the risk to liability holders including the FSLIC. Furthermore, he hypothesized that financially distressed institutions will: (1) Seek out riskier investments to increase the possibility of large payoffs and (2) will attempt to increase non-systemic risk as a means of shifting risk to the FSLIC.[16] In order to test whether these hypotheses were true, Koehn examined data for a sample of 40 publicly held California savings institutions, eleven of which went bankrupt between August 1982 and March 1986. The results of this analysis strongly supported the hypothesis that managers of financially distressed institutions act on their incentives to increase risk and to shift risk from their shareholders to the FSLIC.

Using the data on the 40 California institutions, Koehn also evaluated whether the effects of direct investments on total risk are different for financially distressed institutions than for institutions not in distress. Koehn found that lower net worth increases total risk. Consequently, he asserted that the Board is justified in restricting additional risk-taking by institutions with low net worth. He also found that, for average institutions, higher levels of direct investment may result in lower risk, but concluded that the risks of direct investments are not the same for all institutions and that increasing levels of direct investments for financially distressed institutions resulted in increasing the level of their total risk. Koehn also noted that, although direct investments may reduce risk for some institutions, at higher levels of direct investment there may be no further risk reduction. Thus, he argued that the fact the insured institutions have not increased their levels of direct investments indicated that the risk-reducing effects of direct investments are limited and have been exhausted for the majority of institutions.[17]

Koehn noted that his analysis understates the risk to the FSLIC because it considers only increases in an institution's total risk. He contended that the FSLIC's risk also rises when an institution maintaining a constant level of total risk increases its proportion of non-systemic risk. He argued that, to the extent direct investments are a means of increasing non-systemic risk, such investments increase the FSLIC's risk in a way that is not captured in the regression analysis. Koehn concluded that, in the absence of risk-based premiums, limitations should be imposed on those categories of investments, including direct investments, that could significantly increase the total variance of an institution's returns.

The OPER also conducted the Brown-McKenzie (87) Study.[18] Its purpose was to examine the return and risk associated with a wide variety of nontraditional assets. The time periods of the Brown-McKenzie (87) study are 1982, 1983, and the twelve months ending June 30, 1985, and June 30, 1986, respectively. Brown-McKenzie (87) studied the entire universe of FSLIC-insured institutions rather than a sample or subset. The results of the study indicate that for all institutions, nonresidential mortgages, loans for the acquisition and development of land, service corporation investment, and real estate investment have yields that are significantly less (at the 95 percent confidence level) than the yield on one-to four-family mortgage loans. These four asset categories perform somewhat better when the sample is restricted to institutions with initial regulatory capital in excess of six percent of assets. In this case the yield on nonresidential mortgages and loans for the acquisition of land are not significantly different from the yield on one-to-four-family mortgages, and the yield on service corporation investment and direct real estate investment exceeds that on one-to-four-family loans.

The Brown-McKenzie (87) Study also presents estimates that indicate that service corporation and real estate investment individually are more risky than one-to-four-family mortgage loans based on a comparison of the standard deviation of the asset yields. Service corporation investment has a standard deviation of its yield between 1.6 and 2.0 times that on one-to-four-family loans. The standard deviation of the yield on real estate investment is 2.6 to 3.8 times as high as the standard deviation of the yield on one-to-four-family mortgages.

The Brown-McKenzie (87) Study fails to corroborate the claim that direct investments are highly profitable. The results show that direct investments (real estate investment and service corporation investments) and assets that may include some misclassified direct investments (loans for the acquisition and development of land and nonresidential loans) have underperformed traditional mortgage loans far more frequently than they have outperformed them. This conclusion is based on an analysis of the entire

[16] "Non-systemic risk" may be defined as project specific risk, *i.e.*, the risk in a project that is not related to the overall risk in the economy.

[17] In making this argument, Koehn stated that because the direct investment rule does not appear to be a binding constraint on current levels of direct investment for most institutions, institutions would be free to increase their levels of direct investment up to the constraint and would do so if it further reduced risk.

[18] See Brown-McKenzie, *Deregulation and Portfolio Returns: The Case of Thrifts*, OPER Working Paper No. 126 (Feb. 12, 1987) (hereinafter "Brown-McKenzie (87) Study").

industry over a period of significantly varying economic conditions.

ICF Incorporated, a consulting firm writing on behalf of an insured institution, conducted three studies concerning direct investments. In reliance upon these studies, ICF contended that direct investments are beneficial to insured institutions because the diversification obtained through direct investments permits higher rates of return at the same level of risk as a pure mortgage portfolio, or lower risk with no reduction in expected return. ICF also asserted that to minimize the probability of failure, thrifts must invest significantly more than 10 percent of assets (between 30 to 40 percent) in direct investments and, therefore, the 10 percent threshold has the effect of constraining institutions from choosing portfolios that minimize the risk of failure. Finally, ICF asserted that there is no statistically significant relationship between levels of direct investment and the likelihood of an institution's failure. Although ICF conceded that the results of the study were tentative, it concluded that there is no evidence that high levels of direct investment negatively affect the financial performance of thrifts with negative tangible net worth.

ICF's analysis fails to provide insight into the direct investment issue.[19] In its analysis, ICF proxied the risk and return characteristics of direct investments with the performance of high quality real estate investment trusts ("REITs"). Such a proxy (complete with its built-in diversification) significantly understates the riskiness of an individual investment in real estate. Furthermore, ICF proxied the performance of a fixed-rate mortgage by the performance of GNMAs. This fails to consider how the fixed-rate mortgages are funded. To the extent an institution funds fixed-rate mortgages with liabilities of comparable duration, the asset poses minimal risk to the institution. ICF's study fails to incorporate this feature and thus overstates the riskiness of mortgages. These two shortcomings invalidate the specific conclusions on optimal portfolio proportions suggested by ICF.

The Board notes that the FRB shares its concerns regarding the risks posed by direct investments to financial institutions.[20] In December, 1986, the FRB issued a proposal that would authorize bank holding companies to engage in limited real estate activities. *See* 52 FR 543 (Jan. 7, 1987). Under the proposal, a bank holding company could conduct real estate investment activities *only* through a separately incorporated nonbank subsidiary of the bank holding company.

The bank holding company would be permitted to invest an aggregate of up to 5 percent of its consolidated primary capital in equity of real estate subsidiaries. This limit would include all equity investments and loans, advances, commitments, guarantees or other extensions of credit by the bank holding company and any of its subsidiaries to the real estate subsidiary. Each real estate subsidiary would be required to maintain a level of capital that is fully adequate to meet its obligations and could not leverage its capital more than 5 times.

Under the FRB proposal, the total investment, including equity investments and all related extensions of credit, by a bank holding company and all its subsidiaries in real estate investment activities would be limited to the higher of 25 percent of the bank holding company's consolidated primary capital or $250,000. The proposal also provides that the total investment, including equity investments and all related extensions of credit, in a single real estate project or a series of related projects is limited to 10 percent of the bank holding company's consolidated primary capital.

In promulgating the proposed rule, the FRB relied upon two studies conducted by its staff that focused on the degree of risk involved in direct real estate investment.[21] A few commenters asserted that the FRB's studies provided additional support for the direct investment regulation. Those studies concluded that real estate investment authority for bank holding companies should be strictly limited until either experience or more definitive empirical studies can be marshalled to support higher levels of investment. The FRB's study also concluded that the Bank Board's direct investment regulation does not go far enough in imposing restrictions on thrifts because it allows state-chartered thrifts to invest up to 10 percent of their assets, without prior approval, in service corporations. Because many service corporations are highly leveraged, the FRB's staff found that the actual amount of real estate assets acquired by a service corporation could be 10 times the amount of the parent thrift's equity investment.

Prior to issuance of the FRB proposal, its staff reviewed the Benston (86) Study, which was based on the same data used by the FRB in its studies. The FRB's staff noted that while the Benston (86) Study concluded that direct investment was not a significant factor in thrift failures, it did find that direct investment had a riskier pattern of returns than did other thrift assets. Additionally, the FRB's staff noted that the Benston (86) Study suggested that direct investments may yield some diversification gains for thrifts; however, Benston's results depend on his statistical procedure of averaging the return data over three years, thereby reducing the variance of returns relative to that used by the FRB. Because losses in one year can result in failure, the FRB's staff believed that it was important to use annual variations in returns rather than to ignore such information by averaging over time.

In the Board's view, its own studies, studies conducted by outside parties, the Board's supervisory experience, as well as the FRB's studies and new proposal, all indicate the continued need for the Board's direct investment rule. In light of the comments received, however, the Board believes that the rule should be modified to provide greater flexibility for well capitalized institutions, while at the same time restricting the flexibility of poorly capitalized institutions. These modifications are discussed in more detail below.

Finally, eight commenters, including Professor Benston, asserted that to the extent that the evidence provides a basis for restricting any specific type of asset, it shows that nonresidential real estate loans, not direct investments, are the riskiest type of insured institution asset and the one that is significantly associated with failures and increased FSLIC losses. Several of these commenters urged that the Board should focus on these loans, and not specifically on direct investments as defined in the current regulation, in assessing the risk of loss to the FSLIC. After carefully considering the concerns raised by these commenters and in

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[19] *See* Memorandum for J. McKenzie from J. Crockett Re: Research by ICF Incorporated on Direct Investment (February 23, 1987) (hereinafter "Crockett (87) Memo").

[20] On June 3, 1985, the FDIC also proposed a regulation that would permit an insured bank to invest directly up to 50 percent of its primary capital in real estate investments. 50 FR 23964 (June 7, 1985). Under the FDIC's proposal, any additional investment in real estate by an insured bank must be made through a *bona fide* real estate subsidiary of a bank. The FDIC proposal would not limit the size of a bank's investment in a *bona fide* real estate subsidiary or the amount of real estate activities conducted by the real estate subsidiary, but provides that the bank's investment in a real estate subsidiary would not be included in the bank's capital for purposes of meeting regulatory capital requirements. The FDIC has extended the period for action on its proposal to March 15, 1987.

[21] *See* Lloyd-Davies, Freund and Humphrey, *Bank Holding Company Investment in Real Estate* (May 8, 1985); Freund, *Real Estate Investments by Thrift Service Corporations* (Apr. 21, 1986).

reliance on its supervisory experience, as discussed more fully below, and the evidence presented in several OPER Studies, the Board today is adopting a separate proposal amending the direct investment regulation. The proposed amendment would expand the scope of the direct investment regulation to include land loans and nonresidential construction loans with either loan-to-value ratios greater than 80 percent or loan-to-cost ratios greater than 100 percent. The proposed amendment, and a more detailed discussion of the reasons underlying the proposal, is published elsewhere in the Rules section of this issue.

B. The Effect of Direct Investment on Housing

Four commenters addressed the effect of the direct investment rule on the availability of affordable housing. Two who supported extension of the rule thought that, without it, thrift institutions would expand their equity investments at the expense of their mortgage portfolios, thereby reducing funds available to finance homes. This course of action would be incompatible with thrifts' statutory mandate to provide mortgage credit.

Two other commenters disagreed, but each argued from a different perspective. The first, an economic consultant, contended that funds for home mortgages would not decline as a consequence of unrestricted direct investments because thrifts are no longer the essential source of mortgage funding that they once were. This commenter pointed out that new forms of mortgage pooling, such as mortgage-backed securities, encourage all potential investors, not only thrifts, to supply financing for home mortgages. Thus, he concluded that thrifts no longer need concentrate their holdings in such mortgages.

A state-chartered savings and loan association commented on this aspect of the regulation from the perspective of an entity engaged, to the extent of 25 percent of its business activity, in ADC lending. This second commenter asserted that its ADC loans are typically made to smaller developers, not highly capitalized, of housing it characterized as "affordable." The projects financed by its ADC loans are usually "in or around small towns that welcome growth but cannot provide the required capital." This commenter said that as a result of the Board's Statement of Policy governing accounting for ADC loans,[22] which has required it to book such loans as investments, and the limitations imposed by the direct investment rule, its residential construction financing is severely limited. The commenter believed that this result was inconsistent with its mission to provide funding for housing.

Several other commenters claimed that there is neither empirical data nor supervisory experience to support the inclusion of concerns for continued home financing as a basic purpose for extending the direct investment rule. One commenter contended, without offering any empirical evidence, that the Board has not shown that increasing levels of direct investments cause a diminution in the actual dollar value of outstanding home mortgages nor has the Board shown that the overall home financing market has been reduced or affected by direct investment. This commenter also alleged, again without offering any empirical evidence, that the benefits of direct investments may actually provide more funds for home financing and that the greater returns on direct investments may have increased the stability of some institutions, thereby assuring that they will continue to exist and to provide economical home financing.

These issues were previously raised and discussed in the December 1984 Reproposal and in the final direct investment rule. The Board fully discussed the issues raised and found that the assertions were unfounded. The commenters on these issues have presented no evidence to suggest that the Board's earlier conclusions are unwarranted. Thus, the Board continues to believe that the thrift industry is important to the provision of economical home financing, that excessive direct investment in nonresidential projects could undermine the congressional mandate to institutions to provide such financing, and that these considerations justify extension of the regulation of direct investment. For a detailed discussion of the Board's responses to the issues raised by the commenters, see 49 FR at 48750, 50 FR at 6918–19. As part of this rulemaking, the Board hereby adopts the reasoning set forth in those documents.

C. Asserted Advantages of Direct Investments

Several commenters asserted that direct investments are beneficial both to the thrift industry and the FSLIC. These commenters argued that the principal benefits of direct investment stem from portfolio diversification and the realization of profits that occur because thrifts have a presumed comparative advantage in evaluating and managing real estate investments. One commenter contended that the liabilities of insured institutions are primarily short-term, that their profits consequently are sensitive to changes in inflation and interest rates, and therefore, direct investments provide thrifts with the opportunity to reduce their sensitivity to inflation and interest rate risk. This commenter believed that such risk reduction benefits insured institutions and the FSLIC fund by reducing the probability of failure. Similarly, one commenter argued that direct investments are necessary to the financial health and survival of insured institutions and that any restrictions on such investments are detrimental to insured institutions.

Professor Benston contended that direct investments tend to increase industry profitability because they increase or are positively associated with higher net worth and, consequently, serve to prevent failure and protect the FSLIC fund. He asserted that the results of his studies indicate that higher amounts and relative proportions of direct investments tend to reduce the variance of total institution returns. He also argued that the results of one study showed that the vast majority of insured institutions earned profits from their direct investments and that those profits mitigated the losses suffered on other types of assets. He thus asserted that these profits and consequent increases in net worth served to reduce risk both to insured institutions and the FSLIC fund and therefore indicate the significant positive contribution direct investments make toward the financial stability and security of the industry and the FSLIC fund.

Some commenters contended that, although direct investments are sometimes beneficial to thrifts, such investments are accompanied by an increased risk to insured institutions and the FSLIC fund. A few of those commenters asserted that the current direct investment rule provides ample opportunity for portfolio diversification and consequently any needed risk reduction benefits.

In response to the argument that direct investments reduce risk through diversification, one commenter contended that while some institutions may be able to achieve some diversification through the addition of direct investments to their portfolios, not all institutions use direct investments in this manner. He asserted that direct investments by financially troubled institutions can increase the total risk of

[22] 12 CFR 571.17 (1986).

an institution and therefore the total risk to the FSLIC.

