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

WHO: The Office of the Federal Register.

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

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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

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1st Session 9:00 am to 12 noon.
2nd Session 1:30 pm to 4:30 pm
WHERE: 51 Southwest First Avenue
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CHICAGO, IL

WHEN: April 25, at 9:00 am
WHERE: 219 S. Dearborn Street
Conference Room 1220
Chicago, IL
RESERVATIONS: 1–800–366–2998

WASHINGTON, DC

WHEN: May 23, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240 (voice); 202–523–5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91-043]

Peach Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the peach fruit fly regulations that designated a portion of Orange County in California as a quarantine area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the spread of the peach fruit fly to noninfested areas of the United States. We have determined that the peach fruit fly has been eradicated from Orange County, California, and that the regulations are no longer necessary. This action relieves restrictions on the interstate movement of regulated articles from the previously quarantined area in Orange County, California.

DATES: Interim rule effective April 4, 1991. Consideration will be given only to comments received on or before June 10, 1991.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-043. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Michael B. Stefan, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register on November 29, 1990 (55 FR 49502-49508, Docket Number 90-223), and effective November 21, 1990, we amended the "Domestic Quarantine Notices" in 7 CFR part 301 by adding "Peach Fruit Fly" regulations (referred to below as the regulations).

These regulations quarantined part of Orange County, California, because of the peach fruit fly, and restricted the interstate movement of regulated articles from the quarantined area in order to prevent the spread of the peach fruit fly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of California, we have determined that the peach fruit fly has been eradicated from the infested areas of Orange County. The last finding of peach fruit fly was made on November 12, 1990. Since then, no evidence of infestations have been found. We have determined that infestations no longer exist in Orange County, California. Since the quarantined area in Orange County was the only area in California regulated because of the peach fruit fly, we have now determined that the peach fruit fly no longer exists in California. We are therefore removing the peach fruit fly regulations.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this interim rule without prior opportunity for public comment. The area in Orange County was quarantined due to the possibility that peach fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of this area in Orange County imposes an unnecessary regulatory burden on the public, we have taken immediate action to remove the peach fruit fly regulations.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these circumstances, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make this interim rule effective upon signature. We will consider comments that are received with 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

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

This regulation affects the interstate movement of regulated articles from a portion of Orange County, California. Within the regulated area there are approximately 330 small entities that may be affected, including retail outlets, wholesalers, a processor, a packing house, fruit stands, swap meets, mobile vendors, a farmers market, nurseries, and a commercial grower of cucumbers.

The effect of this rule on these entities should be insignificant since most of the small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and were not

affected by the regulatory provisions we have removed.

The effect of the regulations on those few persons who moved regulated articles interstate was minimized by the availability of a treatment that in most cases permitted the interstate movement of regulated articles with very little additional cost. Also, many of these entities sell other items in addition to the previously regulated articles. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agriculture commodities, Peach fruit fly, Plant diseases, Plant pests, Plant (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

§§ 301.96 through 301.96–10 [Removed].

2. "Subpart—Peach Fruit Fly" (7 CFR 301.96 through 301.96–10) is removed.

Done in Washington, DC, this 4th day of April 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–8435 Filed 4–9–91; 8:45 am]

BILLING CODE 3410–34–M

9 CFR Part 78

[Docket No. 91–040]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Puerto Rico from Class A to Class Free. We have determined that Puerto Rico now meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Puerto Rico.

DATES: Interim rule effective April 4, 1991. Consideration will be given only to comments received on or before June 10, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–040. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

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

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella.*

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucellosis infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding the classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches and achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) A cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the effective date of this interim rule, Puerto Rico was classified as a Class A State because of its herd infection rate and its MCI reactor prevalence rate.

To attain and maintain Class Free status, a State or area must (1) Remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer, (2) maintain a 12-consecutive-month MCI reactor prevalence rate not to exceed one reactor per 2,000 cattle tested (0.050 percent), and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. After reviewing its brucellosis program records, we have concluded that the State of Puerto Rico meets the standards for Class Free status.

Therefore, we are removing Puerto Rico from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a). This action relieves certain restrictions on moving cattle interstate from Puerto Rico.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule

without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Puerto Rico.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

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

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

The group potentially affected by this action will be herd owners in Puerto Rico, as well as buyers who ship cattle from Puerto Rico interstate.

There are an estimated 30,000 herds in Puerto Rico, 99 percent of which are owned by small entities. Most of these herds are not certified-free. Test-eligible cattle offered for sale from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. The change could have a potential to reduce costs associated with selling breeding cattle in interstate commerce. However, the change from Class A to Class Free status should not have any economic impact on small entities affected by this rule because we anticipate that few, if any, breeding cattle will be exported from Puerto Rico.

Therefore, we have determined that changing Puerto Rico's brucellosis status will not significantly affect market patterns.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 78

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

PART 78—BRUCELLOSIS

Accordingly, we are amending 9 CFR part 78 as follows:

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 135f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (a) is amended by adding "Puerto Rico," immediately before "Rhode Island,".

3. Section 78.41, paragraph (b) is amended by removing "Puerto Rico,".

Done in Washington, DC, this 4th day of April 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–8436 Filed 4–9–91; 8:45 am]

BILLING CODE 3410–10–M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; EC–1]

Equal Credit Opportunity; Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board is publishing in final form revisions to the official staff commentary to Regulation B (Equal Credit Opportunity). The commentary applies and interprets the requirements of Regulation B and is a substitute for individual staff interpretations of the regulation. The revisions address notification of adverse action and a state law preemption determination.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: In the Division of Consumer and Community Affairs, Adrienne D. Hurt, Senior Attorney, or Jane Ahrens, Staff Attorney, at (202) 452–2412; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691–1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. This statute is implemented by the Board's Regulation B (12 CFR part 202). The Board also has an official staff commentary (12 CFR part 202 (Supp. I)) that interprets the regulation. The commentary provides general guidance to creditors in applying the regulation to various credit transactions, and is updated periodically to address significant questions that arise.

On November 28, 1990, the Board published for comment a proposed update to the commentary. (55 FR 49391) This notice contains in final form the 1990–91 update to the official staff commentary on Regulation B.

(2) Revisions

Section 202.2 Definitions

2(c) Adverse action

Comment 2(c)(2)(ii)–2 is added to clarify the Board's long-standing position that a notice of adverse action need not be provided in instances where a creditor takes action regarding a current delinquency or default on an account—that is, a delinquency or default that has not been cured by the time a creditor takes action on an account. Notification generally is required, however, for action based on a past delinquency or default that may have previously existed but that no longer continues.

Section 202.11 Relation to State Law

11(a) Inconsistent state laws

Comment 11(a)–2 is added to reflect a preemption determination relating to Ohio law that took effect on July 23, 1990 (55 FR 29566).

List of Subjects in 12 CFR Part 202

Banks; Banking; Civil rights; Consumer protection; Credit; Federal Reserve System; Marital status discrimination; Minority groups; Penalties; Religious discrimination; Sex discrimination; Women.

Pursuant to authority granted in section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b), the Board is amending the official staff commentary to Regulation B (12 CFR Part 202 Supp. I) as follows:

PART 202—[AMENDED]

1. The authority citation for part 202 continues to read as follows:

Authority: 15 U.S.C. 1691–1691f.

2. In § 202.2, comment 2(c)(2)(ii)–2 is added to read as follows:

Section 202.2 Definitions

2(c) Adverse action.

* * * * *

Paragraph 2(c)(2)(ii)

* * * * *

2. Current delinquency or default. The term adverse action does not include a creditor's termination of an account when the accountholder is currently in default or delinquent on that account. Notification in accordance with § 202.9 of the regulation generally is required, however, if the creditor's action is based on a past delinquency or default on the account.

* * * * *

3. In § 202.11, comment 11(a)–2 is added to read as follows:

Section 202.11 Relation to State Law

11(a) Inconsistent state laws.

* * * * *

2. Preemption determination—Ohio. Effective July 23, 1990, the Board has determined that the following provision in the state law of Ohio is preempted by the federal law:

• Section 4112.021(B)(1)—Unlawful discriminatory practices in credit transactions. This provision is preempted to the extent that it bars asking or favorably considering the age of an elderly applicant; prohibits the consideration of age in a credit scoring system; permits without limitation the consideration of age in real estate transactions; and limits the consideration of age in special-purpose credit programs to certain government-sponsored programs identified in the state law.