Several commenters asserted that direct investments are necessary to the financial well-being of insured institutions and the thrift industry. One commenter contended that the risks presented by direct investments are less serious than the risks that will continue to confront both the thrift industry and the FSLIC if insured institutions are constrained in their efforts to use direct investments to cure their pressing financial problems. This commenter based his contention on the assumption that the mismatch between the industry's assets and liabilities is severe and that adjustable-rate mortgages are, by themselves, insufficient to remedy the mismatch because their "adjustability" is limited by "caps" and other restrictions.

One commenter also contended, without empirical support, that direct investments provide more funds for home financing and that the greater returns on direct investments increase the stability of some institutions, thereby assuring that they will continue to provide economical home financing.

The Board does not believe that these comments demonstrate that institutions should be given unlimited direct investment authority. As discussed in more detail above, the Brown-McKenzie (87) Study failed to corroborate the claim that direct investments are highly profitable for thrifts. Specifically, the results of the study indicated that direct investments underperformed traditional mortgage loans far more frequently than they have outperformed them. With respect to the diversification argument, the Board believes that the Koehn Study demonstrates that while thrifts may achieve portfolio diversification with direct investments, such diversification opportunities are not limitless. Furthermore, not all institutions will necessarily use direct investments to achieve such diversification. Finally, the Board notes that because the regulation establishes a review threshold and not a prohibition, institutions that wish to engage in direct investments for diversification purposes may incorporate such plans into their waiver application.

Moreover, these same issues were raised by commenters in response to the promulgation of the direct investment rule and were fully addressed by the Board in the preambles to the 1984 December Reproposal and the final direct investment regulation. *See* 49 FR at 40749–50; 50 FR at 6919–20. As part of this rulemaking the Board hereby adopts the reasoning set forth in those documents. In the Board's view, direct investments, when properly underwritten, may be profitable for an institution and may sometimes offer some positive diversification benefits for the entire portfolio. In the Board's experience, any increase in the expected rate of return from direct investments will come at the price of increased risk—both in the pure economic sense and in terms of threat of loss to the FSLIC. Consequently, in view of the impaired state of the FSLIC fund, the Board believes it is necessary to retain its authority to review direct investments when they constitute a significant portion of an institution's portfolio.

The Board has determined, however, that well capitalized thrifts should be given greater flexibility with respect to the threshold limitation of the current rule and accordingly has modified the threshold to provide for such flexibility. The modifications are discussed in more detail below.

D. Supervisory Experience

Several commenters asserted that the Board's reliance on its supervisory experience is misplaced and does not show that increased direct investments are linked to institutions' failures. One commenter contended that the supervisory experience on which the Board relies is based on examples of institutions which have failed due to fraud and mismanagement. This commenter argued that the Board has combined these isolated instances of failure caused by mismanagement with the results of the OPER study and has determined that there is a link between investment levels and the cost to the FSLIC of such failures.

Another commenter, a law firm, denied that adequate supervisory support existed to extend the rule. This commenter argued that "detailed, complete" studies of the effect of direct investment on all insured institutions, and not only those identified as poorly managed or poorly capitalized, should be undertaken. In the absence of such studies, the Board's supervisory experience justified restrictions on direct investment only for poorly managed or poorly capitalized institutions. The commenter did not support a direct investment rule applicable to all insured institutions.

As explained above in the section describing empirical support for the direct investment rule, the Board's statistical studies persuasively demonstrate that high levels of direct investments are associated with high FSLIC costs from failed institutions.

One of those studies, the Bisenius-Sahadi (87) Study summarizes case studies of 21 problem institutions (out of the group of 37 originally studied by Professor Benston) and concludes that, for at least 16 of the 21 institutions, direct investment contributed to the FSLIC's losses. The case studies themselves were prepared by ORPOS[23] and contain evidence from supervisory case files that supports the conclusion that high concentrations of direct investments carry higher risk for both insured institutions and the FSLIC.

For example, one institution—identified in the write-up as Institution 21—had assets totaling $716.3 million as of December 31, 1986. As of March 31, 1986, its net worth total dropped to a negative $7.1 million, three months earlier, in December, 1985, the institution had reported a positive net worth of $240 thousand. The institution's operating losses were $10.9 million for 1985 and $7.3 million for the first quarter of 1986. As of March 31, 1986, the institution's commercial loan portfolio contained 127 loans totaling $520 million. The institution itself had categorized 68 of those loans, totaling $365.9 million, as problem loans with some losses anticipated. Of these 68, examiners classified as Doubtful[24] 11 loans and one project involving real estate owned ("REO").[25] "Losses resulting from this classification total[led] $51.5 million. Of the 11 loans and [REO] project classified by the March 1986 examination report, *many can be identified as direct investments* in the [institution's] wholly-owned subsidiary corporation, the Service Corporation A, joint ventures, and real estate acquired for development." Passarelli-Sahadi Memo (emphasis supplied).

Institution 8, an institution with assets of $92.5 million as of June 30, 1986, has been reporting itself insolvent since December 31, 1985. "[It] has been suffering operating losses since 1981, primarily due to a high volume of nonearning assets." Passarelli Sahadi Memo. ORPOS reported that "[d]irect investments in condominium/time-share projects were a primary cause" of Institution 8's declining net worth. "As of December, 1985, the [institution's] level of direct investments in development real estate had reached

[23] Memorandum from Francis M. Passarelli to Robert J. Sahadi (Feb. 5, 1987) [hereinafter, "Passarelli-Sahadi Memo"].

[24] Under the Board's regulation on classification of assets, an insured institution must establish a specific loss reserve for an asset classified Doubtful. 12 CFR 563.16c (1986).

[25] For a description of items included in the term "real estate owned," *see* 12 CFR 561.15(c) (1986) (scheduled items).

$18.8 million or 20.3 percent of assets." Passarelli-Sahadi Memo. Its capital losses on its direct investments totalled $12.5 million. Bisenius-Sahadi (87) Study, Table 5.

Institution 13 had assets totaling $831.4 million as of September 30, 1986. By that date, "the institution had a total direct investment in service corporations [of] $167.9 million (20.2 percent of total assets). The majority of assets of these corporations and related joint ventures consist of real estate in the form of raw land, apartment complexes, condominium projects, and office buildings. Approximately 90 percent of the total direct investment is in Service Corporation A and affiliated companies. As of the most recent examination (April 1985), the institution's records disclosed a negative equity of $255 thousand in the earnings of Service Corporation A. Six months later this negative equity position increased to $2.7 million. Consequently, the investment in Service Corporation A was transformed from a low yielding asset in 1984 to a non-earning asset in 1985 and 1986 that, in effect, is causing a direct drain on the earnings of the parent institution." The net worth of Institution 13 declined from $18 million as of June 30, 1984, to a negative $59.1 million as of September 30, 1986. Passarelli-Sahadi Memo. Its capital losses on direct investments amount to $42 million. Bisenius-Sahadi (87) Study, Table 5.

The Board's supervisory records contain numerous examples of this kind of investment activity, with substantial losses, illustrated by these three institutions. In this way, supervisory data corroborates the conclusion drawn by the Board's economists that excessive direct investment correlates with an increased cost of case resolution to the FSLIC. The Board is convinced that, at a minimum, these data amply justify limitations on direct investment activity for institutions suffering financial distress. *See also* Koehn Study.

The Board is also convinced, however, that limitations applicable only to problem, or financially troubled institutions, are inadequate to accomplish its purposes of protecting the FSLIC fund and, therefore, the public interest.

The studies done by the OPER also indicate that more prudent selection of direct investments—even for well capitalized thrifts—may be needed. In order to evaluate the effect of direct investments on the performance of thrift institutions, the OPER statistically examined the effect of direct investments on net worth for a sample of 488 randomly selected thrift institutions in 1982–1984.[26] The results, significant at a 95 percent confidence level, suggest that direct investments pose a threat to net worth in both well capitalized and undercapitalized institutions. Any reduction in net worth increases the possibility that an institution will fail and thereby increases the risk of loss to the FSLIC.

The increased risk to the FSLIC associated with direct investment, even where undertaken by healthy institutions, strongly suggests that review of such investments are appropriate. Consistent with the capital regulation, the Board recognizes that well capitalized institutions have a better capital buffer to protect themselves, depositors and the FSLIC from potential risk of loss resulting from their direct investments. In addition to an institution's capitalization,[27] the Board believes that it is necessary to condition an institution's authority to make direct investments above the threshold level on the quality of the direct investment, the institution's investment history, prudent underwriting and other related factors. By extending the direct investment rule, the Board is simply requiring that the PSAs have the opportunity to analyze the various factors indicative of the quality of an institution's direct investments, including the institution's capital level, before permitting the institution to make the substantial new levels of direct investments allowed by the Board's capital regulation. See 51 FR 33565 (Sept. 22, 1986) (to be codified at 12 CFR 563.13).[28] In the Board's view, even well capitalized institutions may pose danger to themselves and the FSLIC by a rapid infusion of funds into direct investments. Additionally, the Board's supervisory experience indicates that above average capital does not provide complete assurance that an institution's management possesses the requisite experience needed to undertake high levels of direct investments.[29]

The Board does not believe that its limited review requirements for direct investment are unduly burdensome to insured institutions. The Board notes that today's rule does not preclude any insured institution from making a direct investment but rather subjects some or all (depending on the institution's capital level) of such investments to supervisory review.

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[26] *Empirical Evaluation of the Determinants of Net Worth for the Thrift Institutions Insured by the Federal Savings and Loan Insurance Corporation 1982–1984*, Mimeo, R. Dan Brumbaugh, Jr. (Mar. 5, 1986). In this study, the OPER evaluated the effect of different variables upon four measures of net worth, including net worth as defined by regulatory accounting principles ("RAP"), generally accepted accounting principles ("GAAP"), tangible net worth (calculated by adjusting GAAP net worth to omit intangible assets), and a proxy for market value net worth (calculated by adjusting tangible net worth for the market value of an institution's fixed rate mortgage portfolio based on prevailing interest rates).

[27] As is asserted in text, high levels of capital alone are not adequate to protect the FSLIC from the risk associated with direct investments. Atlas Savings and Loan Association, a state-chartered California institution placed in receivership by the FSLIC in September, 1985, illustrates this proposition. At the end of 1982, Atlas had net worth of 9.8 percent of assets. By June 30, 1985, this figure had dropped to 0.8 percent. Supervisory personnel attributed this decline to Atlas's concentration of assets in direct investments, including construction loans.

[28] For example, consider a hypothetical institution that meets its capital requirements, that has capital less than 6% of liabilities, and that wishes to make direct investments. If that hypothetical institution has $100 million in assets, $95 million in liabilities, $5 million in capital, a capital requirement of only $3 million (3.2 percent of liabilities) and no direct investments, it can make direct investments based on its $2 million in "excess capital (the $3 million capital requirement subtracted from $5 million in capital). Under the new regulatory capital requirements, and in the absence of the direct investment rule, that institution could redirect $25 million of its $100 million in assets to direct investments without increasing its capital or obtaining approval from its PSA.

The hypothetical institution's calculation of its ability to make direct investments would be as follows: Under the requirements, an institution that has the "excess" capital can make direct investments under the following sliding scale procedure: direct investments of up to 10 percent of assets must be capitalized at 5 percent and any additional direct investment at 10 percent. Here, the hypothetical institution has no direct investments and $2 million in "excess" capital. Five hundred thousand dollars of that capital would support the first $10 million of direct investments, and the additional $1.5 million of capital would support the additional $15 million of direct investments. In other words, where such a hypothetical institution has $2 million in "excess" capital, it can re-direct $25 million ($10 million plus $15 million) of its assets to direct investments.

[29] The Board recognizes that an institution's deteriorating financial condition may sometimes be attributable to management's abuses or outright fraud. By their nature, abusive or fraudulent management practices are difficult to detect since their perpetrators are at pains to conceal them from examiners and regulators. Short of illegal activity, however, other types of management activity that may adversely affect an institution and contribute to the risk borne by the FSLIC can be discovered and corrected through the PSA approval process. For example, the PSA can monitor significant shifts in management style that may signal potential problems. Such shifts would include an institution's rapid change from mortgage lending on single-family homes to aggressive lending on direct-investment type projects. This change would require management expertise in a new type of lending, expertise on which the PSA could condition his approval of a particular project. The PSA can also ensure that management has in place systems, controls, recordkeeping procedures, appraisal procedures, and underwriting standards appropriate to the kind and volume of direct investments it contemplates making.

In light of the current state of the FSLIC fund, the Board must take substantial steps to prevent losses to insured institutions and the FSLIC fund such as the ones described above. In the Board's view, review of an insured institution's direct investments is appropriate under these circumstances. The Board stresses that the direct investment rule is not an absolute bar for institutions desiring to make investments over the threshold amount. The Board notes that over 50 percent of the waiver applications acted upon since implementation of the direct investment rule have been approved.

E. Waiver Provisions

In its 1986 September proposal, the Board specifically solicited comments on the administrative flexibility of the direct investment rule. A number of commenters also discussed the merits of the process established under the current direct investment regulation to obtain authorization from the PSA to exceed the limitations set forth in the rule. Five commenters approved of the waiver process. Most of the five noted that PSA approval has been forthcoming for the majority of institutions that have applied for a waiver of the direct investment limitations. Most also thought that the PSAs had demonstrated a laudable flexibility in applying the rule, particularly with respect to waiver requests submitted by well managed institutions with appropriate business plans.

Two other commenters generally approved of the waiver process but suggested that it could be improved if it were streamlined, if applications were processed in a timely fashion, and if PSAs would give "blanket" approval, as opposed to project-by project approval, to each applicant-institution to exceed the otherwise applicable limitations by a specified dollar amount.

The remaining commenters raised various objections to the waiver process. Generally, they thought it was costly, time-consuming, and unpredictable. One commenter, a state-chartered savings and loan association, detailed its reasons for concluding that the waiver process results in lost investment opportunities. This association indicated that it typically spends 30–45 days analyzing a project in which it is considering investing. It asserted that any longer delay—specifically, the delay attendant on the PSA approval process—is prohibitive because of the cost to the seller or the borrower of keeping the property off the market. This association cited two successful direct investment projects of its own that, it said, would have been precluded if it had had to wait to secure PSA approval. These projects, the association asserted, had returned all principal plus a significant profit, and the opportunity to provide financing to the ultimate purchasers of the units in the projects represented additional business as well as income from servicing rights.

Other commenters agreed with this association's contention that the delay inherent in the waiver process resulted in lost opportunity. In addition, commenters objected to the uncertainty of the process, indicating that this uncertainty may also cause insured institutions to forego investment opportunities.

Other objections included the absence of meaningful, more detailed standards for the PSAs to use in evaluating waiver applications, the "not insignificant" cost of preparing the paperwork associated with such applications, inconsistency in administering the rule from district to district, and the PSAs' failure to process applications in timely fashion and limit their requests for further information to specific, relevant information. One commenter noted that the figures indicating that PSAs have frequently granted waivers do not account for applications that have been withdrawn after an indication that they would be rejected or considered incomplete, or applications that were never filed because of the time and expense the waiver process demands. This commenter also noted that institutions believe they must use "caution" in bringing unpopular or difficult investment questions to the PSA's attention. Another commenter suggested that the process is inappropriate because certain projects, particularly land development projects, require special expertise to evaluate that may not be available to the PSA. This same commenter also suggested that the waiver process carries an implicit bias; that is, a PSA may be inclined to reject a project because no adverse consequences will result for the PSA rather than approve a project when he or she may subsequently be criticized if the project is unsuccessful.