* * * * *

Board of Governors of the Federal Reserve System, April 1, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–8406 Filed 4–9–91; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–62–AD; Amdt. 39–6953]

Airworthiness Directives; Aerospatiale Model ATR–42 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Aerospatiale Model ATR–42 series airplanes, which requires repetitive inspections of the main landing gear (MLG) side brace lower arm, and replacement, if necessary. This amendment is prompted by a report of a failure of the MLG side brace lower arm. This condition, if not corrected, could result in inadvertent retraction of the MLG.

DATES: Effective May 6, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 1991.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Flight Test and Systems Branch, ANM–111; telephone (202) 227–2118. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all Aerospatiale Model ATR–42 series airplanes. There has been a report of a failure of the main landing gear (MLG) side brace lower arm. This failure appears to be the result of fatigue damage initiated from early corrosion in the ball bearing housing. This condition, if not corrected, could result in inadvertent retraction of the MLG.

Aerospatiale has issued Service Bulletin ATR42–32–0036, Revision 1, dated February 15, 1991, which describes procedures for performing repetitive inspections of the MLG side brace lower arm, and replacement, if necessary. Messier-Bugatti has issued Service Bulletin 631–32–070, Revision 1, dated February 12, 1991, which describes in further detail the procedures for the ultrasonic inspections and replacement of the MLG side brace lower arm. The DGAC has classified these service bulletins as mandatory, and has issued Telegraphic Airworthiness Directive 91–033–038(B), dated February 13, 1991, addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires repetitive inspections of the MLG side brace lower arm, and replacement, if necessary, in accordance with the service bulletins previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this

amendment effective in less than 30 days.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Aerospatiale: Applies to all Model ATR-42 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent inadvertent retraction of the main landing gear (MLG), accomplish the following:

A. Perform an ultrasonic inspection of the MLG side brace lower arm in accordance with Aerospatiale Service Bulletin ATR42-32-0036, Revision 1, dated February 15, 1991, and Messier-Bugatti Service Bulletin 631-32-070, Revision 1, dated February 12, 1991, at the thresholds given in paragraphs A.1. and A.2., below. Repeat the ultrasonic inspections thereafter at intervals not to exceed 1,000 landings.

1. For airplanes that have accumulated 6,000 or more landings on either the left or right MLG side brace lower arms: Prior to the accumulation of 8,000 landings on either the left or right MLG side brace lower arms, or within 14 days after the effective date of this AD, whichever occurs later.

2. For airplanes that have accumulated less than 6,000 landings on either the left or right MLG side brace lower arms: Prior to the accumulation of 6,000 landings on either the left or right MLG side brace lower arms, or within 90 days after the effective date of this AD, whichever occurs first.

B. If the ultrasonic inspection results exceed the acceptance criteria specified in paragraph 2.B.(c) of Messier-Bugatti Service Bulletin 631-32-070, Revision 1, dated February 12, 1991, prior to further flight, replace the defective MLG side brace lower arm with a serviceable part, in accordance with that Messier-Bugatti Service Bulletin and Aerospatiale Service Bulletin ATR42-32-0036, Revision 1, dated February 15, 1991. Following replacement of defective parts, continue to perform the repetitive ultrasonic inspections required by paragraph A. of this AD at invervals not to exceed 1,000 landings.

C. An alternative method 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, Transport Airplane Directorate.

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

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

The inspection and replacement requirements shall be done in accordance with Aerospatiale Service Bulletin ATR42-32-0036, Revision 1, dated February 15, 1991, and Messier-Bugatti Service Bulletin 631-32-070, Revision 1, dated February 12, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment becomes effective May 6, 1991.

Issued in Renton, Washington, on March 15, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-8127 Filed 4-9-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-25-AD; Amendment 39-6785]

Airworthiness Directives; American Champion Aircraft (Bellanca, Champion) Model 8KCAB Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to American Champion Aircraft (Bellanca, Champion) Model 8KCAB airplanes. This action provides a terminating action for AD 90-15-15, which requires repetitive inspections of the upper wing front spar strut fittings. Modifications affecting the upper wing front spar strut fittings have been developed and the FAA has determined that if the airplanes are so modified, the repetitive inspections are not required. The actions specified by this AD are intended to prevent failure of the upper wing front spar strut fittings, which could result in an in-flight separation of the wing.

EFFECTIVE DATE: May 14, 1991.

ADDRESSES: American Champion Aircraft Service Kit 302, revised October 1, 1990, that is discussed in this AD may be obtained from American Champion Aircraft, P.O. Box 37, Rochester, Wisconsin 53167; telephone (404) 534-6315. The instructions and parts for Supplemental Type Certificate (STC) SA1514GL may be obtained from Safe Air Repair, Inc., 3325 Bridge Avenue, Albert Lea, Minnesota 56007; telephone (507) 373-5403. The instructions for the applicable service kit and STC may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Michalik, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7135.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain American Champion Aircraft (Bellanca,

Champion) Model 8KCAB airplanes was published in the Federal Register on January 8, 1991 (56 FR 655). The action proposed a revision to AD 90–15–15 by allowing the repetitive inspections to be terminated if the spar strut fittings were replaced with either fitting P/N 3–1658 in accordance with the instructions in American Champion Aircraft Service Kit 302, or fitting P/N SAR2–1976 and stiffener P/N SAR2–5001, in accordance with the instructions in Safe Air Repair, Inc. STC SA1514GL.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment in favor of the proposed rule was received.

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 300 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 hours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $275 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $181,500.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by revising AD 90–15–15, amendment 39–6671 (55 FR 29344, July 19, 1990) to read as follows:

90–15–15 R1

American Champion Aircraft (Bellanca, Champion): Amendment 39–6785; Docket No. 90–CE–25–AD.

Applicability: Model 8KCAB airplanes (all serial numbers) that are equipped with upper wing front spar fittings part number (P/N) 2–1976, certificated in any category.

Compliance: Required as indicated after the effective date of this AD.

To prevent failure of the upper wing front spar strut fittings, P/N 2–1976, that could result in an in-flight separation of the wing, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD or prior to the accumulation of 500 hours TIS on the front spar strut fittings (P/N 2–1976), whichever occurs later, unless previously accomplished within the last 250 hours TIS, and thereafter at intervals not to exceed 250 hours TIS from the last inspection, accomplish the following:

Note: Operators who have not kept records of hours TIS on individual front spar strut fittings (P/N 2–1976) may substitute airplane hours TIS instead.

(1) Remove the front spar strut fittings (P/N 2–1976) and strip all paint with a chemical stripper. Clean and prepare the fittings for a magnetic particle inspection.

(2) Conduct a magnetic particle inspection of the fittings for cracks, paying close attention to the areas near the welds.

(3) If cracks are not found, prior to further flight, clean the fittings and apply a spray coat or a dip coat of zinc chromate primer, reinstall the fittings, and return the airplane to service.

(b) If cracks are found as a result of the inspection required by paragraph (a)(2) of this AD, prior to further flight, replace any cracked fittings with one of the following:

(1) A new or serviceable fitting (P/N 2–1976) that has been inspected and treated per the requirements of paragraph (a) of this AD.

(2) A new American Champion Aircraft fitting (P/N 3–1658) that is installed in accordance with the instructions in American Champion Aircraft Service Kit 302, revised October 1, 1990.

(3) A new Safe Aircraft Repair, Inc. fitting (P/N SAR2–1976) and stiffener (P/N SAR2–5001) that are installed in accordance with the instructions in STC SA1514GL, issued to Safe Aircraft Repair, Inc. on August 27, 1990.

(c) Upper wing front spar strut fittings (P/N 2–1976) may be replaced with new parts in accordance with paragraphs (b)(2) or (b)(3) of this AD regardless of whether cracks are found during the inspection required by paragraph (a) of this AD.

(d) Replacement of the upper wing front spar strut fittings (P/N 2–1976) with new parts in accordance with paragraphs (b)(2) or (b)(3) of this AD constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

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

(f) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to American Champion Aircraft, P.O. Box 37, Rochester, Wisconsin 53167; telephone (414) 534–6315; or Safe Air Repair, Inc., 3325 Bridge Avenue, Albert Lea, Minnesota 56007; telephone (507) 373–5406; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment revises AD 90–15–15, Amendment 39–6671.

This amendment becomes effective on May 14, 1991.