One commenter contended that the value of a direct investment depends on the exact time when the investment is made and that to require institutions to wait up to 30 days before they can make the investment deprives institutions of many highly promising investment opportunities. This commenter alleged that investments for which an institution can wait 30 days for approval are not the type of investments that others are anxious to make and therefore are likely to be of lower quality and overpriced.

In conjunction with this rulemaking, the Board has carefully reviewed the PSA approval process and has concluded that, as currently structured, it is the most effective mechanism for ensuring adequate supervisory review of direct investments. The Board has determined to make three modifications to its waiver provisions. Specifically, it has directed ORPOS to publish standards for use by the PSAs as they consider waiver applications for housing related projects. Second, it has provided that the PSAs may only make one request for additional information. Finally, the Board has included more specific guidance for the PSAs to use in determining whether to grant approval to waiver applications. These modifications are described in more detail below.

The Board's decision to retain the waiver process in relatively unchanged form rests on data provided to it by the ORPOS and the PSAs. The most recent such data available are current through December 4, 1986.[30] These data show that, system-wide, the PSAs have received 84 waiver applications, of which 43—more than 50 percent—have been granted. ORPOS also summarized the reasons for denials or withdrawals of applications in 26 instances. Of the 26, 10 applications were denied and 16 withdrawn. Reasons for denial included: the institution sought retroactive approval for a transaction that had already occurred; the institution was the subject to a pending cease-and-desist action; the information submitted to the PSA showed that the project would not be profitable; the institution failed to execute a net worth maintenance agreement; the institution's projected direct investments could have increased its risk of default; and the institution had previously lost substantial sums in a direct investment of a similar nature.

Cases of withdrawal included several instances in which the institution submitted an incomplete application and was asked to submit additional information but never did so. They also included one instance in which the PSA determined that the institution was not required to seek approval for its direct investment. In 5 other instances, institutions withdrew waiver applications without supplying a reason.

In addition to this general catalogue of information, representatives of two FHLBanks districts testified at the Board's public hearing on direct

[30] *See* Memorandum from Edward J. Taubert to Joe McKenzie (Dec. 1986).

investment. They provided specific information on the processing of waiver applications in their districts.

Michael Patriarca of the FHLBank of San Francisco testified that his Bank had received 24 requests for waiver. Of these, 13 were approved; 6 were withdrawn; 3 were returned because the institution in question had failed either to submit a complete application or to provide additional information upon PSA request; and 2 were denied. Of the two requests that were denied, one was subsequently appealed and denied at the Board level. Mr. Patriarca indicated that most requests that the San Francisco Bank received were for blanket approval: "[a] typical request might seek permission to increase direct investments from $100.0 million, or 10 percent of assets, to $200.0 million, or 20 percent of assets, with increased amounts being directed to the acquisition of commercial income properties and real estate. . . ."[31] If there were no regulatory grounds for disapproval, the PSA typically granted such requests. Thus, investment decisions concerning specific projects are left to the business judgment of the institution's management.[32]

The factors considered by the PSA in San Francisco in determining whether to grant a waiver application are as follows: (1) The applicant's financial condition and whether it is in compliance with the Board's regulations; (2) the types of investments contemplated here, the inquiry would seek to determine the prudence of the institution's projected investment choices, their consistency with its business plan and operating profile, and whether they contribute to the diversity of the institution's portfolio; (3) the level of risk associated with the types of investment in question, including a consideration of the institution's history with similar investments; (4) the adequacy of the institution's resources—including its systems, controls, capital, and staff—to manage the types of investment in question; and (5) the consistency of the investment in question with economical home financing.

Finally, after approving a waiver application the San Francisco Bank continues to exercise supervisory oversight, which includes examinations, reporting requirements, and the possibility of revoking its blanket approval, in order to ensure that the terms of its approval are met.

H. Joe Selby, Director of Regulatory Affairs for the FHLBank of Dallas, similarly gave testimony concerning waiver applications processed in the ninth District. The Dallas Bank received 20 such applications. Of these, ten were approved; 8 were withdrawn; 1 was denied; and 1 was pending as of the date of the hearing. In the one case where an application was denied, the reason for denial was that the association had not finalized a net worth maintenance agreement.

Mr. Selby described the internal controls used by the Dallas Bank in processing waiver applications. He also described the factors considered by the PSA in deciding whether to grant an application. These factors included: (1) The institution's compliance with its net worth (regulatory capital) requirement; (2) its operating results; (3) its level of scheduled items; (4) its management's past history in responding to supervisory requests or concerns; (5) management's past experience and its expertise in making direct investments; and (6) the acceptability of the institution's business plan, including whether the plan demonstrates appropriate diversification of direct investments, whether it properly describes those investments and proposes adequate controls and procedures for monitoring them, and whether it properly analyzes the financial impact that the proposed direct investments will have on the institution.

The Board finds the commenters' concerns regarding the effect of the approval process on individual institutions' investment decisions to be largely unfounded. While some institutions might have been discouraged by the review process, the Board has no way to quantify how many foregone projects would have been approved and how many would have been denied. In the Board's view, however, the large percentage of approvals clearly indicates the flexibility of the rule. Institutions may submit a general business plan establishing the parameters of their investment activity over a given time period. The approval process was never intended to be solely an investment-specific process, an intent that available evidence indicates is being honored by the PSAs. The Board is cognizant of the dynamics of the financial marketplace and recognizes the need for proper business planning. As structured, the Board believes that the approval process meets these concerns.

The Board notes that in its public hearing several individuals who testified raised the issue of supervisory impartiality. The substance of these comments is that some institutions fear that the waiver process will be used as a form of reprisal—through otherwise unnecessary delay or outright rejection of their applications—for failure to comply with the direct investment regulation or for having expressed opposition to the regulation. The Board is, of course, concerned about suggestions that its processes have been or are being abused. It can find no basis for concluding that such abuses have occurred, however. As summarized above, the evidence indicates that PSA denials of waiver applications have been supported by sound reasons, related to the business operations of the applicant-institutions. A Board-level review process is available to any institution whose waiver application has been denied, including one that believes denial was predicated on unfair or inappropriate considerations. Thus, the Board finds that allegations of intimidation are unfounded.

Further, the Board's supervisory experience with the direct investment rule indicates that the PSAs have administered the rule fairly and conscientiously. Since promulgation of the direct investment rule in January 1985, more than 50 percent of the applications which have been acted upon to exceed the threshold have been approved by the PSAs. Eighteen applications were withdrawn, and only ten applications were denied.

Although the Board has determined that the PSA approval process is, in general, satisfactorily achieving the results it was designed to accomplish, the Board believes minor adjustments are warranted. These adjustments, described below, include limiting PSA requests for additional information to one per waiver application, directing ORPOS to provide uniform standards for the PSAs' use in reviewing certain types of waiver applications, and including in the regulation more specific guidelines for the PSAs to use in reviewing applications generally.

General Alternative Solutions

A. Increased Net Worth Requirements

Several commenters argued that a specific percent-of-assets limitation on direct investments is unnecessary in light of the Board's new regulatory capital requirements. *See* Board Res. No. 86-857, 51 FR 33565 (Sept. 22, 1986) (to be codified at 12 CFR 563.13). The new capital rule, which became effective on

[31] Statement of Michael Patriarca, Director, Agency Functions, FHLBank of San Francisco, Jan. 30, 1987.

[32] Mr. Patriarca indicated that the PSA would engage in project-by-project review if the institution is under the FSLIC's Management Consignment Program.

January 1, 1987, requires all insured institutions and federally-chartered thrifts to maintain, at the end of a phase-in period, regulatory capital equal to 6 percent of total liabilities, plus added capital based on a contingency component, less a maturity matching credit. The new rule significantly strengthens overall regulatory capital requirements for the industry.

The new capital regulation also imposes an incremental capital requirement on direct investments to be included in the calculation of an institution's contingency component. The incremental requirement does not apply to specific direct investments either (1) held in portfolio as of June 30, 1986, except for those amounts subject to the contingency requirement for added capital pursuant to the current net worth rule (12 CFR 563.13(g)(5)(iii)(1986)), or (2) to which the institution was legally committed on or before that date, and real estate projects being adopted pursuant to definitive plans in existence on or before that date. The amount of additional capital required is determined by an institution's level of capital and its concentration of assets in direct investment. The regulation divides insured institutions into three groups based on their capital levels: (1) Those that do not meet their capital requirements; (2) those that do meet their capital requirements but have capital less than the higher of (a) 6 percent total liabilities or (b) their net fully phased-in requirement (6 percent of total liabilities plus fixed reserve elements minus maturity matching credit); and (3) those having capital equal to the higher of 6 percent of total liabilities or their net fully phased-in requirement. The regulation divides institutions' concentration in direct investments into levels (including grandfathered amounts) up to and including 10 percent of assets, above 10 and below or equal to 20 percent, or above 20 percent.

Under this system, an institution not meeting its capital requirement must have additional capital of 10 percent for all non-grandfathered direct investments. An institution with capital equal to the higher of 6 percent of total liabilities or its net fully phased-in requirement needs no incremental capital on non-grandfathered direct investments where total direct investments equal up to 10 percent of assets, needs 5 percent incremental capital on non-grandfathered direct investments where total direct investments equal between 10 percent and 20 percent of assets, and needs 10 percent incremental capital only on non-grandfathered direct investments where total direct investments exceed 20 percent of assets. Institutions meeting their capital requirement, but not having capital at least equal to 6 percent of liabilities, must have 5 percent incremental capital for asset concentrations in non-grandfathered direct investments where total direct investments equal up to 10 percent of assets, and 10 percent additional capital for non-grandfathered direct investments where total direct investments exceed 10 percent of assets. The capital regulation also imposes a similar scheme of incremental capital requirements on land loans and nonresidential construction loans.

Several commenters asserted that the higher capital requirements for thrifts will serve as an additional and strong inducement for institutions to operate soundly and prudently and will provide an added safety cushion to protect institutions and the FSLIC against losses. Similarly, several commenters asserted that the incremental capital requirements adequately address the Board's concerns regarding the potential risk of direct investments. They contended that the incremental capital reserves provide a considerable cushion to insured institutions and the FSLIC and generally would make any loss to an institution unlikely for those experienced in management of direct investments.

A few commenters contended that it is too early to judge the effect of the new capital regulations and, therefore, the Board should not be swayed by arguments that the capital requirements render the direct investment rule unnecessary.

In the Board's view, direct investment at any level must be supported by adequate capital. Imposition of higher capital requirements for direct investments does not address the Board's concerns regarding either the quality, liquidity, and diversification of direct investments or the need to ensure that the thrift industry accomplishes its Congressional purpose—*i.e.*, the provision of economical home financing. Thus, the Board believes that the new higher capital requirements are not a substitute for the direct investment rule and consequently that there is a continued need for the rule. The bases for the Board's conclusions in this regard are set out in detail under the subheading *Economical and Empirical Support for the Rule, D. Supervisory Experience, infra* at pp. 49–57.

By extending the direct investment rule, with its requirement of prior approval, not only are those institutions with the requisite capital and financial and managerial strength permitted to invest in higher risk assets (with the potential for higher returns) but the FSLIC is safegarded.

Direct Investment Levels Should Be Tied to Capital

Many commenters urged the Board to grant expanded direct investment powers to those institutions meeting their minimum regulatory capital requirements, arguing that well-capitalized institutions should have greater flexibility since they represent a level of risk to the FSLIC lower than the risk posed by undercapitalized institutions. Some of these commenters argued that, by implication, the well capitalized institutions are well managed and thus should be subject to less restrictions than undercapitalized and by implication, poorly managed, institutions. Generally, these commenters asserted that any regulation of direct investments should focus solely on undercapitalized thrifts, contending that the added reserves required for direct investments will adequately protect the FSLIC fund and, at the same time, allow healthy thrifts to make direct investments without restrictions.

A few commenters suggested that the Board should permit those institutions with six (6) percent or greater regulatory capital to make unlimited direct investments, while it should subject those institutions with less than six (6) percent regulatory capital to some limitations, either tied to capital levels or to a percentage of assets. Several commenters urged the Board to raise the threshold to fifteen (15) percent of assets for those institutions with at least six (6) percent regulatory capital, to maintain the ten (10) percent of assets threshold for institutions meeting their minimum capital requirements (3 percent to 5.99 percent), and to require PSA approval of all direct investments for institutions that fail to meet their minimum capital requirements (less than 3 percent).

One commenter suggested modifying the rule to permit unlimited direct investments for insured institutions whose regulatory capital exceeds 6 percent and to provide for a 20 percent threshold for those institutions meeting the increased regulatory capital requirements. Similarly, another commenter suggested that the Board modify the rule to permit institutions that meet the fully-phased in regulatory capital requirement to make unlimited direct investments but to require notification to the Principal Supervisory Agent for direct investments that exceed

20 percent of assets. These commenters also suggested that, with respect to institutions that meet their current regulatory capital requirements, the Board should modify the rule to allow those institutions to make direct investments up to 10 percent without supervisory intervention; from 10–20 percent upon notice to the PSA; and above 20 percent only with supervisory approval. Both these commenters suggested that the Board continue to require prior supervisory approval for direct investments above 10 percent for institutions that do not meet their regulatory capital requirements.

One commenter suggested modifying the direct investment regulation to permit increased levels of direct investment without PSA approval, ranging from ten (10) percent of assets in year 1 to 25 percent of assets in year 6, over a six-year period, for those institutions in compliance with their minimum capital requirements and with a proven track record for direct investments. At the end of the sixth year, any institution wishing to make direct investments in excess of 25 percent of assets would have to get PSA approval.

Several commenters asserted that additional direct investment flexibility should be given to insured institutions with six (6) percent or greater tangible capital (GAAP capital less goodwill and other intangible assets). These commenters argued that a high level of tangible net worth demonstrates management capability and provides a substantial incentive to manage carefully because the institution's own funds are at risk.

A few commenters opposed tying direct investment levels to tangible net worth because such a measure excludes goodwill. Specifically, one commenter argued that the use of a tangible net worth standard would adversely affect mergers and acquisitions of insured institutions. This commenter contended that unless there is an exchange of stock for stock in a merger, there will be a significant booking of goodwill due to the application of purchase accounting. Since tangible net worth excludes goodwill, this commenter believed that such a standard would be a deterrent to institutions considering merging with or acquiring a troubled institution. (The Board notes that the FSLIC can already grant forbearances in these cases.)

Finally, several commenters contended that the current direct investment threshold is too liberal, specifically with respect to poorly capitalized thrifts, and accordingly, urged the Board to lower the threshold level. A few commenters suggested that the threshold be lowered to 3 percent of assets, as is currently permitted for Federal associations.

After careful evaluation of these comments, the Board continues to believe, for the reasons explained above, that the thresholds for prior review of aggregate direct investment are the most effective way to address the Board's concerns regarding direct investment. The Board has determined, however, to modify the thresholds to permit greater flexibility for well capitalized institutions while, at the same time, imposing stricter requirements on poorly or undercapitalized thrifts.