Issued in Kansas City, Missouri, on March 29, 1991.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–8298 Filed 4–9–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 26519; Amdt. No. 1449]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of

changes occuring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on March 29, 1991.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISLMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective May 30, 1991

Little Rock, AR—Adams Field, VOR RWY 32, Amdt. 18, CANCELLED
Danbury, CT—Danbury Muni, VOR-A, Amdt. 6
New Haven, CT—Tweed-New Haven, VOR-A, Amdt. 1
New Haven, CT—Tweed-New Haven, VOR RWY 2, Amdt. 20
New Haven, CT—Tweed-New Haven, ILS RWY 2, Amdt. 13
Fort Myers, FL—Page Field, VOR RWY 13, Orig.
Fort Myers, FL—Page Field, VOR RWY 23, Amdt. 6, CANCELLED
Fort Myers, FL—Page Field, NDB RWY 5, Amdt. 5
Fort Myers, FL—Page Field, ILS RWY 5, Amdt. 6

Fort Myers, FL—Southwest Florida Regional, VOR or TACAN–A, Orig.
Fort Myers, FL—Southwest Florida Regional, VOR RWY 24, Amdt. 2, CANCELLED
Fort Myers, FL—Southwest Florida Regional, VOR/DME or TACAN RWY 24, Orig.
Fort Myers, FL—Southwest Florida Regional, NDB RWY 6, Amdt. 3
Fort Myers, FL—Southwest Florida Regional, ILS RWY 6, Amdt. 3
Immokalee, FL—Immokalee, VOR RWY 18, Amdt. 2
Lakeland, FL—Lakeland Regional, VOR RWY 9, Amdt. 1
Lakeland, FL—Lakeland Regional, VOR RWY 27, Amdt. 4
Lakeland, FL—Lakeland Regional, NDB RWY 5, Amdt. 2
Lakeland, FL—Lakeland Regional, ILS RWY 5, Amdt. 5
Marco Island, FL—Marco Island, VOR/DME RWY 17, Amdt. 4
Naples, FL—Naples Muni, VOR RWY 22, Amdt. 5
Naples, FL—Naples Muni, VOR/DME–A, Amdt. 5, CANCELLED
Naples, FL—Naples Muni, VOR RWY 4, Amdt. 4
Naples, FL—Naples Muni, NDB RWY 4, Amdt. 6
Naples, FL—Naples Muni, NDB RWY 22, Amdt. 7
Punta Gorda, FL—Charlotte County, VOR RWY 3, Orig.
Punta Gorda, FL—Charlotte County, VOR RWY 21, Amdt. 3
Punta Gorda, FL—Charlotte County, VOR RWY 33, Amdt. 2, CANCELLED
Punta Gorda, FL—Charlotte County, RNAV RWY 27, Amdt. 3, CANCELLED
Punta Gorda, FL—Charlotte County, RNAV RWY 27, Orig.
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR RWY 14, Amdt. 16
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR RWY 22, Amdt. 10
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR RWY 32, Amdt. 7
Sarasota (Bradenton), FL—Sarasota-Bradenton, NDB RWY 32, Amdt. 6
Sarasota (Bradenton), FL—Sarasota-Bradenton, ILS RWY 14, Amdt. 3
Sarasota (Bradenton), FL—Sarasota-Bradenton, ILS RWY 32, Amdt. 4
Altanta, GA—The William B. Hartsfield Atlanta Intl, NDB RWY 9R, Amdt. 7 CANCELLED
Altanta, GA—The William B. Hartsfield Atlanta Intl, ILS RWY 9L, Amdt. 5
Jekyll Island, GA—Jekyll Island, VOR–A, Amdt. 9
Honolulu, HI—Honolulu Intl, VOR/DME or TACAN B, Amdt. 2
Iowa City, IA—Iowa City Muni, VOR RWY 35, Amdt. 10
Iowa City, IA—Iowa City Muni, NDB–A, Orig.
Iowa City, IA—Iowa City Muni, NDB RWY 6, Orig., CANCELLED
Iowa City, IA—Iowa City Muni, NDB RWY 30, Amdt. 1
Iowa City, IA—Iowa City Muni, RNAV RWY 24, Amdt. 1
Casey, IL—Casey Muni, NDB RWY 4, Amdt. 6
Casey, IL—Casey Muni, NDB RWY 22, Amdt. 4
Macomb, IL—Macomb Muni, VOR/DME–A, Amdt. 7
Macomb, IL—Macomb Muni, LOC RWY 27, Amdt. 2
Macomb, IL—Macomb Muni, NDB RWY 27, Amdt. 2
Olney/Noble, IL—Olney/Noble, VOR/DME–A, Amdt. 8
Olney/Noble, IL—Olney/Noble, LOC RWY 11, Amdt. 4
Olney/Noble, IL—Olney/Noble, NDB RWY 3, Amdt. 12
Peoria, IL—Mount Hawley Auxiliary, VOR–A, Amdt. 3
Elkhart, IN—Elkhart Muni, VOR RWY 9R, Amdt. 4
Elkhart, IN—Elkhart Muni, VOR RWY 27L, Amdt. 11
Elkhart, IN—Elkhart Muni, SDF RWY 27R, Amdt. 8
Madison, IN—Madison Muni, VOR/DME RWY 3, Amdt. 8
Terre Haute, IN—Sky King, VOR–A, Amdt. 5
Pittsburg, KS—Atkinson Muni, VOR/DME RWY 3, Amdt. 2
PRATT, KS—Pratt Muni, NDB RWY 17, Amdt. 3
Louisville, KY—Standiford Field, VOR or TACAN RWY 29, Amdt. 20
Louisville, KY—Standiford Field, NDB RWY 29, Amdt. 17
Louisville, KY—Standiford Field, ILS RWY 29, Amdt. 20
Bedford, MA—Laurence G. Hanscom FLD, VOR RWY 23, Amdt. 8
Marshfield, MA—Marshfield, NDB RWY 6, Amdt. 3
Marshfield, MA—Marshfield, NDB RWY 24, Orig.
Plymouth, MA—Plymouth Muni, NDB RWY 6, Amdt. 1
Benton Harbor, MI—Ross Field-Twin Cities, VOR RWY 9, Amdt. 8
Benton Harbor, MI—Ross Field-Twin Cities, VOR RWY 27, Amdt. 17
Benton Harbor, MI—Ross Field-Twin Cities, LOC BC RWY 9, Amdt. 9
Benton Harbor, MI—Ross Field-Twin Cities, NDB RWY 27, Amdt. 9
Benton Harbor, MI—Ross Field-Twin Cities, ILS RWY 27, Amdt. 6
Detroit, MI—Detroit Metropolitan Wayne County, VOR RWY 21R, Amdt. 1
Howell, MI—Livingston County, VOR RWY 31, Amdt. 9
Howell, MI—Livingston County, NDB RWY 13, Orig.
Manistee, MI—Manistee Co-Blacker, VOR RWY 9, Amdt. 9
Manistee, MI—Manistee Co-Blacker, VOR RWY 27, Amdt. 9
Romeo, MI—Romeo, VOR/DME–A, Amdt. 6
Sault Ste. Marie, MI—Chippewa County Intl, VOR–A or TACAN–A, Amdt. 5
Sault Ste. Marie, MI—Chippewa County Intl, NDB RWY 16, Amdt. 5
Sault Ste. Marie, MI—Chippewa County Intl, NDB RWY 34, Amdt. 4
Sault Ste. Marie, MI—Chippewa County Intl, ILS RWY 16, Amdt. 7
Bemidji MN—Bemidji–Beltrami County, VOR RWY 13, Amdt. 15
Bemidji MN—Bemidji–Beltrami County, VOR/DME or TACAN RWY 13, Amdt. 15
Bemidji MN—Bemidji–Beltrami County, NDB RWY 31, Amdt. 4
Bemidji MN—Bemidji–Beltrami County, ILS RWY 31, Amdt. 2
Duluth, MN—Duluth Intl, VOR or TACAN RWY 3, Amdt. 18
Duluth, MN—Duluth Intl, VOR/DME or TACAN RWY 21, Amdt. 13
Duluth, MN—Duluth Intl, NDB RWY 9, Amdt. 23
Duluth, MN—Duluth Intl, ILS RWY 9, Amdt. 18
Duluth, MN—Duluth Intl, ILS RWY 27, Amdt. 7
Duluth, MN—Duluth Intl, RADAR–1, Amdt. 19
Faribault, MN—Faribault Muni, VOR–A, Amdt. 3
Faribault, MN—Faribault Muni, VOR/DME RNAV RWY 12, Amdt. 3
Winona, MN—Winona Muni-Max Conrad FLD, VOR–A, Amdt. 11
Winona, MN—Winona Muni-Max Conrad FLD, VOR RWY 29, Amdt. 13
McComb, MS—McComb-Pike County-John E. Lewis Field, LOC RWY 15, Amdt. 6
Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, LOC/DME RWY 21, Orig.
Grant, NE—Grant Muni, NDB RWY 15, Amdt. 2
Grant, NE—Grant Muni, NDB RWY 32, Amdt. 2
LEBANON, NH—Lebanon Muni MLS RWY 18, Amdt. 1, CANCELLED
Wahpeton, ND—Harry Stern, NDB RWY 33, Amdt. 3
Barnesville, OH—Barnesville-Bradfield, VOR RWY 27, Amdt. 10
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, NDB RWY 24, Amdt. 6
Columbus, OH—Rickenbacker, VOR RWY 23L, Amdt. 5
Hamilton, OH—Hamilton-Fairfield, NDB–A, Amdt. 1
Hamilton, OH—Hamilton-Fairfield, RNAV RWY 29, Amdt. 6, CANCELLED
Hebron, OH—Buckeye Executive, VOR–A, Amdt. 4
Hillsboro, OH—Highland County, VOR/DME–A, Orig.
Hillsboro, OH—Highland County, NDB RWY 5, Amdt. 2, CANCELLED
Hillsboro, OH—Highland County, NDB RWY 23, Amdt. 3
Ottawa, OH,—Putnam County, VOR RWY 27, Amdt. 1
Newport, RI—Newport State, NDB RWY 4, Amdt. 2, CANCELLED
Columbia, SC—Columbia Owens Downtown, RADAR–1, Amdt. 1
Madison, SD—Madison Muni, VOR/DME RWY 33, Amdt. 3
Madison, SD—Madison Muni, NDB RWY 15, Amdt. 7
Mobridge, SD—Mobridge Muni, NDB RWY 12, Amdt. 1
Angleton/Lake Jackson, TX—Brazoria County, NDB RWY 17, Amdt. 2
Angleton/Lake Jackson, TX,—Brazoria County, ILS RWY 17, Amdt. 2
Brownsville, TX—Brownsville/South Padre Island Int'l, VOR or TACAN–A, Amdt. 1
Brownsville, TX—Brownsville/South Padre Island Int'l, LOC BC RWY 31L, Amdt. 11
Brownsville, TX—Brownsville/South Padre Island Int'l, NDB RWY 13R, Amdt. 13

Brownsville, TX—Brownsville/South Padre Island Int'l, ILS RWY 13R, Amdt. 11
Brownsville, TX—Brownsville/South Padre Island Int'l, RNAV RWY 17, Amdt. 3
Brownsville, TX—Brownsville/South Padre Island Int'l, RNAV RWY 35, Amdt. 3
Coriscana, TX—C. David Campbell Field-Corsicana Muni, NDB RWY 32, Amdt. 1
Jasper, TX—Japser County-Bell Field, NDB RWY 18, Amdt. 6
McGregor, TX—McGregor Muni, VOR RWY 17, Amdt. 5
Leesburg, VA—Leesburg Muni/Godfrey Field, LOC RWY 17, Orig.
Madison, WI—Morey, VOR-A, Amdt. 6
Madison, WI—Morey, VOR-B, Amdt. 5

Effective May 2, 1991

Bunnell, FL—Flagler County, RADAR-1, Amdt. 2, CANCELLED
Covington/Cincinnati, OH, KY—Greater Cincinnati Intl, ILS RWY 36R, Orig.
Covington/Cincinnati, OH, KY—Greater Cincinnati Intl, RADAR-1, Amdt. 22
Indianapolis, IN—Indianapolis Metropolitan, NDB RWY 14, Orig.
Osceola, IA—Osceola Municipal, VOR/DME RWY 18, Orig.
New York, NY—LaGuardia, VOR-E, Amdt. 1
New York, NY—LaGuardia, VOR-F, Amdt. 1
New York, NY—LaGuardia, VOR-G, Amdt. 1
New York, NY—LaGuardia, ILS RWY 22, Amdt. 18
Raleigh-Durham, NC—Raleigh-Durham International, RADAR-1, Amdt. 5
Grundy, VA—Grundy Muni, VOR RWY 4, Amdt. 3, CANCELLED
Wise, VA—Lonesome Pine, VOR RWY 24, Amdt. 4, CANCELLED
Wise, VA—Lonesome Pine, VOR/DME RWY 24, Amdt. 1, CANCELLED

Effective March 19, 1991

Galveston, TX—Scholes Field, ILS RWY 13, Amdt. 8

Note: The FAA published an Amendment in Docket No. 46494, Amdt. No. 1447 to Part 97 of the Federal Aviation Regulations (VOL 56 FR No. 52 Page 11371; dated 18 MAR 91) under Section 97.33 and 97.29 effective 2 MAY 91, which is hereby amended as follows:

Chicago/Aurora, IL—Aurora Muni . . . RNAV RWY 27 Amdt. 1 and ILS RWY 9 Amdt. 1 are hereby rescinded. Original procedures remain in effect.

[FR Doc. 91-8303 Filed 4-9-91; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release Nos. 34-28869B; 35-25254B; IC-17991B]

Ownership Reports and Trading by Officers, Directors and Principal Security Holders

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendment.

SUMMARY: The technical amendment adds a note to Instruction 4(a)(i) of Form 4 as published in Release No. 34-28869 (56 FR 7242 2/21/91).

EFFECTIVE DATE: May 1, 1991.

FOR FURTHER INFORMATION CONTACT: Office of the Chief Counsel, Division of Corporation Finance, (202) 272-2573, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Form 4 is described at § 249.104. The text of the Form and its instructions do not, and the technical amendment will not, appear in the Code of Federal Regulations. The following note is added to Instruction 4(a)(i) of Form 4:

Note: The amount of securities beneficially owned at the end of the month specified in Column 5 of Table I and Column 9 of Table II should reflect those holdings reported or required to be reported by the date of the Form. Transactions and holdings eligible for deferred reporting on Form 5 need not be reflected in the month end total unless the transactions were reported earlier or are included in this Form.

By the Commission,

Dated: April 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8357 Filed 4-9-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 91-32]

Fuel Oil Blending—Creation of a New and Different Product for Purposes of the Coastwise Laws

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of change of position.

SUMMARY: The U.S. Customs Service has concluded review of its position on fuel oil blending operations in regard to application of the coastwise laws. Customs has considered a fuel oil blending operation which changes the original product in sulfur content, specific gravity, pour point, and viscosity as creating a new and different product. This is significant since foreign-flag vessels are prohibited from transporting merchandise (including oil) between ports in the U.S. unless, prior to delivering the merchandise to its U.S. port of destination, it has been transformed into a new and different product from that which was laden in a U.S. port. Customs was concerned that fuel oil blending operations may not effect such a transformation and published a notice that it was reconsidering its position. After reviewing the comments received and the legal authority, Customs believes that fuel oil blending operations which change the four characteristics mentioned should not automatically be considered as having created a new and different product for purposes of the coastwise laws. Henceforth, prior to reaching such determinations, Customs will require the submission of data on the procedures of, and materials used in, such operations.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Glen Vereb, Carrier Rulings Branch, 202-566-5706.

SUPPLEMENTARY INFORMATION:

Background

Title 46, United States Code Appendix, section 883 (46 U.S.C. App. 883), commonly called the Jones Act, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States.

The case of *American Maritime Association* v. *Blumenthal*, 590 F. 2d 1159 (1978) (hereinafter *Blumenthal*), involved the applicability of 46 U.S.C. App. 883 to the transportation of crude oil by a foreign-flag tanker from Valdez, Alaska, to the U.S. Virgin Islands, and the subsequent transfer of products refined from that oil from the Virgin Islands to the continental U.S. The refining process turned the Alaskan crude oil into eleven different products, each different in name, physical and chemical character, and use, both from each other and from the crude oil. Because of the degree of transformation of the original crude oil brought about by these processes, it was determined that the refining had created new and different products from the Alaskan crude, and therefore their transportation by foreign-flag vessels from the Virgin Islands to the U.S. did not violate section 883.

Section 4.80b, Customs Regulations (19 CFR 4.80b), was promulgated after the *Blumenthal* case to state that merchandise is exempt from the restrictions of the coastwise laws if at an intermediate port or place other than a coastwise point it is manufactured or processed into a new and different product. The transformation of the

merchandise is considered as having broken the continuity of the voyage. In applying this section to fuel oil blending operations, Customs has taken the position that such an operation which changed the original product in sulfur content, specific gravity, pour point, and viscosity created a new and different product.