As discussed above, many commenters asserted that the direct investment regulation should differentiate well capitalized institutions from poorly capitalized institutions. These commenters argued that undercapitalized institutions have an incentive to exploit their insured positions by engaging in excessively risky activities, including direct investments. Well capitalized institutions, on the other hand, have an incentive to diversify their risks and therefore are unlikely to engage in apparently risky activities unless such activities provide diversification opportunities and thereby reduce the overall riskiness of the portfolio.

The Board is persuaded by the arguments proffered by these commenters and, accordingly, has determined to modify the threshold level to permit greater operating latitude for well capitalized institutions. Under the final rule, for insured institutions which meet their capital requirements and have tangible capital of 6 percent or greater, calculated as of the end of the immediately preceding calendar month, the applicable threshold is three times tangible capital. For insured institutions that meet their minimum capital requirements but have tangible capital of less than 6 percent, the applicable threshold is the greater of three percent of assets or two and one-half times tangible capital, calculated as of the end of the immediately preceding calendar month. As provided in the current rule, an institution that fails to satisfy its minimum regulatory capital requirement shall not make direct investments except as approved by the PSA.

In the Board's view, limiting direct investment levels to the greater of 3 percent of assets or two and one-half times tangible capital addresses its concerns regarding the potential losses to the FSLIC due to excessive risk taking by poorly capitalized institutions. At the same time, increasing the threshold to 3 times tangible capital provides the necessary flexibility for investments by well capitalized institutions. Again, the Board stresses that the threshold is not a barrier to direct investments but rather subjects some or all (depending on the institution's capital level) to supervisory review.

The Board determined not to use a GAAP capital or a regulatory capital standard because both capital standards include items such as goodwill and intangible assets and regulatory capital also includes deferred loan losses and appraised equity capital. In the Board's view, these items do not adequately protect the FSLIC from loss. The Board wishes to note, however, that its adoption of tangible capital for purposes of establishing direct investment threshold investment levels should not be construed as a signal that the Board has determined that such a standard is appropriate in assessing compliance with other Board regulations. Any change in other Board regulations will be based on the arguments presented if and when such changes are proposed.

The final rule defines the term "tangible capital" to mean equity capital as determined in accordance with GAAP less goodwill and other intangible assets, plus qualifying subordinated debt and qualifying nonpermanent preferred stock. In the Board's view, qualifying subordinated debt and nonpermanent preferred stock provide insured institutions and the FSLIC with protection against losses. Structurally, these items have two characteristics important for any component of capital: (1) They are subordinate to other obligations of the insured institution and (2) their medium-to-long-term nature makes them a reliable buffer against losses. The Board believes that these items provide the FSLIC with protection analogous to other traditional forms of equity capital in the event of insolvency.

Because the Board realizes that some institutions, which under the final rule would be subject to a 3 percent of assets threshold, may currently be holding direct investments up to 10 percent of their assets, the final rule "grandfathers" those direct investments made or legally committed to on February 27, 1987. The savings clause is discussed in more detail below.

B. Supervisory Evaluation

One commenter argued that increased use by the Board of the cease-and-desist and insurance termination powers provided pursuant to 12 U.S.C. 1730 would render the direct investment rule unnecessary. This commenter contended that use of the section 1730 enforcement

powers would avoid imposing broader restrictions on well managed thrifts and instead focus on the individual thrift institutions that pose clear, imminent threats of loss to the FSLIC.

The Board continues to believe that the regulatory approach chosen is a more effective and practical solution to the problem of excessive direct investment than the alternatives suggested or otherwise available. These comments reflect a misunderstanding of the Board's objective in proposing to extend the direct investment regulation. That objective is not to deal with the direct investments of a select group of fast-growing or reckless institutions. Even though such institutions are a source of special concern, the Board's objective in extending the direct investment rule is to deal with the potential problem of direct investment at imprudently high levels by any institution. Debt investments are generally less risky than the direct investments authorized by an increasing number of states. Thus, the issue is not merely the abuse or misuse of such augmented investment powers, but the fact that even their permissible use generally entails greater risk, which is the price of potentially higher expected returns.

In the Board's view, this comment also mischaracterizes the operation of the regulation. Thus, while the new regulation is designed to address risk in the thrift industry created by direct investment, the approach to controlling such risk is not a flat, industry-wide standard that ignores the economic health of institutions. To the contrary, the approach set forth in the regulation is sensitive to the economic health of individual institutions and will be applied on an institution-by-institution basis.

Two commenters addressed the contention that the examination process is the appropriate vehicle to curb insured institutions' abuses of their direct investment authority. Both thought the examination process was inadequate to achieve this result. The first commenter is a federally chartered California savings and loan association that, through the FSLIC's Management Consignment Program, has managed a failed California thrift. Citing its experience with the failed thrift's numerous, imprudent, and unprofitable direct investments, this commenter indicated that there are not and cannot be enough qualified examiners to prevent this type of risk to the FSLIC.

A second commenter, a savings-and-loan trade association, pointed out that examination is an after-the-fact process not designed to provide "a sophisticated, ongoing evaluation of individual institutions' investment decisions and portfolio quality." This commenter noted further that even if a supervisory system capable of such evaluation could be constructed, it would likely be both prohibitively expensive and unreasonably intrusive with respect to insured institutions' business operations.

To these comments, the Board adds its own conclusion that with regard to rapidly growing institutions or those with identified supervisory problems, merely relying on existing or expanded supervision would not be an adequate alternative to the regulation. By necessity, examination lags far behind the acquisition of deposits or the investment of funds. Imprudent direct investments, and hence problem assets, may increase dramatically between examinations,[33] especially with the ready access to "brokered funds" currently possible. Irreparable damage can be done before the Board can make any supervisory examination and well before it can take any corrective action. The unavoidable lag between the time an asset is acquired and the time that the acquisition is reflected in statistical reports, filed quarterly by each institution, further shows that supervision is not an acceptable alternative to before-the-fact regulatory action. In the Board's view, merely escalating the supervisory attention already devoted to problem institutions would not accomplish its objective of controlling risk.

C. GAAP Reporting

One commenter suggested that the Board should require the thrift industry to report in accordance with GAAP. This commenter contended that if the Board is authorized to close an institution as soon as it becomes insolvent on a GAAP basis, management will be less inclined to make ill-advised investments, and the FSLIC would be less likely to insure substantial losses.

In April 1986, the Board proposed a regulation that would require that all financial statements issued by insured institutions and all financial reports filed with the Board be prepared in accordance with GAAP. Board Res. No. 86-427, 51 FR 16542 (May 5, 1986). That proposed regulation also would redefine regulatory capital to include those components that the Board believes provide more risk protection to the FSLIC and would eliminate certain regulatory accounting practices currently permitted by the Board. While the Board has not yet adopted the proposal as a final regulation, it continues to believe that a move to GAAP reporting for the thrift industry ultimately is in the best interests of the FSLIC, the public, and insured institutions.

Because the Board receives information on an institution's financial status after the fact, even rapid closure could still lead to substantial losses to the FSLIC. Further, in its current undercapitalized status, the FSLIC would not be able to undertake such a policy. The direct investment regulation is aimed in part toward protecting the FSLIC by limiting the amount of risk it must assume.

D. Scope of Grandfathering

Five commenters addressed the grandfathering provision of the current direct investment regulation—that is, the provision permitting an insured institution to maintain existing investments, to make investments to which it had already committed, or to complete projects pursuant to a "definitive plan" that it already had in place. The commenters were unanimous that the provision is confusing and should be clarified in any extension or modification of the regulation. One commenter urged that institutions not be penalized for their failure to comply with the grandfathering provision, which the commenter characterized as "ambiguous." Another indicated that problems have arisen in the implementation of the grandfathering provision. Specifically, this commenter thought that examiners have taken too narrow a view of the term "definitive plans" and have consequently disallowed completion of specific projects planned before the grandfathering date.

[33] Again, the Board's supervisory experience provides anecodotal evidence that supports this conclusion. American Savings and Loan Association, a Mississippi institution that the FSLIC placed in liquidating receivership in April, 1984, is a case in point.

In one 45-day period in 1982, American increased its investment in a single service corporation from $126,000 to $6.2 million. As a result its investment in that service corporation at year end totalled 35.7% of its assets. "Whe[n] the receivership was established, all of the institution's investments in [the service corporation] were classified substandard. These assets consisted of three airplanes, oil drilling and fabricating equipment, and three joint ventures. Its investments were a total loss." Passarelli-Sahadi Memo. The point of this recitation is emphatically not that the Board expects every insured institution to invest as unwisely as American. Rather, the point is to illustrate that the Board could not possibly have relied on a *post hoc* examination to cure damage that was done so thoroughly and in so short a period of time. Examination simply comes too late to counteract disastrous investment decisions that have already been implemented.

One commenter suggested that the Board amend the regulation to clarify the grandfathering of definitive plans. Specifically, the commenter contended that "definitive" should not imply that grandfathering only extends to projects or segments thereof where the precise shape of the end product was known in advance. Instead, the commenter suggested that definitive plans should include situations where an institution was proceeding in a definite direction with a clear plan of operation since real estate development projects frequently are evolutionary in nature.

The Board's response to these comments is influenced by the fact that it is necessary to include in today's rule a second savings clause to "grandfather" direct investments made or legally committed to as of the date of the Board Resolution adopting this rule, February 27, 1987. The Board has not included a requirement for institutions to prepare or submit definitive plans in this second savings clause. Because the direct investment rule now contains two "grandfathering" provisions, the Board believes it would be more confusing than not to modify the portion of the first savings clause that calls for definitive plans. Moreover, such a modification would cause needless uncertainty about compliance with the rule. In reliance on the rule, insured institutions have prepared definitive plans, or PSAs have requested them, for projects currently in progress. The Board is reluctant to take action that might be construed to require such institutions, or their PSAs, to revisit the approval procedures applicable to such projects. Therefore, the Board declines to modify its original savings clause.

Technical Suggestions

A. Competitive Parity for Federal Associations

Several commenters expressed concern that federally chartered associations, which are presently limited to a maximum investment of 3 percent of assets in service corporations and are not generally permitted to make direct investments, lack parity with state-chartered institutions which are not similarly limited. These commenters urged that the Board either amend the regulation or pursue legislative initiatives to ensure that the direct investment limits are the same for both state and federally-chartered institutions. One commenter proposed that once such parity is established, no institution be permitted to invest more than 10 percent of its assets, either directly or through a service corporation, in direct investments. Another commenter specifically suggested that the Board initiate steps to raise the limit on investment in service corporations to the greater of 5 percent of assets or an institution's net worth. The latter commenter suggested that in the interim, the competitiveness of federally-chartered institutions could be enhanced if the Board authorized operating subsidiaries that could perform any activity authorized for the parent, such as mortgage banking.

These comments are outside the scope of the September 1986 proposal, which the Board framed to solicit comment only on the extent to which it should extend, modify or remove the safeguards of the existing direct investment rule. Moreover, the HOLA expressly constrains federal association authority to invest in service corporations to 3 percent of assets. 12 U.S.C. 1464(c)(4)(B). The Board therefore lacks authority to increase this amount by regulation.

B. Exemption for Housing-Related Investments

One commenter recommended that the Board permit warehousing lines of credit extended by parent associations to their whollyowned mortgage banking subsidiaries above the direct investment limitations. It was suggested that the Board permit such additional extensions of credit to the extent there exist bona fide commitments to sell in the secondary market the one- to four-family loans underlying such lines of credit.

One commenter who opposed the regulation of direct investments argued that, if extended, the regulation should be modified to exempt housing-related investments. This commenter noted that under the Board's present regulations, some single-family housing construction "loans" are encompassed by the direct investment limitation, thus limiting an insured institution's participation "in the very area for which Congress has authorized our existence."

The empirical studies and supervisory experience relied upon by the Board and discussed in detail above do not suggest that housing-related direct investments are inherently less risky than other types. Thus, the Board does not believe that the changes suggested by these commenters are appropriate. Since some institutions may have expertise to bring to bear in the area of housing, however, the Board has determined that uniform approval guidelines for certain types of housing-related direct investments should be provided to the PSAs. This modification to the rule is described below.

C. Prohibition Against Investment by Insured Institutions in Stock of Other Insured Institutions

One commenter who expressed general support for a one-year extension of the direct investment regulation urged the Board to modify the § 563.9–8(d)(3) prohibition against an insured institution's investment in the stock of another insured institution. It is argued that given current and expected future merger activity by stock institutions, flexibility to acquire stock should not be precluded. Thus, the commenter urged that the rule be modified to permit the acquisition of stock in the target institution by the acquiring institution as part of a two-step acquisition, subject to the conditions set forth in an OGC Opinion dated January 31, 1986.

After giving careful consideration to this issue, the Board has determined that it may be appropriate to delete this prohibition altogether. Alternatively, the Board is considering using subsection (d)(3) to clarify that the acquisition in question is connected with the transaction contemplated by the rule. The Board believes, however, that it is best to propose these modifications and solicit comment on them before taking final action. Thus, a discussion of this issue and solicitation of comment on it is contained in the proposed expansion of the direct investment rule that the Board is also adopting today.

D. Portfolio Diversification

One commenter, writing on behalf of a trade association, noted that § 563.9–8(g)(3)(ii)(C) of the regulation takes an "extremely narrow" view of the need for, and benefits of, portfolio diversification. This commenter stated that while some direct investments do not reduce portfolio risk, supervisory discretion should be readily forthcoming in cases where such portfolio diversification can be expected. It is suggested that the question of diversification could be analyzed in the business plan required under § 563.9–8(g)(2) and given appropriate weight by the PSA in his or her review under § 563.9–8(g)(3).

The Board is of the view that this commenter's suggestion would best be considered in the context of the uniform approval guidelines for certain housing-related direct investments that it had directed ORPOS to publish. Therefore, it will direct ORPOS to take account of the benefits of diversification in preparing those guidelines.

E. Modification of Loan-to-Value Ratio

One commenter, writing on behalf of a state savings and loan league, stated

that an extension of the direct investment regulation is unnecessary in light of the Board's recently amended capital requirements and concluded that losses to the FSLIC can be attributed in large measure to § 545.32(d), which permits real estate loans of 100 percent of a property's appraised value. Therefore, this commenter urged the Board to revise this section to restrict such loans to the lesser of 100 percent of appraised value or cost, in order to prevent further losses to the FSLIC due to ADC loans and other real estate loans. As discussed earlier, the Board is adopting a proposed rule that would extend the direct investment limitations to certain types of loans with loan-to-value or loan-to-cost ratios above a specified level. Notwithstanding its separate consideration of this issue, the Board believes, for all the reasons earlier discussed, that its establishment of a threshold for review of direct investments above an aggregate level is critical to safeguard insured institutions and the FSLIC from loss.

F. PSA Notification of Direct Investments

One commenter suggested that the Board require associations to provide the PSA with notice of all direct investments on a transactional basis. As described further in the description of the final rule, the Board has determined to modify the regulation to require that certain well capitalized institutions are required to notify the PSA only when direct investment will exceed 20 percent of assets (*i.e.*, where 3 times tangible capital would exceed that ratio). The Board believes that adopting the commenter's suggestion would prove unduly costly and time consuming both for institutions and PSAs attempting to evaluate such notices. The Board further believes that the approval process, as modified by today's action, fairly accommodates institutions' need for flexibility and the Board's need for prior supervisory safeguards on direct investments of certain types and at certain threshold levels.