Customs reviewed this position and became concerned that without specific data regarding the procedures of, and materials used in, fuel oil blending operations, it was not possible to determine whether a new and different product had been created. By notice in the **Federal Register** on November 1, 1989 (54 FR 46075), public comment was solicited concerning the extent to which blending is necessary to create a new and different product within the meaning of § 4.80b(a), or whether some degree of refining is necessary to create such a product. It was proposed to require parties seeking a determination about the effect of fuel oil blending operations to submit information concerning the procedures and specific data of such operations.

Analysis of Comments

The comments received can be grouped into two opposing categories. Representatives of domestic shipping lines and domestic oil refiners were concerned that Customs position on fuel oil blending had become a large loophole in the protection the Jones Act was designed to give to their interests. It was claimed that foreign ports, *e.g.*, those in the Caribbean, had become no more than transhipment stations used to allow lower-cost foreign-flag vessels to move fuel oil between coastwise points. This group would have Customs require refining of fuel oil in order to find a new and different product.

Comments on behalf of foreign-flag vessels and offshore blenders defended the position that a change in sulfur content, specific gravity, pour point, and viscosity brought about by blending did in fact create a new and different product. This group would prefer that any such blending continue to exempt fuel oil from the Jones Act.

Comments in Opposition to a Change in Position

Comment

Those commenters advocating no change in Customs position on fuel oil blending operations believe that changes in the sulfur content, specific gravity, pour point, and viscosity of fuel oil do in fact result in a new and different product for purposes of the coastwise laws. In support of their position, these commenters refer to the *Blumenthal* case in stating that it is the comparative characteristics of the original fuel oil versus the final product, not the process by which these characteristics are changed, that is determinative as to whether a new and different product has been produced.

In this same vein, several commenters advocate looking to the end use of the blended oil and to the "market realities" of how the final product is distributed and priced.

Response

Making the marketplace the determinative factor in fuel oil blending decisions will lead to differences concerning identical operations because of geographic location or seasonal fluctuation in pricing. Customs will not adopt a position which would lead to decisions dependent on location or fluctuating economic factors. Further, it is apparent that *Blumenthal* involved refined products and not a blending operation. Accordingly, parties seeking a determination concerning the ramifications of a fuel oil blending must submit data sufficient for Customs to assess the degree of change.

Comment

Several commenters opposing any change to the current position apparently did so based on their predictions of what a new position might require. For example, some commenters opposed a new position which would require refining of oil, or which would set minimum proportions for the constituent materials in a blended fuel oil.

Response

The modified position Customs is adopting requires neither of these.

Comment

Two commenters stated that to require parties to produce procedures and specific data of a blending operation prior to Customs determining whether such an operation produces a new and different product is impractical from an industry standpoint. These commenters believe that market conditions change so quickly in the fuel oil industry that deals will be lost while waiting for Customs to render decisions.

Response

It is Customs position that proper fuel oil blending determinations require submission of data sufficient to judge the degree of transformation of the original product. Of paramount concern is the administration of 46 U.S.C. App. 883, one of the many navigation laws enforced by Customs. However, in instances when we are informed that expedited treatment of a request is desired, we will respond as quickly as possible. Parties requesting fuel oil determinations should keep in mind that one of the key factors in our response time will be the thoroughness and organization of the information presented to us.

Comments in Favor of a Change in Position

Comment

Several commenters wrote expressing support for Customs proposal to require the party seeking a determination regarding a blending operation in relation to § 4.80b(a) to submit the procedures and specific data of such operations to Customs for review and approval prior to engaging in the operation. It is their view that due to the degree of uncertainty in this area and the potential for easy circumvention of § 4.80b(a) under Customs current position, adoption of this proposal is a means by which Customs can better ensure compliance with the Jones Act.

Response

Customs agrees that requiring submission on the procedures and materials of the operation will allow us to detect, and rule accordingly, on any operation undertaken merely to circumvent the coastwise laws.

Comment

Many of those favoring a change in position believed Customs should require some degree of refining. These commenters said that blending operations which change sulfur content, specific gravity, pour point, and viscosity are only diluting the physical characteristics of the original product instead of changing its molecular structure which, they maintain, is the test for determining whether a new and different product has been created for purposes of § 4.80b(a). They further state that refining is the only means by which molecular structure can be changed. These commenters cite *Blumenthal* in support of their position.

A similar comment was offered that changes in the four characteristics considered under Customs position are done merely to qualify oil for delivery to certain utilities which are required by environmental regulations to burn a particular type of fuel oil. Instead of those factors, the following tests for judging a fuel oil blending operation were offered: The application of heat which yields a change in chemical structure of the original substance;

boiling point range which can also indicate a change in chemical structure; verifiable pressure; a catalytic or other chemically induced process; intended use of the final product; and changes in the economic value of the final product.

Response

Customs believes that simply changing our position from one of regarding blending operations as creating new and different products to one of regarding refining operations as accomplishing that task is not supported by the record or by *Blumenthal*. For the same reasons, the price of the final product, or its intended use, cannot be determinative factors.

Statement of Position

After a review of all the comments submitted and the pertinent legal authority, Customs is abandoning the position that a fuel oil blending operation which changes sulfur content, specific gravity, pour point, and viscosity is automatically considered as creating a new and different product for purposes of § 4.80b(a), Customs Regulations. Henceforth, prior to reaching determinations regarding this matter, Customs will require the submission of data on the procedures of, and materials used in, a fuel oil blending operation. While such submissions will be considered on a case by case basis, Customs is cognizant of the holdings in *Blumenthal* and *National Juice Products Association, et al., v. United States*, 628 F. Supp. 978 (1986) and the dicta therein, judicial precedents the application of which might require an adverse decision if the process involved is less than a refining of the product. Customs will review the data and, based on the facts of each operation, rule whether or not the merchandise is subject to the provisions of 46 U.S.C. App. 883.

Drafting Information

The principal author of this document was John E. Doyle, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Approved: March 15, 1991.

Carol Hallett,

Commissioner of Customs.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 91-8452 Filed 4-9-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 801

RIN 1215-AA49

Application of the Employee Polygraph Protection Act of 1988

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule, correction.

SUMMARY: The U.S. Department of Labor (DOL) is correcting errors in the preamble and text of the final rule which appeared in the Federal Register on March 4, 1991 (56 FR 9045).

FOR FURTHER INFORMATION CONTACT: Charles E. Pugh, Assistant Administrator, Office of Policy, Planning and Review, Wage and Hour Division, U.S. Department of Labor, room S-3506, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-5409. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: DOL promulgated the final text of revised regulations under the Employee Polygraph Protection Act of 1988 on March 4, 1991. The preamble and text of the final rule contained errors which are corrected in this notice. Dated at Washington, DC this 3rd day of April 1991.

Samuel D. Walker,

Acting Assistant Secretary for Employment Standards.

The following corrections are made to the preamble and regulatory text:

1. On page 9046, third column, line 35, "date" should read "data".

2. On page 9057, first column, line 18, "while" should read "While".

3. On page 9060, third column, line 8, "section" should be deleted.

4. On page 9061, first column, line 23, "percept'on" should read "perception".

5. On page 9061, first column, line 24, "detecto" should read "detector".

§ 801.3 [Corrected]

6. On page 9065, first column, in § 801.3(b), line 3, "the" should read "their".

§ 801.4 [Corrected]

7. On page 9065, second column, in § 801.4(d), line 4, "illicit" should read "elicit".

§ 801.13 [Corrected]

8. On page 9069, second column, in § 801.13(b)(2), line 6, "2I" should read "21".

§ 801.42 [Corrected]

9. On page 9077, first column, in § 801.42(a)(1), line 6, "or" at the beginning of the line should read "of".

10. On page 9077, second column, in § 801.42(b)(8) line 3, "person" should read "employer".

§ 801.53 [Corrected]

11. On page 9077, third column, in § 801.53(a) line 10, "§ 801.59" should read "§ 801.51".

§ 801.67 [Corrected]

12. On page 9079, first column, in § 801.67(g) line 4, "secretary" should read "Secretary".

13. On page 9079, first column, in § 801.67(g) line 6, "vacate" should read "Vacate".

§ 801.69 [Corrected]

14. On page 9079, first column, in § 801.69(a), in line 12, insert "A" before "copy".

§ 801.71 [Corrected]

15. On page 9079, second column, in § 801.71(c) line 11, the comma following "thereafter" should be deleted.

Part 801, Appendix A [Corrected]

16. On page 9080, first column, in Appendix A, line 4, a comma should be inserted between "dismiss" and "discipline".

[FR Doc. 91-8334 Filed 4-9-91; 8:45 am]

BILLING CODE 4510-27-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046-AA43

Procedural Regulations; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; correction.