Description of the Final Direct Investment Regulation

The final direct investment rule, as adopted by the Board, incorporates a number of changes from the former direct investment regulation. The Board stresses that the purpose of the rule remains to create a process of supervisory review and approval of certain types of direct investments and of aggregate direct investment above certain threshold amounts. Therefore, the overall objective of the rule is to allow institutions the flexibility to exercise their investment powers, as independently authorized by applicable law, in a manner that does not expose either the institutions themselves or the FSLIC fund to an unacceptable level of risk, while at the same time ensuring that these institutions continue to fulfill their obligation to provide economical home financing. The changes made in the final rule are discussed below.

Definitions

Tangible capital. The Board has added a definition of "tangible capital," which means equity capital as determined in accordance with generally accepted accounting principles less goodwill and other intangible assets plus qualifying subordinated debt as defined in § 561.13(c) and qualifying nonpermanent preferred stock as defined in § 561.13(d).

Threshold for Aggregate Direct Investment

Under the final rule, institutions whose tangible capital is equal to or greater than 6 percent may invest, without prior PSA approval, up to three times tangible capital, as calculated at the end of the immediately preceding calendar month. Institutions meeting their regulatory capital requirement, but whose tangible capital is less than 6 percent of liabilities, may invest without prior PSA approval an amount equal to the greater of three percent of assets or two and one-half times tangible capital, calculated as of the immediately preceding calendar month. Institutions that fail to meet their minimum capital requirements may make direct investments only upon prior supervisory review and approval.

Savings Clause

The final rule includes a savings clause that preserves the current "grandfathering" treatment for actual or prospective direct investments as of December 10, 1984 as well as "grandfathering" aggregate direct investments made or legally committed to as of February 27, 1987, that would not conform to the new thresholds of revised subsection (c)(2). Additional direct investments may be made with prior PSA approval even if an institution is not in compliance with its threshold. Further, the savings clause preserves the independent authority of the PSAs to require reduction of aggregate direct investment or to prohibit direct investments.

This new provision will avert disruption of business plans previously implemented by institutions in reliance on the threshold levels in the 1985 final rule—*e.g.*, the greater of 10 percent of assets or twice regulatory net worth for institutions with "snapshot" net worth of 3 percent of liabilities. The Board notes, however, that the savings clause is designed exclusively to confer appropriate grandfathering treatment to the investments of those institutions that were, on February 27, 1987, in compliance with their applicable threshold level under the 1985 final rule, including compliance as of a result of grandfathering or prior PSA approval. The investments of institutions that were in violation of their applicable threshold level (e.g., as a result of nonconforming investments not previously grandfathered under the 1985 final rule or undertaken without PSA approval) are not protected under the savings clause of this rule.

Both "grandfathering" provisions in the direct investment rule refer to investments that an institution is "legally committed to" as of the "grandfathering" date. The Board notes that its Office of General Counsel has interpreted a legal commitment to mean a contract binding on the institution under principles of the appropriate state's law as of the "grandfathering date." *See* Op. G.C. (per Norman H. Raiden) (Nov. 12, 1985). Op. G.C. (per Julie L. Williams) (Mar. 21, 1986).

Waiver Provisions

The Board has determined to make three changes to the provision governing PSA approval of waiver applications. First, the Board agrees, in part, with commenters who suggested that the Board should give uniform standards to the PSAs for determining whether a waiver application should be granted. Specifically, the Board believes that such standards would streamline the approval process and would therefore be appropriate for direct investments that are one-to-four family housing projects or government-insured, multi-family housing projects. Accordingly, today's regulatory amendments contain language delegating to ORPOS the task of preparing and disseminating such standards to the PSAs. The Board declines to authorize uniform standards for other types of direct investments. These others vary so widely in type that the Board does not believe an attempt at uniformity would be useful or productive.

Second, in response to suggestions that the Board should limit the PSAs with respect to their requests for additional information in connection with a waiver application, the Board is imposing a requirement that the PSA make only one such request per application. The Board contemplates

that the PSA will reference in that request all necessary additional information. The burden is then on the applicant-institution to provide a complete response to the PSA's request.

Finally, the Board has included in today's revisions more specific guidance for the PSAs to use in determining whether to grant approval to waiver applications. In cases where a PSA denies approval based on an insufficient response to the request, the applicant may appeal to the Board for reconsideration of its application.

Notification

Today's regulation requires any institution making a direct investment that will cause its aggregate level of direct investments to exceed 20 percent of assets to notify its PSA of the type and amount of that investment and to describe it briefly. The Board adopts this requirement pursuant to its authority to require insured institutions to make periodic reports to it. Nor does the Board anticipate that this requirement will impose any significant burden on insured institutions.

The reason for this requirement is consistent with the Board's conclusions, noted earlier, about the increased risk to the FSLIC fund even of direct investments undertaken by well capitalized institutions. Since capital alone is inadequate to mitigate this risk in full, the Board wishes to monitor institutions with highly concentrated levels of direct investments. Again, the Board is not precluding institutions from embarking on such an investment strategy where that strategy may be appropriate, nor requiring prior approval of such strategies, but is merely monitoring those investments.

Expiration Date

The Board has determined that the direct investment rule will expire on April 16, 1989 unless further action is taken by the Board. The Board continues to believe that it is important to reexamine the issues addressed by this rulemaking in order to determine whether this approach has been effective in controlling risk and whether further regulatory action is required.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

2. *Issues raised by comments and agency assessment and response.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION.**

3. *Significant alternatives minimizing small-entity impact and agency response.* The requirements of the regulation are based upon the Board's determination, premised in economic theory and borne out by the losses experienced by the FSLIC, that investment in real estate and stocks and other equity investments pose a greater risk of loss to the FSLIC fund and the thrift industry than traditional thrift investments. The Board rejected the alternatives discussed above in the **SUPPLEMENTARY INFORMATION** for the reasons given therein.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Saving and loan associations.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend paragraph (b)(1) of § 563.9–8 by removing ": (i)" located after the words *"Provided,* That"; by removing the "," after the word "investment"; and inserting ": (i)" after the word "investment" and before the word "the".

3. Amend § 563.9–8 by adding a new paragraph (b)(11), by revising paragraph (c)(2), and by adding new paragraph (c)(3) to read as follows:

§ 563.9–8 Regulation of direct investment in equity securities, real estate, service corporations, and operating subsidiaries.

* * * * *

(b) * * *

(11) "Tangible capital" means the amount of equity capital as determined in accordance with generally accepted accounting principles minus goodwill and other intangible assets plus qualifying subordinated debt as defined in § 561.13(c) of this subchapter and qualifying nonpermanent preferred stock as defined in § 561.13(d) of this subchapter.

(c) *Thresholds for aggregate direct investment* * * *

(2) *Thresholds.* Except as provided in paragraphs (f) and (g) of this section, no institution shall make a direct investment if immediately thereafter its aggregate direct investments would exceed the applicable threshold:

(i) With respect to an institution that is not subject to the limitations of paragraphs (c)(2)(ii) or (c)(2)(iii) of this section and has tangible capital equal to or greater than 6 percent of "total liabilities" (as defined in § 563.13(g)(1)), the applicable threshold is three times tangible capital, calculated as of the end of the immediately preceding calendar month.

(ii) With respect to an institution that meets its minimum capital requirements set forth in § 563.13 of this Part and has tangible capital less than 6 percent of "total liabilities" (as defined in § 563.13(g)(1)), the applicable threshold is the greater of (A) 3 percent of the institution's assets or (B) two and one-half times the institution's tangible capital calculated as of the end of the immediately preceding calendar month.

(iii) An institution that fails to satisfy its regulatory capital requirement shall not make direct investments except as approved by the Principal Supervisory Agent.

(3) *Notification.* An insured institution that undertakes aggregate direct investments, pursuant to the threshold authorization set out at paragraph (c)(2)(i), that would exceed 20 percent of assets shall notify its Principal Supervisory Agent of such investment. Such notification shall be given to the Principal Supervisory Agent concurrent with making the such direct investment and shall include the amount(s) of the direct investment and a brief description of the type(s) of direct investment.

4. Section 563.9–8 is amended by inserting in paragraph (f) the numeral "(1)" between the phrase *"Savings clause"* and the first sentence of the paragraph; and by adding a new paragraph (f)(2) to read as follows:

* * * * *

(f) *Savings clause.* (1) * * *

(2) An institution whose aggregate actual or prospective direct investments on February 27, 1987 were in compliance with its applicable threshold on that date, including compliance as a result of applying the savings clause of paragraph (1) above or of securing PSA approval of otherwise nonconforming levels of investment, but would not conform to the requirements of paragraph (c)(2) of

this section (and are not "grandfathered" under paragraph (1) above) shall not be prohibited solely for that reason from maintaining such investments, or making investments to which it was legally committed on that date; nor shall an institution be required to divest any investment solely because of a subsequent change in its assets or its regulatory capital: *Provided,* That additional direct investments may be made only in compliance with the provisions of this section. Nothing in this paragraph (f), however, shall limit the authority otherwise granted to Principal Supervisory Agents to prohibit direct investments or to require the reduction of aggregate direct investment or the divestiture of specific direct investments.

* * * * *

5. Amend paragraph (g)(6) of § 563.9–8 by removing the phrase "§ 563.18–2 or § 563.22 of this Subchapter or Part 584" located after the word "under" and inserting therein the phrase "§§ 546.2, 552.13 or 563.22, or Part 574."

6. Section 563.9–8 is amended by revising paragraphs (g)(2)(v), (g)(3)(ii) introductory text and (A) through (C); and by adding a new paragraph (g)(3)(iv) to read as follows:

* * * * *

(g) *Exceptions.* * * *

(2) * * *

(v) Such other information as may be requested in writing by the Principal Supervisory Agent, provided, however, that the Principal Supervisory Agent may make only one such request for additional information for each application submitted.

(3) * * *

(ii) The Principal Supervisory Agent ("PSA") shall approve an application unless he or she makes any of the following findings:

(A) The overall policies, condition, and operating of the applicant afford a basis for supervisory objection; the PSA will specifically but not exclusively review:

(*1*) The trends in performance including:

(*i*) Tangible capital;

(*ii*) Earnings;

(*iii*) The level of scheduled items and classified assets;

(*iv*) The level of capital relative to an institution's fully phased-in requirement; and

(*v*) The institution's market value.

(*2*) Controls, including:

(*i*) The specific goals and objectives of the institution relating to direct investments;

(*ii*) Whether the institution's plans are consistent with management's expertise;

(*iii*) Whether the institution has identified and evaluated the risks involved in the activity;

(*iv*) Whether the institution has an ability to identify and resolve on a timely basis problems which might occur;

(*v*) Whether adequate records are being maintained; and

(*vi*) Whether procedures are in place to monitor the performance of the activities.

(B) The proposed investment or level of investment is likely to increase either the applicant's risk of default or the financial exposure of the Corporation; specifically that

(*1*) The goals and objectives of the institution expose it to high probability of loss; or

(*2*) The risks are improperly reflected in the association's business plan, cash flow analysis, and projected profit and loss statement.

(C) The direct investments of the applicant and its service corporations and operating subsidiaries in equity securities and real estate are not appropriately diversified. Direct investments shall be deemed to be "appropriately diversified" if the consolidated direct investments of the applicant and its service corporations and operating subsidiaries in equity securities and real estate, when deemed to be those of the applicant, meet the requirements of paragraph (e) of this section; and if

(*1*) The activities are geographically diversified in a manner consistent with the overall business plan of the institution;

(*2*) The types of projects are diversified; and

(*3*) The institution is engaging in activities with a wide range of other parties.

* * * * *

(iv) The Office of Regulatory Policy, Oversight and Supervision of the Federal Home Loan Bank System (ORPOS) shall prepare, and disseminate to the Principal Supervisory Agents, standards for the Agents' use in determining whether to approve applications for direct investments that are one-to-four family housing projects and government-insured multi-family housing projects. ORPOS may revise these standards from time to time.

* * * * *

7. Paragraph (h) of section 563.9–8 is amended by removing the date "April 15, 1987" and inserting in lieu thereof the date "April 16, 1989."

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–5412 Filed 3–12–87; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 87-215-A]

Regulation of Equity Risk Investments by Insured Institutions; Direct Investments, Certain Land Loans and Certain Nonresidential Construction Loans

Dated: February 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to amend its regulation concerning investments in equity securities, real estate, service corporations, and operating subsidiaries ("direct investment") by institutions the accounts of which are insured by the FSLIC ("insured institutions" or "institutions").

This proposal is part of the Board's comprehensive review of its direct investment regulation for insured institutions. The Board also is adopting today an interim extension of its direct investment rule, Board Res. No. 87-215-B and a final amendment to the direct investment regulation which is effective April 16, 1987, Board Res. No. 87-215 ("final revised regulation").

This proposal would expand the scope of the final revised regulation to include land loans and nonresidential construction loans with either loan-to-value ratios greater than 80 percent or loan-to-cost ratios greater than 100 percent. The proposal also would amend the diversification requirement for investment in a single real estate project applicable under the final revised rule. As adopted today, the final revised rule provides that no institution may invest, without prior supervisory approval, in any one real estate project an amount greater than its regulatory capital. The proposal would reduce the ceiling on such investment to the lesser of 25 percent of an institution's regulatory capital or the amount of its applicable aggregate loans-to-one borrower limitation, set forth in § 563.9-3 (1986). Finally, the proposal would amend the Board's regulatory capital regulation, 51 FR 33565 (Sept. 22, 1986) (to be codified at 12 CFR 563.13), to require incremental capital of up to 10 percent for all equity risk investments, which would include, in addition to direct investments, land loans and nonresidential construction loans with either loan-to-value ratios greater than 80 percent or loan-to-cost ratios greater than 100 percent.

DATE: Comments must be received by April 15, 1987.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Public comments received on this proposal and materials referred to in the preamble of this document will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Christina M. Gattuso, Attorney, (202) 377-6649, Karen Knopp O'Konski, Deputy Director, (202) 377-7240, Regulations and Legislation Division, Office of General Counsel; Joseph A. McKenzie, Director, Policy Analysis Division, (202) 377-6763, or Donald J. Bisenius, Financial Economist, (202) 377-6766, Office of Policy and Economic Research, at the above address.

SUPPLEMENTARY INFORMATION: On January 31, 1985, the Board adopted a new regulation governing direct investments by insured institutions. Board Res. No. 85-75-A, 50 FR 6912 (Feb. 19, 1985) (codified at 12 CFR 563.9-8). The regulation created a process of supervisory review and approval by the Board's Principal Supervisory Agents ("PSAs") of certain types of direct investment and of aggregate direct investment above certain threshold amounts. The regulation included qualitative criteria for investment by institutions in equity securities, as well as diversification requirements applicable to investment in any one issuer of securities or in any one real estate project. The direct investment regulation was designed to allow institutions the flexibility to exercise their investment powers, as independently authorized by applicable law, in a manner that would expose neither the institutions themselves nor the FSLIC insurance fund to an unacceptable level of risk. At the same time, the Board sought to ensure that these institutions continued to fulfill their obligations to provide economical home financing. By its own terms, the direct investment rule was to expire on January 1, 1987.

On September 11, 1986, the Board proposed to amend the direct investment rule to defer its expiration from January 1, 1987 to January 1, 1989. ("September proposal"). The comment period ended on October 17, 1986.