SUMMARY: The Equal Employment Opportunity Commission is amending the delegation of authority contained in its revised procedural regulations published at 56 FR 9623 (March 7, 1991) to include the Director, Determinations Review Program.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Acting Associate Legal Counsel or Kathleen Oram, Senior Attorney, at (202) 663-4669 (voice) or (202) 663-7026 (TDD).

Copies of this final rule are available in the following alternate formats: Large print, braille, electronic file on computer

disk, and audio-tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice) or (202) 663–4399 (TDD).

SUPPLEMENTARY INFORMATION: In its March 7, 1991 publication of amendments to its procedural regulations, EEOC amended the manner in which no cause letters of determination would be issued and amended the delegation of authority to issue no cause letters of determination in § 1601.19 of its procedural regulations. For those charges in which field directors issued determinations prior to April 7, 1991, individuals had the right to seek review of that determination from the Determinations Review Program. In order to provide for the Director of the Determinations Review Program to review those determinations for which requests for review are pending, this amendment delegates authority to the Director of the Determinations Review Program to issue no cause letters of determination.

For the Commission.

Evan J. Kemp,

Chairman.

The following correction is made in 29 CFR 1601.19(a) published in the Federal Register March 7, 1991 (56 FR 9625).

1. The last sentence of § 1601.19(a) on page 9625, first column, is corrected to read as follows:

§ 1601.19 No cause determinations: Procedure and authority.

(a) * * * The Commission hereby delegates authority to the Program Director, Office of Program Operations, or upon delegation to the Directors, Field Management Programs, Director, Determinations Review Program, and Dirstrict Directors or upon delegation to Area Directors or Local Directors, except in those cases involving issues currently designated by the Commission for priority review, to issue no cause letters of determination.

* * * * *

[FR Doc. 91–8382 Filed 4–9–91; 8:45 am]

BILLING CODE 6570–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA17

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Stay of final rule provisions, and reopening of rulemaking record on specific provisions.

SUMMARY: MSHA published a final rule for safety standards for explosives at metal and nonmetal mines on January 18, 1991 (56 FR 2070). The rule was to become effective on March 19, 1991. Based upon all information gathered regarding specific provisions of the final rule, MSHA extended the effective date until May 20, 1991 (45 FR 9626). After further Agency analysis and review of information received, MSHA has determined that the effective date of several provisions of the final rule should be extended until further notice. MSHA is reopening the rulemaking record to allow the mining community an opportunity to submit further comment on these provisions. MSHA will also hold a public hearing regarding these provisions. The date and location of the hearing will be announced at a later time.

DATES: The effective date of the following provisions is extended until further notice: The definition of the term "blast site" in § 56.6000 and § 57.6000; paragraph (b) of § 56.6306 and § 57.6306, loading and blasting; the first sentence of paragraph (b) of § 56.6130 and § 57.6130, explosive material storage facilities; paragraph (a)(1) of § 56.6131 and § 57.6131, location of explosive material storage facilities and Appendix I to Subpart E—MSHA Tables of Distances; and paragraph (a) of § 56.6501 and § 57.6501, nonelectric initiating systems.

Written comments must be submitted on or before May 13, 1991.

ADDRESSES: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On January 18, 1991, MSHA published a final rule revising its safety standards for explosives at metal and nonmetal mines. In response to inquiries regarding the final rule, the Agency delayed the effective date of the final rule from March 19, 1991, to May 20, 1991, to allow the Agency time to review these issues (45 FR 9626).

Several parties questioned specific provisions in the final rule stating, among other things, that, as published, certain provisions in the rule would not enhance safety or would be too restrictive. MSHA has considered the questions raised, and in order to allow an opportunity for all viewpoints to be presented before reaching a decision on the matters, has determined that it would be appropriate to reopen the rulemaking record for comment on these provisions. Except for the provisions stayed by this notice, the effective date of the final rule will be May 20, 1991.

Issues

Commenters have raised the following questions about the stayed provisions. MSHA solicits comments from all parties on these issues only. Comments addressing unrelated issues will not be considered.

A. Blast Site

The final rule defines "blast site" in § 56.6000 as:

> The area where explosive material is handled during loading, including the perimeter formed by the blastholes and 50 feet in all directions from loaded holes [or holes to be loaded]. The 50-foot requirement also applies in all directions along the full depth of the hole.

The final rule defines "blast site" in § 57.6000 as:

> The area where explosive material is handled during loading, including the perimeter formed by the blastholes and 50 feet in all directions from loaded holes [or holes to be loaded]. The 50-foot requirement also applies in all directions along the full depth of the hole. In underground mines, 15 feet of solid rib or pillar can be substituted for the 50-foot distance.

The term blast site is used in several places in the rule, including §§ 56/57.6306(b) which provides that:

> Once loading begins, the only activity permitted within the blast site shall be activity directly related to the blasting operation, and occasional haulage activity near the base of the highwall being loaded where no other haulage access exists.

A specific issue raised is that the application of the definition to the language of §§ 56/57.6306(b) is too restrictive and would eliminate the currently accepted mining method of vertical crater retreat mining. Another objection is that the definition and its application would severely impact on the mining cycle in some mines by precluding necessary activities from taking place at the blast site. Activities mentioned included surveying, gas checks and reopening of plugged holes. The Agency would like more specific information on the types of mining adversely affected and specific examples as to where the definition and its application would be overly restrictive.

B. Explosive Material Storage Facilities

The first sentence of paragraph (b) of §§ 56/57.6130, explosive material storage facilities, provides that "Packaged blasting agents shall be stored in a magazine or other facility which is ventilated to prevent dampness and excessive heating, weather-resistant, and locked or attended." An objection to this provision is that the ventilation would result in increased dampness in certain parts of the country where dampness is not easily controlled due to climate. The Agency requests comments on the safety aspects of this provision.

C. MSHA Tables of Distances

Paragraph (a)(1) of §§ 56/57.6131, location of explosive material storage facilities, requires that storage facilities for any explosive material be:

Located in accordance with Appendix I to subpart E—MSHA Tables of Distances. However, where there is not sufficient area at the mine site to allow compliance with Appendix I, storage facilities shall be located so that the forces generated by a storage facility explosion will not create a hazard to occupants in mine buildings and will not damage [in part 57 "mine openings, mine ventilation fans,"] dams or electric substations * * *

The objections to the use of an MSHA developed table are that the table would not enhance safety because it is not based on data which would justify the distances selected, and that the mining community is accustomed to the American Table of Distances of the Institute of Makers of Explosives adopted both by the Bureau of Alcohol, Tobacco and Firearms and the existing MSHA regulations. The requirements of existing §§ 56/57.6020(a) will remain in effect during the stay of §§ 56/57.6131(a)(1). Existing §§ 56/57.6020 provide that: "Magazines shall be: (a) located in accordance with the current American Table of Distance for storage of explosives." MSHA requests comments on these issues and in particular if it is preferable to include the American Table of Distances in place of the MSHA tables as an appendix to the regulation.

Paragraph (a) of existing § 56.6020 and § 57.6020, magazine requirements, will remain in effect during the stay of § 56.6131(a)(1) and § 57.6131(a)(1).

D. Nonelectric Initiating Systems

MSHA received conflicting comments from the mining community on the issue of whether and to what extent double trunkline or loop systems should be used in connection with nonelectric initiating systems. In §§ 56/57.6501, nonelectric initiating systems, the final rule would require that:

(a) When blasting with any nonelectric initiation system where continuity cannot be tested, double trunklines or loop systems shall be used, except—

(1) When blasting with safety fuse and caps;

(2) When performing secondary blasting; or

(3) When blasting one or two rows using shock tube.

Objections centered around the fact that the statistical data currently available to MSHA do not suggest the occurrence of accidents or injuries resulting from or caused by the use or nonuse of a double trunkline or loop system. None of the interested parties could provide substantive information on this point. However, one party asserted that the practice of requiring a double trunkline or loop system was excessively costly and would result in substantially increased exposure of miners at the blast site during hookup of the system. The Agency requests additional information concerning the advantages and disadvantages of requiring such a system. Support for this provision came from commenters who stated how the use of a double trunkline or loop system prevented misfires.