On December 18, 1986, the Board adopted an interim final rule to defer the expiration date of the direct investment rule to March 15, 1987, and voted to reopen the comment period on the September proposal through February 6, 1987. Board Res. No. 86-1260, 51 FR 47061 (Dec. 30, 1986). In response to requests by commenters, the Board also voted to hold a two-day public hearing at which it would receive oral comments on the September proposal. Board Res. No. 86-1291, 52 FR 80 (Jan. 2, 1987). On February 2, 1987, the Board extended the comment period from February 6, 1987 through February 13, 1987. Board Res. No. 87-114, 52 FR 3669 (Feb. 5, 1987).

The Board received a total of 155 public comments in response to the September proposal. Additionally, 31 industry representatives participated in the public hearing regarding the direct investment regulation, which was held on January 29 and 30, 1987. These comments are fully discussed in the preamble of the final revised direct investment regulation which the Board is also adopting today. Board Res. No. 87-215.

Description of the Proposed Rule

Upon reconsideration of the purpose underlying the direct investment rule, the evidence presented by commenters on the September proposal, and the Board's own studies and supervisory experience, the Board is proposing to expand the scope of the final revised direct investment regulation to include certain land loans and nonresidential construction loans. The proposal would extend the safeguards of the final revised rule to such loans if their loan-to-value ratios are greater than 80 percent or their loan-to-cost ratios are greater than 100 percent. In conjunction with expanding the scope of the regulation, the Board also proposes to substitute the definitional term "equity risk investment" for "direct investment." This change recognizes that the term "direct investment" does not precisely describe the characteristics of assets that the Board has found to be problematic for insured institutions and the FSLIC. The proposal also would amend Chapter V to clarify that all existing references in the Board's regulations to "direct investment" shall be construed to mean "equity risk investment."

The Board also is proposing to amend its regulatory capital regulation, 12 CFR 563.13, as amended, to require up to a 10 percent incremental capital requirement for all equity risk investments, which would include, in addition to direct investments, certain high-ratio land loans and nonresidential construction loans, as described immediately above.

Finally, the Board is proposing to amend the diversification requirement applicable to investments in real estate to require prior approval by the PSA

before an institution invests in any one real estate project an amount equal to the lesser of 25 percent of an institution's regulatory capital or the permissible amount specified for its aggregate loans-to-one borrower, set forth in 12 CFR 563.9–3 (1986).

A. Land Loans and Nonresidential Construction Loans

As indicated above, the Board is proposing to include within the scope of the direct investment regulation land loans and nonresidential construction loans (as defined at 51 FR 33584, to be codified at 12 CFR 561.18, 561.19) with loan-to-value ratios of greater than 80 percent or loan-to-cost ratios of greater than 100 percent. The Board believes that the equity risks inherent in these types of loans necessitate a supervisory review process when the aggregate amount of an insured institution's loans and direct investments exceed the applicable threshold level set out in the final revised regulation.

In the Board's view, one purpose of the direct investment regulation is to monitor an institution's equity investment risk ("equity risk") and to avoid exposing either the institution or the FSLIC insurance fund to an unacceptable level of risk. Therefore, the scope of the direct investment rule must be broad enough to encompass those assets (or combinations of assets) that expose insured institutions to equity risk. Conversely, the Board believes that the definition should be carefully limited to exclude those assets whose economic characteristics and riskiness are not substantially analogous to equity investments. The Board recognizes the difficulty of appropriately defining those assets that expose insured institutions to equity risk. First, asset characteristics run on a continuum, and, consequently, categorizations are always relative and inherently arbitrary. Second, asset returns, variances, and covariances are continually changing as the economic environment unexpectedly changes. Thus, what is considered a "high risk" asset today might be considered a low risk or "safe" asset in the future and vice-versa. Third, accounting-based asset categorizations are not specifically based on the variance in the expected return of the assets. Such broad categorizations as a "debt security" or an "equity security" provide only limited insights into the return characteristics of the asset.

In the Board's view, the appropriate response to this dilemma is to establish categories of assets based on the degree of risk exposure inherent in the asset for insured institutions and the FSLIC. The Board has found that land loans and nonresidential construction loans with greater than 80 percent loan-to value ratios or 100 percent loan-to-cost ratios entail risks that are fundamentally similar to equity risk and therefore should be treated in same manner as direct investments. In the Board's experience, these loans bear the primary uncertainty of returns associated with the underlying project. By contrast, for the loan with collateral equal to 200 percent of the loan amount, the return on the loan is less directly dependent upon the performance of the underlying project, *i.e.*, someone else bears the primary uncertainty associated with the performance of the underlying project.

The Board's supervisory experience has demonstrated that land loans and nonresidential construction loans are inherently more risky than residential mortgage loans. In its proposal and final rule to amend its capital requirements for insured institutions, the Board discussed in great detail its concern about land loans and nonresidential construction loans. *See* Board Res. No. 86–426, 51 FR 16550, 16557–60 (May 5, 1986); Board Res. No. 86–857, 51 FR 33565, 33573–74 (Sept. 22, 1986) (hereinafter "regulatory capital regulation"). The Board hereby incorporates by reference the discussion that appears in those documents.

The Board's concern with land loans and nonresidential-construction loans stems from the nature of the underlying product. Because these types of assets are associated with nonstandard and nonfinished products, it is inherently more difficult to obtain an accurate appraisal of the value of the anticipated final product. In fact, the Board's supervisory experience is replete with cases that demonstrate that virtually any institution can obtain a grossly inflated appraisal for a project of this type, if it so desires. The collateral for these types of loans, however, rests primarily on the value of the final product. Lack of an accurate appraisal, therefore, leads to significant uncertainty regarding the value of the collateral. As a result, these assets are subject to more uncertainty in their returns.

These assets also are associated with projects that require substantial time to complete. The need for long lead times between initial loan commitments and completion of the final products results in substantial market risk. Further, uncertainties regarding possible market absorption, performance of the developer or builder, possible interest-rate risk, and appraisal of such project when future demand is unclear are inherent characteristics of these types of assets.

The risks and uncertainties associated with these types of loans are exacerbated by the fact that the actual life of these loans may be longer than ordinarily anticipated by the institution. Thus, it has been the Board's experience that the evolving practice in nonresidential construction lending is not to insist on a firm take-out from another lender to provide the permanent financing. Instead, the lender may be forced to provide interim financing by committing to extend a "mini-perm" loan, which is an intermediate term balloon note, until long-term financing can be arranged. This can effectively convert a three year loan into a six or seven year loan. This practice exposes a lender to substantial credit risk associated with extending a loan beyond the originally contemplated term, to market risk arising due to the extended period between conception and completion of such projects and the possibility that the project may be sold or leased for less than the projected price, and to interest-rate risk where the lender is forced to extend the mini-perm at a fixed or concessionary interest rate.

Moreover, the Board's experience also indicates strongly that land loans are inherently more risky than residential mortgage loans because the land providing collateral for such loans generates no income or cash flow and has substantial carrying costs in the form of debt service and property tax. Because of the absence of any cash flow associated with such loans, these loans pose a high degree of credit risk. Further, land, as a commodity, is subject to very wide fluctuations in value depending on a number of factors, including trends in the local economy.

In the preamble to the regulatory capital regulation, the Board also discussed various studies performed by its Office of Policy and Economic Research ("OPER"). *See* 51 FR at 16558–60. The Board hereby incorporates by reference the discussion that appears in that document. In the Board's view, those studies suggested that these nonresidential construction and land loans are associated with reductions in the market value of institutions and have negative effects on other measures of capital.

Since the issuance of the regulatory capital proposal, the OPER has conducted other studies that support the proposition that these loans are inherently risky.

In the Barth (86) Study,[1] the OPER examined 324 insured institutions that failed during the period from December 1981 through October 1985. The results, which are significant at the 95 percent confidence level, indicate that acquisition and development loans and direct investments in failed institutions are significantly related to the FSLIC's costs.

Another study, the Thompson (87) Study,[2] explored further the failure-cost relationship. The Thompson (87) Study investigated the relationship between the portfolio composition of failed institutions and the FSLIC's estimated resolution costs for those institutions. The study used data on estimated FSLIC losses on 354 problem institutions. The time period covered by the study was from 1980 through 1986. The study used the model specification suggested in the Barth (86) Study, as well as a specification suggested by George Benston, in a 1987 Study.[3]

The Thompson (87) Study found that both direct investments and acquisition and development of land loans are positively and significantly associated with FSLIC losses. The coefficients on acquisition and development land loans ranged from .63 under the Barth (86) Study specification to .83 under the Benston (87) Study specification. Thus, using the most comprehensive data available, the Thompson (87) Study suggests that acquisition and development land loans in failed institutions increase FSLIC losses by approximately 63 to 83 cents on the dollar.

The OPER also conducted a study, the purpose of which was to examine the return and risk associated with a wide variety of nontraditional assets, the Brown-McKenzie (87) Study.[4] The time periods of the Brown-McKenzie (87) Study are 1982, 1983, and the twelve months ending June 30, 1985, and June 30, 1986, respectively. Brown-McKenzie (87) surveyed the entire universe of FSLIC-insured institutions rather than a sample or subset. The results of the study indicate that for all institutions, nonresidential mortgages, loans for the acquisition and development of land, service corporation investment, and real estate investment have yields that are significantly less (at the 95 percent confidence level) than the yield on one-to-four-family mortgage loans. These four asset categories perform somewhat better when the sample is restricted to institutions with initial regulatory net worth in excess of six percent of assets. In this case, the yield on nonresidential mortgages and loans for the acquisition of land are not significantly different from the yield on one-to-four-family mortgages. Furthermore, land loans and nonresidential mortgages provide virtually no diversification benefits.

The Brown-McKenzie (87) Study also shows that loans for the acquisition and development of land and nonresidential construction loans have underperformed traditional mortgage loans far more frequently than they have outperformed them. This conclusion is based on an analysis of the entire industry over a period of varied economic conditions.

Case studies prepared by the Office of Regulatory Policy, Oversight and Supervision contain evidence from supervisory case files that supports the conclusion that, specifically, land loans and nonresidential construction loans with high loan ratios carry extreme risk for both insured institutions and the FSLIC.[5]

For example, one institution identified in the case studies as Institution 12 had assets totaling $102.6 million and regulatory net worth of negative $44.6 million as of August 31, 1986. It incurred operating losses of $7.1 million for the first eight months of 1986, for an average monthly loss of $.9 million. The losses are the result of a large amount of scheduled items (40 percent of assets), caused by extremely poor underwriting and concentration in highly speculative loans.

A recent examination report identified seven of the fourteen commercial and real estate development loans reviewed as being 100 percent funded by Institution 12. The recipients of six of these loans were limited to a closely associated group of individuals whose loans at the association totaled about $21 million. In addition to a lack of borrower equity in these seven loans, the loans evidenced poor underwriting and appraisal practices by the institution. In each instance, problems were disguised by the funding of all loan fees and interest from loan proceeds, and in the end there were insufficient funds for project completion. While the borrowers have not yet defaulted on their interest payments, their ability to service the debt is questionable. Reappraisals have been ordered on the loans. The estimated losses to the FSLIC for these seven loans, the aggregate total of which was $27 million, is approximately $9.4 million.

Similarly, a second association had, as of December 4, 1985, assets of $152.8 million and a negative net worth of $91 million. The deteriorated financial condition of the institution was due to substantial direct investments and speculative commercial real estate loans in projects where the borrowers had little or no equity. The FSLIC has estimated losses of $19.4 million on approximately $44.4 million in aggregate commercial real estate loans held by this institution. *See* Passarelli-Sahadi Memo.

The Board's supervisory records contain numerous examples of these types of high-ratio loans, with substantial losses, as illustrated by these two institutions. Furthermore, although the OPER Studies discussed above do not differentiate between low-ratio and high-ratio nonresidential construction and land loans, the Board believes the studies do demonstrate that these loans are risky to both institutions and the FSLIC. Consequently, the Board is convinced that, at a minimum, these data justifies additional supervisory safeguards for such high-ratio loan activity by insured institutions.

In the Board's view, the OPER Studies, as well as its supervisory experience, provide adequate support for including these loans within the scope of the direct investment regulation. Moreover, several commenters on the September proposal asserted that the empirical evidence to date shows that nonresidential real estate loans are the riskiest type of insured institution asset and the one category that is significantly associated with failures and increased FSLIC costs. A few of these commenters based their contention on the Benston (87) Study. In that study, Benston analyzed those insured institutions that failed in 1986. He found that 90 percent of the failed institutions had over ten percent of their assets in nonresidential real estate loans. Benston also contended that the Board's own studies strongly support the proposition that these loans are a substantial cause of failure or insolvency in a majority of insured institutions. Several of these commenters urged the Board to focus on

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[1] *See* Barth, Brumbaugh & Sauerhaft, *Failure Costs of Government-Related Financial Firms: the Case of Thrift Institutions* (June 1986) (hereinafter "Barth (86) Study").

[2] *See* Memorandum for R. Sahadi from F. Thompson, G. Wang, and D. Bisenius Re: Results from Our Research on the Effect of Direct Investments on the FSLIC's Cost of Resolving Failed Institutions (Feb. 12, 1987) (hereinafter "Thompson (87) Study").

[3] *See* Benston, *Direct Investments and Losses of the FSLIC* (Feb. 13, 1987) (hereinafter "Benston (87) Study").

[4] *See* Brown & McKenzie, Deregulation and Portfolio Returns: The Case of Thrifts. OPER Working Paper No. 126 (Feb. 12, 1987) (hereinafter "Brown-McKenzie (87) Study").

[5] Memorandum from Francis M. Passarelli to Robert J. Sahadi (Feb. 5, 1987) (hereinafter, "Passarelli-Sahadi Memo").

these types of loans in assessing the risk of loss to the FSLIC.

In conjunction with the proposed modifications to the direct investment regulation, the Board also is proposing to amend its regulatory capital regulation, 12 CFR 563.13, to require that insured institutions holding equity risk investments, which would include direct investments as well as high-ratio land loans and nonresidential construction loans, post up to 10 percent incremental capital. The current regulatory capital regulation requires institutions to hold up to 10 percent incremental capital for non-grandfathered direct investments and up to 4 percent incremental capital for non-grandfathered land loans and nonresidential construction loans. At the time it adopted the regulatory capital regulation, the Board believed that the threat of loss to the FSLIC was not as great for these loans as for direct investment and, accordingly, imposed a lower incremental capital requirement on these loans. 51 FR at 16560. In the Board's view, the OPER Studies discussed above, as well as the Benston (87) Study, and the Board's supervisory experience, suggest that the potential threat posed to the FSLIC fund by these high-ratio loans is as great as that posed by direct investments. Accordingly, the Board believes that up to a 10 percent incremental capital requirement should be assessed on such high-ratio loans.

B. Definitions of Value and Cost

For purposes of this rulemaking, the Board also is proposing to define the terms loan-to-value ratio and loan-to-cost ratio. The term "value" would be defined as the most probable price in terms of money that a property would bring in a competitive and open market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently and knowledgably, and with the price not affected by undue stimulus, special or creative financing, or sales concessions granted by anyone associated with the sale, as set forth in an appraisal issued in conformance with the requirements of 12 CFR 545.32(b)(1).