This document is issued under 30 U.S.C. 811.

Dated: April 2, 1991.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 91-8268 Filed 4-9-91; 8:45 am]

BILLING CODE 4510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300169A; FRL-3739-1]

Revocation of Tolerances for Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revokes the tolerances established for residues of seven pesticide chemicals in or on certain raw agricultural commodities (RACs). This regulatory action is being taken by EPA to revoke tolerances for those pesticides which have no registered food uses. These pesticides either were never registered for food uses or if they were registered, the registrations have been subsequently cancelled, thus these tolerances are no longer needed.

EFFECTIVE DATE: This regulation becomes effective April 10, 1991.

ADDRESSES: Written objections, identified by the document control number, [OPP-300169A], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Downing, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 724, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of February 18, 1988 (53 FR 4860), which proposed the revocation of tolerances for residues of eight pesticide chemicals which have no current food use registrations. Those eight chemicals were as follows: mercaptobenzothiazole; 4-(methylsulfonyl)-2,6-dinitro-N,N-dipropylaniline; trichlorobenzyl chloride; terbuthylazine (2-tert-butylamino-4-chloro-6-ethylamino-s-triazine); copper abietate; copper silicate; tetracopper calcium oxychloride; and piperonyl cyclonene.

No requests for referral to an advisory committee were received in response to the proposal. However, comments were received from authorities from the countries of Sweden and Thailand, in addition to a pesticide producer. The only chemical which was subject to comment was terbuthylazine (2-tert-butylamino-4-chloro-6-ethylamino-s-triazine).

Swedish authorities indicated that terbuthylazine is registered for use in Sweden; however, they did not present any concerns with the proposed revocation.

Authorities from Thailand commented by indication that there were no registrations or import of any of the eight chemicals in their country. Therefore, they did not have any specific comment on the proposed revocations.

A pesticide producer commented on the revocation of existing tolerances for terbuthylazine residues in or on corn fodder and forage, corn grain, and sorghum forage and grain. The pesticide producer requested that the Agency not move to revoke the existing tolerances for terbuthylazine. However, the pesticide producer did not commit to provide the data necessary to support the continuation of the tolerances for terbuthylazine. He stated that since

there were no registered end uses for terbuthylazine which would result in residues in corn or sorghum, no dietary exposure could occur; therefore, the Agency would be at no risk of criticism for maintaining the existing tolerances.

Based on the above-mentioned comment, the Agency has decided to delay final action on terbuthylazine to give an additional period of 30 days for any interested person to commit to providing the Agency with the data needed to support the continuation of these tolerances. If no commitment is received within 30 days, EPA will issue a final rule revoking the terbuthylazine tolerance.

None of the comments indicate that the revocation of the tolerances listed in the February 18, 1988 (53 FR 4860) proposed rule would adversely impact any commodity currently imported into the United States.

Based on the fact that there are no current food use registrations for mercaptobenzothiazole, 4-(methylsulfonyl)-2,6-dinitro-*N,N*-dipropylaniline, trichlorobenzyl chloride, copper abietate, copper silicate, tetracopper calcium oxychloride, or piperonyl cyclonene, and no evidence indicating that imported commodities will be adversely affected by this action, the Agency has determined that this revocation action is appropriate for these seven chemicals.

Therefore, EPA is hereby revoking the existing tolerances for residues for these seven pesticide chemicals in or on RACs as listed in 40 CFR part 180. The pesticide chemical tolerances listed in 40 CFR part 180 which are being revoked are as follows: § 180.160 *Mercaptobenzothiazole*; § 180.237 *4-(Methylsulfonyl)-2,6-dinitro-N,N-dipropylaniline*; § 180.273 *Trichlorobenzyl chloride*; § 180.1001(b)(1) for copper abietate, copper silicate, tetracopper calcium oxychloride and (b)(5) for piperonyl cyclonene.

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

Executive Order 12291

This document has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by the Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of the revocation of tolerances for these chemicals. This analysis is available for public inspection in rm. 246, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

As explained in the proposal in the Federal Register of February 18, 1988 (53 FR 4860), the Agency has determined pursuant to the requirements of Executive Order 1221, that the revocation of these tolerances will not cause adverse economic impacts on significant portions of U.S. enterprises.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat 1164; 5 U.S.C. 601 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the February 18, 1988 proposal.

List of Subjects in 40 CFR Part 180

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

Dated: April 1, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 348a and 371.

§ 180.160 [Removed]

2. Section 180.160 *Mercaptobenzothiazole; tolerances for residues* is removed.

§ 180.237 [Removed]

3. Section 180.237 *4-(Methylsulfonyl)-2,6-dinitro-N,N-dipropylaniline; tolerances for residues* is removed.

§ 180.273 [Removed]

4. Section 180.273 *Trichlorobenzyl chloride; tolerances for residues* is removed.

§ 180.1001 [Amended]

5. Section 180.1001 *Exemptions from the requirement of a tolerance* is amended in paragraph (b)(1) by removing the entries for copper abietate, copper silicate, and tetracopper calcium oxychloride from the list therein and in paragraph (b)(5) by removing the entry for piperonyl cyclonene.

[FR Doc. 91-8155 Filed 4-9-91; 8:45 am]
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40 CFR Part 186

[FAP-0H5594/R1111; FRL-3885-4]

RIN 2070-AB78

Temporary Feed Additive Tolerance for Quinclorac

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a temporary feed additive tolerance for residues of the herbicide quinclorac (3,7-dichloro-8-quinoline carboxylic acid) in or on the animal feed rice bran at 15.0 parts per million (ppm). This temporary regulation was requested by BASF Corp. and establishes the maximum permissible level for residues of the herbicide on this animal feed. This regulation will expire on March 1, 1992.

EFFECTIVE DATE: This regulation becomes effective April 10, 1991.

ADDRESSES: Written objections, identified by the document control number, [FAP 0H5594/R1111], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-1800.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 29, 1990 (55 FR 26751), EPA issued a notice which announced that BASF Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054, had submitted food/feed additive petition (FAP) 0H5594, which proposed to amend 40 CFR part 186 by establishing a feed additive regulation to permit residues of the herbicide 3,7-dichloroquinolinecarboxylic acid in or on the animal feed rice bran at 15.0 parts per million (ppm).

There were no comments received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of this tolerance.

1. Several acute studies placing technical-grade quinclorac in Toxicity Categories III and IV.

2. A 1-year feeding study in dogs fed 0, 34, 140, 513 (males) and 469 (females) milligrams/kilogram/day (mg/kg/day) with the no-observed-effect level (NOEL) of 140 mg/kg/day based on reduced body weight gains, adverse effect on food efficiency, hematological and clinical chemistry values, increased liver and kidney weights, and microscopic findings in the liver and kidneys, at 513 mg/kg/day (males) and 469 mg/kg/day (females), the highest dosages tested (HDT).

3. A carcinogenic study in mice fed dosages of 0, 37.5, 150, 600, and 1,200 mg/kg/day with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 1,200 mg/kg/day (HDT) and a systemic NOEL of 37.5 mg/kg based on reduction of body weight at 150 mg/kg/day.

4. A developmental toxicity study in rats administered dosages of 0, 24.4, 146, and 438 mg/kg/day with a developmental toxicity NOEL of 438 mg/kg/day (HDT) and a maternal toxicity NOEL of 146 mg/kg/day based on reduced food consumption, increased water intake and mortality at 438 mg/kg/day (HDT).

5. Mutagenicity tests including an Ames test; an *in vitro* Rat Primary Hepatocyte Unscheduled DNA assay and an *in vivo* cytogenetic assay with Chinese hamsters (all negative).

The provisional acceptable daily intake (PADI) based on the 2-year feeding study with mice (NOEL of 37.5 mg/kg/day) and using a thousandfold safety factor is calculated to be 0.04 mg/kg. The theoretical maximum residue contribution (TMRC) from the current action (including temporary tolerances for the raw agricultural commodities rice, rice straw, milk, eggs, and meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry) is calculated to be 0.001485 mg/kg/bwt/day and will utilize 3.7 percent of the PADI.

Data lacking include a chronic feeding study on a rodent, a carcinogenic study in one species, a developmental toxicity study in one species, and a reproduction study. These data are required before establishment of permanent tolerances. The available toxicity data are sufficient to support these temporary tolerances.

The pesticide is considered capable of achieving the intended physical or technical effect. EPA's prior practice has been to make a certification of usefulness for tolerances and food additive regulations because EPA believes the legal requirements in this regard for tolerances and food additive regulations to be similar. To more closely track the statutory language, however, EPA has decided to issue food/feed additive regulations with a finding with respect to the pesticide's intended physical or technical effect.