Under the proposal, the term "cost" would be defined as all projected expenses clearly identifiable with and directly related to the acquisition, development and/or construction and marketing of real property securing a loan, including without limitation the interest reserve. Cost would not include developer profit or developer overhead not directly attributable to a project.

The Board notes that this definition of cost would include preacquisition items such as costs of surveying and zoning studies, and costs incurred after the acquisition of property such as the maintenance and staffing of an on-site field office, accounting and legal fees. The Board specifically solicits comment on whether these definitions are appropriate.

C. Portfolio Diversification

Based upon additional staff analysis of the risk posed by direct investments, the Board also is proposing to revise the current diversification requirement with respect to investments in real estate. Both Board supervisory experience and economic analysis clearly demonstrate that excessive investment in any one investment can expose insured institutions and the FSLIC to undue risk of loss. This undue risk of loss is compounded when an institution makes a number of real estate investments in any one entity.

The final revised direct investment regulation provides for prior supervisory review of an insured institution's investment in equity securities exceeding 25 percent of any one class of the outstanding equity securities of any one issuer and 100 percent of the institution's regulatory capital for all classes of the outstanding equity and debt securities of such issuer aggregated with loans to such issuer. With respect to investment in real estate, the final revised regulation provides that the aggregate amount invested in one real estate project may not exceed the institution's regulatory capital, as defined in § 561.13. In the Board's experience, investments in real estate have proved to be just as risky as investments in equity securities and therefore the Board believes that the limitations imposed on both types of investments should be comparable.

In the Board's view, the final revised rule's diversification requirement for real estate investments may not adequately restrain unsafe and unsound practices resulting in excessive risk of loss. Specifically, the Board notes that under the diversification requirement, even a single disastrous real estate investment by an insured institution could deplete its entire net worth. The Board has long placed great emphasis on the economic premise that prudent portfolio diversification can reduce risk, and it believes that the proposed revision to the diversification requirement would better address its safety and soundness concerns by requiring greater portfolio diversification without increasing investment risk. Both theory and the Board's supervisory experience with critical losses to insured institutions and the FSLIC fund resulting from real estate investments support the proposal as a reasonable and necessary means of promoting prudent diversification in an institution's portfolio and reducing overall risk.

Accordingly, the Board is proposing to amend the diversification requirement to provide that an insured institution may not, without prior PSA approval, invest in any one real estate project an amount exceeding the lesser of 25 percent of the institution's regulatory capital, as defined in § 561.13, or the amount permitted for its aggregate loans-to-one borrower, set forth in § 563.9–3 (but not the limit on commercial loans). The current aggregate loans-to-one borrower limitation is 100 percent of regulatory capital. On August 15, 1986, the Board proposed to reduce the limit to 25 percent of regulatory capital. *See* Board Res. No. 86–855, 51 FR 30225 (Aug. 25, 1986).

In conjunction with this change and the proposed expansion of the scope of the rule, the Board also is proposing to amend the definition of "investment in real estate" under § 563.9–8(b)(6) to include amounts of outstanding nonresidential construction and land loans with high loan-to-value or loan-to-cost ratios. The proposed diversification requirement for a single real estate project thus would apply to amounts representing both equity interests and high-ratio loans identified by the Board as exposing the institution to excessive equity risk. Such high-ratio land loans and nonresidential construction loans would also remain subject to the aggregate loans-to-one borrower limitation set forth in § 563.9–3.

An example of how the proposed real estate diversification amendment and existing loan-to-one borrower rule would affect a transaction can be illustrated by examining the case where:

- Institution regulatory capital 6/1/87=$5 million
- Outstanding direct investments in a single Project A 6/1/87=$.5 million
- Outstanding aggregate loans to Developer 6/1/87 unrelated to Project A=$2 million
- Developer applies for additional high-ratio land and nonresidential construction loans for Project A=$3 million

Under the proposed real estate project diversification requirement, the institution's aggregate equity investments and high-ratio loans for Project A may not exceed the *lesser* of 25 percent of regulatory capital ($1.25 million) or the applicable aggregate loans-to-one-borrower limit (lesser of 100 percent of regulatory capital or 10 percent of withdrawable accounts, or if greater than these two amounts, $500,000 (adjusted annually to reflect

movement in the Consumer Price Index). Accordingly, in view of the institution's prior direct investment in Project A of $500,000, the institution may lend only $750,000 of the requested $3 million added funding for Project A without prior PSA approval, since the institution's investment in Project A would now total $1.25 million and would thereby hit the 25 percent of regulatory capital limit.

The institution must also ensure compliance with the aggregate loans-to-one borrower limitation with respect to the high-ratio loans. In the example given, the limitation applicable to all aggregate (non-commercial) loans to Developer is 100 percent of regulatory capital, or $5 million. Subtracting the $2 million in outstanding loans on 6/1/87 from the example, the institution could remain in compliance while lending an added $3 million to Developer. However, because of the proposed direct investment real estate diversification requirement, the institution could deploy only $750,000 to Project A without prior PSA review and approval.

The Board specifically requests comment on the extent to which the proposed real estate diversification amendment provides for sufficient flexibility and portfolio diversification.

The Board at this time also solicits comment on whether the diversification requirement for equity securities should also be modified to promote greater portfolio diversification.

D. Savings Clause

The proposed rule also sets forth a savings clause that provides that an institution exceeding its applicable direct investment threshold, or its real estate project investment diversification threshold, as of February 27, 1987 (the date of this proposal), due to the revised real estate diversification standard or the inclusion of high-ratio land loans and nonresidential construction loans in its total aggregate equity risk investments, would not be required solely for that reason to divest itself of any such land loans or nonresidential construction loans made or legally committed to on or before February 27, 1987. Selection of the proposal date was deemed appropriate by the Board in order to avoid loan activity during the public comment period that would be inconsistent with the purposes of the proposed rule.

The proposal also would modify the contingency component section of the regulatory capital regulation, § 563.13(b)(4), to grandfather from the higher incremental requirements those high-ratio land loans and nonresidential construction loans made or legally committed to on or before February 27, 1987. Effectively, for such loans that are grandfathered, the incremental capital requirement would remain at up to 4 percent. With respect to high-ratio land loans or nonresidential construction loans made after February 27, 1987, such loans would be included in an institution's total equity risk investment and would be subject to an incremental capital requirement of up to 10 percent, as is currently the case for direct investments. The Board notes that, similar to the treatment of other variable reserve elements under the contingency component of the regulatory capital regulation, grandfathered equity risk investments would not be subject to an incremental capital requirement but would be included in determining an institution's variable reserve concentration level.

Finally, the Board notes that incremental capital requirements for low-ratio land loans and nonresidential construction loans would not be affected by the proposal.

E. Prohibition Against Investment by Insured Institutions in Stock of Other Insured Institutions

The Board today also is proposing an amendment to paragraph (d)(3) of the final revised rule in response to suggestions raised by commenters to the September proposal. Specifically, one commenter urged the Board to modify the § 563.9–8(d)(3) prohibition against an insured institution's investment in the stock of another insured institution. It is argued that given current and expected future merger activity by stock institutions, flexibility to acquire stock should not be precluded. Thus, the commenter urged that the rule be modified to permit the acquisition of stock in the target institution by the acquiring institution as part of a two-step acquisition, subject to the conditions set forth in an Office of General Counsel opinion dated January 31, 1986.

After giving careful consideration to this issue, the Board has determined that it may be appropriate to revise paragraph (d)(3) to clarify that the acquisition in question is connected with the transaction contemplated by the rule. Alternatively, the Board believes that it may be appropriate to delete the paragraph (d)(3) prohibition altogether. Accordingly, the Board specifically solicits comment on these alternative proposed revisions.

Solicitation of Comments

The Board solicits comment on all aspects of this proposed regulation, specifically including the following:

1. The extent to which the scope of the direct investment regulation should be expanded to include other types of loans or assets.

2. Whether the proposed loan-to-value and loan-to-cost ratios applicable to the land loans and nonresidential construction loans are appropriate or whether such ratios should be modified, and, if so, suggested modifications to the ratios.

3. Whether the definitions of cost and value are appropriate and, if not, how the definitions should be modified.

4. Whether the amount of investment in any one real estate project permissible without prior PSA approval should be limited to the lesser of 25 percent of an institution's regulatory capital or its applicable loans-to-one borrower limitation.

5. Whether the diversification requirement for equity securities should be reduced or modified.

6. The extent to which the proposed grandfathering provision for high-ratio land loans and nonresidential loans made or legally committed to on February 27, 1987, is appropriate for the applicable direct investment threshold, the real estate project diversification standard, and the imposition of the incremental capital requirement.

7. With respect to the capital regulation's incremental capital requirement, whether such high-ratio land loans and nonresidential construction loans should be subject to the 10 percent incremental capital requirement, and the fairest and most effective way to implement in the regulatory capital regulation grandfathering treatment for such loans made or committed to on or before February 27, 1987.

The Board is not soliciting general comment on the proposed loans-to-one borrower amendments, Board Res. No. 86–855, 51 FR 30225 (Aug. 25, 1986). The Board is soliciting comments only on the extent to which the direct investment regulation should include the same quantitative benchmark for real estate project portfolio diversification as recently proposed for the aggregate loans-to-one borrower limitation. Additionally, the Board is not soliciting comments concerning the final revised direct investment rule it also has adopted today, Board Res. No. 87–215, except to the extent that the final rule specifically affects aspects of this proposal.

Pursuant to the rulemaking policies and procedures of 12 CFR 508.13, as supplemented by Board Res. No. 80–584, 45 FR 63135 (Sept. 23, 1980), the Board is providing for a 30-day rather than a 60-

day public comment period, because the direct investment rule has been previously published for public comment and because the public interest requires prompt Board action.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the **"SUPPLEMENTARY INFORMATION"** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to all institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* The proposed rule would not have a substantial impact on small insured institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **"SUPPLEMENTARY INFORMATION"** set forth above.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and Loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

1. Chapter V is amended by removing the phases "direct investment", "direct equity investment" or "direct real estate investment", whether used in the singular or plural, and by substituting in lieu thereof the phrase "equity risk investment" in the following sections: §§ 563.13; 563.13–2 (a)(4), (e)(1)(i); 563.37(b); and 563.38(a).

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. The authority citation for Part 563 continues to read as follows.

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

3. Amend § 563.9–8 by revising the heading of the section; by removing the phrase "direct investment" wherever it appears in the section and by substituting in lieu thereof the phrase "equity risk investment,"; and by revising paragraph (a) to read as follows:

§ 563.9–8 Regulation of equity risk investment in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans.

(a) *Scope.* An insured institution, to the extent it has independent legal authority to do so, may make investments in equity securities, real estate, service corporations, operating subsidiaries, and certain land loans and nonresidential construction loans (collectively, "equity risk investments") only in compliance with the provisions of this section.

* * * * *

4. Amend § 563.9–8 by revising the first clause preceding the proviso of paragraph (b)(1); by removing the word "and" after the semicolon at the end of paragraph (b)(6)(ii); by redesignating paragraph (b)(6)(iii) as (b)(6)(iv); by adding a new paragraph (b)(6)(iii) to read as follows; by redesignating paragraphs (b) (9), (10), and (11) as (b) (11), (12), and (13); and by adding new paragraphs (b)(9) and (b)(10) to read as follows:

* * * * *

(b) * * *

(1) "Aggregate equity risk investment" means the sum of investments in equity securities, real estate, service corporations, operating subsidiaries, and land loans (as that term is defined in § 561.18 of this subchapter) and nonresidential construction loans (as that term is defined in § 561.19 of this subchapter) with either loan-to-value ratios greater than 80 percent or loan-to-cost ratios greater than 100 percent: * * *

* * * * *

(6) * * *

(iii) land loans and nonresidential construction loans with either loan-to-value ratios greater than 80 percent or loan-to-cost ratios greater than 100 percent; and

* * * * *

(9) "Loan-to-cost ratio" means the ratio of the loan to the lender's "cost," including without limitation all projected expenses clearly identifiable with and directly related to the acquisition, development and/or construction and marketing of real property securing a loan, including the interest reserve. Cost shall not include developer profit or developer overhead not directly attributable to a project.

(10) "Loan-to-value ratio" means the ratio of the loan to the "market value" of the collateral, which means the most probable price in terms of money which a property would bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgably, and assuming the price is not affected by undue stimulus or special or creative financing or sales concessions granted by anyone associated with the sale, as set forth in an appraisal issued in conformance with the requirements of § 545.32(b)(1) of this Chapter.

* * * * *

5. Amend § 563.9–8 by revising paragraphs (d)(3) and (e)(2); and by adding a new paragraph (f)(3) to read as follows:

* * * * *

(d) * * *

(3) *Savings and loan stock.* No insured institution shall at any time, directly or indirectly, or through or in concert with one or more other persons, or through one or more subsidiaries, own control, or hold with power to vote capital stock issued by another insured institution or any non-diversified savings and loan holding company, unless the investment is made pursuant to a transaction for which the institution has filed an application under §§ 546.2, 552.13 or 563.22 or Part 574. If such application is denied, withdrawn, or returned to the applicant as incomplete, such investment shall be divested promptly. The term "nondiversified savings and loan holding company" means a "saving and loan holding company within the meaning of 12 U.S.C. 1730a(a)(1)(D) that is not a "diversified savings and loan holding company" within the meaning of 12 U.S.C. 1730a(a)(1)(F).

(e) *Diversification.* * * *

(2) *Real Estate.* No insured institution shall at any time invest in any one real-estate project (including, but not limited to, acquisition, development, and carrying costs and assumption of any debt or liability in connection with such project) an aggregate amount greater in value than the lesser of 25 percent of its regulatory capital (as defined in § 561.13 of this subchapter), or the amount permitted under the aggregate loans-to-

one borrower limitation, as set forth in § 563.9–3(b)(1).

* * * * *

(f) *Savings clause.* * * *

(3) An institution whose aggregate actual or prospective equity risk investments on February 27, 1987 would not conform to the requirements of paragraph (e)(2) of this section (and are not "grandfathered" under paragraphs (f) (1) or (2) of this section shall not be prohibited solely from that reason from maintaining such investments or for investments to which it was legally committed on that date; nor shall an institution be required to divest any investments solely because of a subsequent change in its assets or its regulatory capital: Provided, That additional equity risk investments may be made only in compliance with the provisions of this section. Nothing in this paragraph (f), however, shall limit the authority otherwise granted to Principal Supervisory Agents to prohibit equity risk investments or to require the reduction of aggregate equity risk investment or the divestiture of specific equity risk investments.

6. Amend § 563.13 by removing the word "and" after the semicolon at the end of paragraph (b)(4)(ii)(D)(*2*)(iii); by redesignating paragraph (b)(4)(ii)(D)(*2*)(*iv*) as (b)(4)(ii)(D)(*2*)(*v*); by adding a new paragraph (b)(4)(ii)(D)(*2*)(*iv*); and by revising paragraphs (b)(4)(ii)(E)(*2*) and (b)(4)(ii)(F)(*2*) to read as follows:

§ 563.13 Regulatory Capital requirement.

* * * * *

(b) * * *

(4) *Calculation of contingency component.* * * *

(ii) * * *

(D) * * *

(*2*) * * *

(*iv*) Land loans and nonresidential constructions loans with loan-to-value ratios exceeding 80 percent or loan-to-cost ratios exceeding 100 percent and either in portfolio on February 27, 1987, or to which an institution was legally committed on or before February 27, 1987; and

(E) * * *

(*2*) For purposes of paragraph (b)(4)(ii)(E)(*1*) of this section, "aggregate land loans made after June 30, 1986," means land loans made after that date, but does not include land loans in portfolio as of that date, or loans to which the institution was legally committed on or before that date, or high-ratio land loans made after February 27, 1987. High-ratio land loans "made after February 27, 1987" shall not include such loans in portfolio as of February 27, 1987 or to which the institution was legally committed on or before that date: *Provided,* That such loans were properly classified as loans.

(F) * * *

(*2*) For purposes of paragraph (b)(4)(ii)(F)(*1*) of this section, "aggregate nonresidential construction loans made after June 30, 1986," means nonresidential construction loans made after that date, but does not include nonresidential construction loans in portfolio as of that date, or nonresidential construction loans to which the institution was legally committed on or before that date, or high-ratio nonresidential construction loans made after February 27, 1987. High-ratio nonresidential construction loans "made after February 27, 1987" shall not include such loans in portfolio as of February 27, 1987 or to which the institution was legally committed on or before that date: *Provided,* That such loans were properly classified as loans;

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87–5413 Filed 3–12–87; 8:45 am]

BILLING CODE 6720–01–M

federal register

Monday
March 16, 1987

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

March 1, 1987.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of March 1, 1987, of 56 deferrals contained in the four special messages of FY 1987. These messages were transmitted to the Congress on September 26, and December 15, 1986, and January 5 and 28, 1987.

Rescissions (Table A and Attachment A)

As of March 1, 1987, there were 73 rescission proposals totaling $5,835.8 million pending before the Congress.

Deferrals (Table B and Attachment B)

As of March 1, 1987, $7,464.1 million in 1987 budget authority was being deferred from obligation and $4.4 million in 1987 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1987.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986
Vol. 51, FR p. 47356, Wednesday, December 31, 1986
Vol. 52, FR p. 964, Friday, January 9, 1987
Vol. 52, FR p. 3552, Wednesday, February 4, 1987

James C. Miller, III,
Director.

Table A—Status of 1987 Rescissions

	Amount (in millions of dollars)
Rescissions proposed by the President	5,835.8
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	5,835.8

Table B.—Status of 1987 Deferrals

	Amount (in millions of dollars)
Deferrals proposed by the President	11,313.2
Routine Executive releases through March 1, 1987 (OMB/Agency releases of $3,816.8 million and cumulative adjustments of $0.7 million)	−3,816.1
Overturned by the Congress	−28.6
Currently before the Congress	* 7,468.5

* This amount includes $4.4 million in outlays for a Department of the Treasury deferral (D87–21).

Attachments.

BILLING CODE 3110–01–M

Attachment A - Status of Rescissions - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Buildings and facilities	R87-1		28,000	1-5-87				
	R87-1A			1-28-87				
Agricultural Stabilization and Conservation Service								
Rural clean water program	R87-2		6,000	1-5-87				
Agricultural conservation program	R87-3		164,356	1-5-87				
Water bank program	R87-4		8,166	1-5-87				
Emergency conservation program	R87-5		10,000	1-5-87				
Farmers Home Administration								
Rural water and waste disposal grants	R87-6		79,500	1-5-87				
Rural community fire protection grants	R87-7		2,300	1-5-87				
Rural housing for domestic farm labor	R87-8		7,400	1-5-87				
Mutual and self-help housing	R87-9		8,000	1-5-87				
Very low income housing repair grants	R87-10		9,400	1-5-87				
Compensation for construction defects	R87-11		500	1-5-87				
Rural housing preservation grants	R87-12		14,400	1-5-87				
Soil Conservation Service								
Watershed and flood prevention operations	R87-13		96,000	1-5-87				
Great Plains conservation program	R87-14		8,000	1-5-87				
Resource conservation and development	R87-15		5,000	1-5-87				
Forest Service								
Land acquisition	R87-16		49,030	1-5-87				
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs	R87-17		169,718	1-5-87				
	R87-17A		-50	1-28-87				
International Trade Administration								
Operations and administration	R87-18		11,400	1-5-87				
National Oceanic and Atmospheric Administration								
Operations, research, and facilities	R87-19		58,857	1-5-87				
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R87-20		19,300	1-5-87				
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R87-21		15,000	1-5-87				
Other procurement, Navy	R87-22		116,000	1-5-87				
Military Construction								
Military construction, Air Force	R87-23		2,750	1-5-87				
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
Construction, general	R87-24		7,715	1-5-87				
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R87-25		7,500	1-5-87				
Impact aid	R87-26		17,500	1-5-87				
Special programs	R87-27		54,980	1-5-87				
Office of Bilingual Education and Minority Languages Affairs								
Bilingual education	R87-28		45,886	1-5-87				
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R87-29		288,659	1-5-87				
Rehabilitation services and handicapped research	R87-30		127,455	1-5-87				
Office of Vocational and Adult Education								
Vocational and adult education	R87-31		432,319	1-5-87				
Office of Postsecondary Education								
Student financial assistance	R87-32		1,269,000	1-5-87				
Higher education	R87-33		203,050	1-5-87				
	R87-33A			1-28-87				
Office of Educational Research and Improvement								
Libraries	R87-34		34,500	1-5-87				

Attachment A - Status of Rescissions - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R87-35		81,800	1-5-87				
Fossil energy research and development	R87-36		44,464	1-5-87				
Energy conservation	R87-37		87,433	1-5-87				
	R87-37A		-3500	1-28-87				
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Buildings and facilities	R87-38		500	1-5-87				
Health Resources and Services Administration								
Health resources and services	R87-39		161,210	1-5-87				
	R87-39A			1-28-87				
Indian health facilities	R87-40		57,100	1-5-87				
	R87-40A			1-28-87				
National Institutes of Health								
National Library of Medicine	R87-41		5,405	1-5-87				
Office of the Assistant Secretary of Health								
Public health service management	R87-42		5,000	1-5-87				
Departmental Management								
Policy research	R87-43		2,200	1-5-87				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R87-44		473,313	1-5-87				
Housing counseling assistance	R87-45		3,500	1-5-87				
Community Planning and Development								
Community development grants	R87-46		375,200	1-5-87				
Urban development action grants	R87-47		237,500	1-5-87				
Management and Administration								
Salaries and expenses	R87-48		19,042	1-5-87				
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R87-49		6,500	1-5-87				
Construction and access	R87-50		1,600	1-5-87				
Land acquisition	R87-51		2,700	1-5-87				
Bureau of Mines								
Mines and minerals	R87-52		16,594	1-5-87				
United States Fish and Wildlife Service								
Resource management	R87-53		20,500	1-5-87				
	R87-53A			1-28-87				
Construction	R87-54		23,200	1-5-87				
Land acquisition	R87-55		26,762	1-5-87				
National Park Service								
Operation of the national park system	R87-56		7,950	1-5-87				
Construction	R87-57		58,981	1-5-87				
Land acquisition	R87-58		97,638	1-5-87				
Historic preservation fund	R87-59		15,000	1-5-87				
Bureau of Indian Affairs								
Construction	R87-60		22,811	1-5-87				
Territorial and International Affairs								
Administration of territories	R87-61		2,500	1-5-87				
DEPARTMENT OF JUSTICE								
Immigration and Naturalization Service								
Salaries and expenses	R87-62		24,598	1-5-87				
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R87-63		332,000	1-5-87				

Attachment A - Status of Rescissions - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF THE TREASURY								
Federal Law Enforcement Training Center								
Salaries and expenses	R87-64		8,450	1-5-87				
Bureau of Alcohol, Tobacco, and Firearms								
Salaries and expenses	R87-65		15,000	1-5-87				
United States Customs Service								
Salaries and expenses	R87-66		38,945	1-5-87				
ENVIRONMENTAL PROTECTION AGENCY								
Abatement, control, and compliance	R87-67		47,500	1-5-87				
Buildings and facilities	R87-68		2,500	1-5-87				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R87-69		25,796	1-5-87				
VETERANS ADMINISTRATION								
Medical care	R87-70		75,000	1-5-87				
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission								
Appalachian regional development programs	R87-71		31,059	1-5-87				
National Endowment for the Humanities								
National capital arts and cultural affairs	R87-72		4,000	1-5-87				
Selective Service System								
Salaries and expenses	R87-73		409	1-5-87				
Total, rescissions			5,835,751					

Attachment B - Status of Deferrals - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 3-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D87-22	4,040,441		12-15-86	1,855,000				2,185,441
Economic support fund	D87-1	95,000		9-26-86					
	D87-1A		2,351,470	12-15-86	1,064,690				1,381,780
Military assistance	D87-23	847,000		12-15-86	381,750				465,250
International military education and training	D87-24	2,000		12-15-86	2,000				0
Agency for International Development									
Functional development assistance	D87-32	2,278		1-28-87					2,278
International disaster assistance	D87-25	57,000		12-15-86	38,837				18,163
Special Assistance for Central America									
Assistance for the Nicaraguan Democratic Resistance	D87-26	60,000		12-15-86	20,000				40,000
Promotion of stability and security in Central America	D87-27	1,000		12-15-86					1,000
DEPARTMENT OF AGRICULTURE									
Commodity Credit Corporation									
Temporary emergency food assistance	D87-33	28,559		1-28-87		28,559	P.L. 100-6		0
Rural Electrification Administration									
Reimbursement to the Rural electrification and telephone and revolving fund for interest subsidies and losses	D87-34	20,000		1-28-87					20,000
Forest Service									
State and private forestry	D87-35	797		1-28-87					797
Land acquisition	D87-36	27,070		1-28-87					27,070
Expenses, brush disposal	D87-2	111,202		9-26-86					111,202
Timber roads, purchaser election	D87-37	11,900		1-28-87					11,900
Timber salvage sales	D87-3	29,731		9-26-86	6,113				23,618
Cooperative work	D87-4	526,938		9-26-86					526,938
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86	25				175

Attachment B - Status of Deferrals - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 3-1-87
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense.....	D87-6	2,350		9-26-86					
	D87-6A		1,316,152	12-15-86	275,624				1,042,878
Family Housing									
Family housing, Defense.....	D87-7	76,943		9-26-86					
	D87-7A		190,022	12-15-86	76,943				190,022
DEPARTMENT OF DEFENSE - CIVIL									
Soldiers' and Airmen's Home									
Capital outlays.....	D87-38,	1,132		1-28-87					1,132
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D87-8	1,065		9-26-86					
	D87-8A		25	1-5-87	40				1,050
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance.....	D87-9	165		9-26-86					165
Southwestern Power Administration,									
Operation and maintenance.....	D87-10	7,554		9-26-86					
	D87-10A		6,106	1-5-87					13,660
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D87-29	4,485		1-5-87					4,485
Departmental Administration									
Departmental administration.....	D87-30	24,182		1-5-87					24,182
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian catastrophic health emergency fund..	D87-28	10,000		12-15-86					10,000
Centers for Disease Control									
Disease control, research, and training....	D87-39	2,428		1-28-87					2,428
Alcohol, Drug Abuse, and Mental Health Administration									
Alcohol, drug abuse, and mental health...	D87-40	10,000		1-28-87					10,000
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D87-11	2,900		9-26-86					2,900
Social Security Administration									
Limitation on administrative expenses (construction).....	D87-12	7,073		9-26-86					
	D87-12A		89	1-28-87					7,163
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d).....	D87-31	49		1-5-87					49
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF LABOR									
Employment Standards Administration									
Salaries and expenses.....	D87-41	9,659		1-28-87					9,659

Attachment B - Status of Deferrals - Fiscal Year 1987

As of March 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 3-1-87
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D87-14	6,100		9-26-86					
	D87-14A		14,000	1-5-87					20,100
Other									
Assistance for implementation of a Contadora agreement	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Rail service assistance	D87-42	462		1-28-87					462
Railroad safety	D87-43	1,101		1-28-87					1,101
Conrail labor protection	D87-44	646		1-28-87					646
Northeast corridor improvement program	D87-45	16,962		1-28-87					16,962
Conrail commuter transition assistance	D87-46	10,000		1-28-87					10,000
Urban Mass Transportation Administration									
Research, training and human resources	D87-47	4,336		1-28-87					4,336
Interstate transfer grants - transit	D87-48	51,800		1-28-87					51,800
Federal Aviation Administration									
Operation and maintenance, Metropolitan Washington Airports	D87-49	12,214		1-28-87					12,214
Facilities and equipment (Airport and airway trust fund)	D87-16	803,877		9-26-86					
	D87-16A		295,611	12-15-86	19,996				1,079,492
Coast Guard									
Research, development, test, and evaluation	D87-50	5,000		1-28-87					5,000
Offshore oil pollution compensation fund	D87-51	2,154		1-28-87					2,154
Deepwater port liability fund	D87-52	5,176		1-28-87					5,176
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Payments to air carriers	D87-53	10,748		1-28-87					10,748
DEPARTMENT OF THE TREASURY									
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Local government fiscal assistance trust fund	D87-17	74,149		9-26-86	71,144				3,005
Local government fiscal assistance trust fund	D87-21	5,981		9-26-86	2,284			723	4,420
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	D87-54	11,000		1-28-87					11,000
Abatement, control, and compliance	D87-55	11,400		1-28-87					11,400
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses	D87-18	100		9-26-86					100
Office of the Federal Inspector for the Alaska Natural Gas Transportation System,									
Salaries and expenses	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D87-20	11,873		9-26-86					11,873
United States Railway Association									
Administrative expenses	D87-56	1,155		1-28-87					1,155
TOTAL, DEFERRALS		7,139,747	4,173,475		3,816,857	28,559		723	7,468,530

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

[FR Doc. 87-5577 Filed 3-13-87; 8:45 am]
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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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900-999	20.00	Jan. 1, 1986
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[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.

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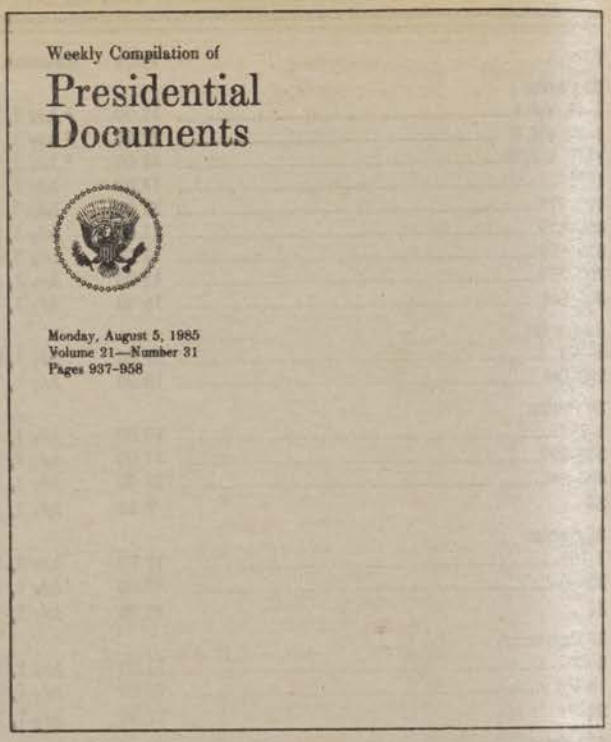

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