The nature of the residue is adequately understood for the purpose of establishing this temporary feed additive tolerance. Adequate analytical methodology is available for enforcing of the proposed temporary tolerances on rice, rice straw, rice bran, eggs, milk, and meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry (gas-liquid chromatography with an electron capture detector). There are curently no pending actions against registration of this chemical. Any secondary residues occurring in meat, milk, poultry, and eggs will be covered by temporary tolerances established concurrently with this action.

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 751 (7 U.S.C. 136 et seq.)). Therefore, the regulation is established as set forth below and expires on March 1, 1992.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

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

Pursuant to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164; 5 U.S.C. 601-612.), the Administrator has determined that regulations establishing new tolerances or raisning tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)).)

List of Subjects in 40 CFR Part 186

Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 20, 1991.

Dougals D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 186 is amended as follows:

PART 186—[AMENDED]

1. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

2. By adding new § 186.5225, to read as follows:

§ 186.5225 Quinclorac.

(a) A feed additive regulation is established permitting residues of the herbicide quinclorac (3,7-dichloro-8-quinoline carboxylic acid) in or on the following feed resulting from application of the herbicide to rice in accordance with an experimental program. The conditions set forth in this section shall be met.

Feed	Parts per million	Expiration date
Rice bran	15.0	March 1, 1992.

(b) Residues in the feed not in excess of the established tolerance resulting from the use described in paragraph (a) remaining after expiration of the experimental program will not be considered to be actionable if the herbicide is applied during the term of and in accordance with the provisions of the experimental use program and feed additive regulation.

(c) The company concerned shall immediately notify the Environmental

Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

(d) This temporary tolerance expires on March 1, 1992.

[FR Doc. 91-8041 Filed 4-9-91; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 271

[FRL-3920-4]

North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: North Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). North Carolina's revisions consist of the provisions of Non HSWA Cluster IV promulgated July 1, 1987–June 30, 1988. The Environmental Protection Agency (EPA) has reviewed North Carolina's application and has made a decision, subject to public review and comment, that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve North Carolina's hazardous waste program revisions. North Carolina's application for program revisions is available for public review and comment.

DATES: Final authorization for North Carolina's program revisions shall be effective June 9, 1991, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on North Carolina's program revision application must be received by the close of business May 10, 1991.

ADDRESSES: Copies of North Carolina's program revision application are available during 8 a.m.–4 p.m. at the following addresses for inspection and copying: North Carolina Department of Environment, Health, and Natural Resources, Hazardous Waste Branch, P.O. Box 27687, Raleigh, North Carolina 27611–7687; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: (202) 382–5926; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

In accordance with part 271, § 271.21(a) of title 40 of the Code of Federal Regulations (40 CFR 271.21(a)), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–266 and 270.

B. North Carolina

North Carolina initially received final authorization for its base RCRA program on December 31, 1984, (49 FR 48694). North Carolina received authorization for revisions to its program on March 25, 1986, (51 FR 10211), October 4, 1988, (53 FR 29460), September 22, 1989, (54 FR 38993), April 10, 1989, (54 FR 38993), and January 18, 1991, (56 FR 1930). On October 26, 1990, North Carolina submitted a program revision application for additional program approval. Today, North Carolina is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed North Carolina's application and has made an immediate final decision that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to North Carolina. The public may submit written comments on EPA's immediate final decision until May 10, 1991. Copies of North Carolina's application for program revisions are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice

Approval of North Carolina's program revision shall become effective June 9, 1991 unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

North Carolina is today seeking authority to administer the following Federal requirements promulgated on July 1, 1987–June 30, 1988 for Non-HSWA Cluster IV.

Federal requirements	FR notice	Promulgation	State authority
List of Hazardous Constituents for Ground Water Monitoring	52 FR 25942	7/9/87	NCGS 130A-294(c) (11) & (15) 15A NCAC 13A0009(g) 15A NCAC 13A0009(t) 15A NCAC 13A0013(b)

Federal requirements	FR notice	Promulgation	State authority
Identification and Listing of Hazardous Waste	52 FR 26012	7/10/87	NCGS 13A-294 (c) (1) (1a) & (15) 15A NCAC 13A.0006(d)
Listing of Spent Pickle Liquor Clarification	52 FR 28697	8/3/87	
Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities; Corrections.	52 FR 33936	9/9/87	
Liability Requirements for Hazardous Waste Facilities Corporate Guarantee	52 FR 44314	11/18/87	NCGS 13A-294(c) (10) (15) & (16) NCGS 130A-294(j) 15A NCAC 13A.0009(l) 15A NCAC 13A.0010(h)
Hazardous Waste Miscellaneous Units	52 FR 46946	12/10/87	NCGS 130A-294(c) NCGS 130A-294(c) (7) & (15) NCGS 130A-294(c) (8) & (15)
Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; Closure/Post Closure and Financial Responsibility Req.	53 FR 7740	3/10/88	NCGS 130A-294(c) (2) & (15) NCGS 130A-294(c) (10) & (15) NCGS 130A-294(c) (14) & (15) 15A NCAC 13A.0002(b) 15A NCAC 13A.0009(c) 15A NCAC 13A.0009(f) 15A NCAC 13A.0009(g) 15A NCAC 13A.0009(h) 15A NCAC 13A.0009(l)(5) 15A NCAC 13A.0013(b)
Technical Correction; Identification and Listing of Hazardous Waste	53 FR 13382	4/22/88	
Hazardous Waste Miscellaneous Units Standards Applicable to Owners and Operators.	54 FR 615	1/9/88	NCGS 130A-294(c) (1) (1a) & (15) NCGS 130A-294(c) (2) (1a) & (15) 15A NCAC 13A.0006(c) 15A NCAC 13A.0006(d)

North Carolina is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that North Carolina's application for program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, North Carolina is granted final authorization to operate its hazardous waste programs as revised.

North Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. North Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 604(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of North Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Patrick M. Tobin,

Deputy Regional Administrator.

[FR Doc. 91-8429 Filed 4-9-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6842

[CO-930-4214-10; COC-15959]

Withdrawal of National Forest System Lands for Protection of Forest Campgrounds; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 180 acres of National Forest System lands from mining for 20 years for the protection of existing facilities at three Forest Service campgrounds. The lands remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, (303) 239-3706.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2), to protect existing facilities at the Springdale, Crags, and Wildhorn Campgrounds:

Pike National Forest

Sixth Principal Meridian

Springdale Campground

T. 12 S., R. 68 W.,
Sec. 20, NE¼NW¼, E½NW¼NW¼.

Crags Campground

T. 13 S., R. 69 W.,
Sec. 32, E½SE¼SE¼;

Sec. 33, SW¼SW¼.

Wildhorn Campground

T. 11 S., R. 70 W.,
Sec. 29, S½SW¼SW¼;
Sec. 32, NW¼NW¼.

The areas described aggregate 180 acres in Teller and El Paso Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: April 1, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-8351 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6843

[ES-960-4214-10; BLM-049147; ES-17462; ES-32750]

Withdrawal of Public Lands for Addition to the Pine Island and Matlacha Pass National Wildlife Refuges; FL

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 411.78 acres of public lands from surface entry and mining for 40 years for the use by the U.S. Fish and Wildlife Service as an addition to the Pine Island and Matlacha Pass Wildlife Refuges. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, BLM, Eastern States Office, 350 S. Pickett Street, Alexandria, Virginia 22304, 703-461-1322.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, and reserved for the use by U.S. Fish and Wildlife Service as National Wildlife Refuge lands:

Matlacha Pass National Wildlife Refuge, Tallahassee Meridian

T. 44S., R. 22 E.,
Tract 37;
Tract 38;
Tract 39;
Tract 40;
Tract 41;
Tract 42;
Tract 43;
Tract 44;
Tract 45;
Tract 46;
Tract 47;
Tract 48;
Tract 49;
Tract 50;
Tract 51;
Tract 52.
T. 44 S., R. 23 E.,
Tract 37;
Tract 38;
Tract 39.

The areas described aggregate 267.61 acres in Lee County.

Pine Island National Wildlife Refuge, Tallahassee Meridian

T. 44 S., R. 21 E.,
Tract 37;
Tract 39;
Tract 40;
Tract 41;
Tract 44.
T. 44 S., R. 22 E.,
Tract 53;
Tract 54;
Sec. 31, lot 1.
T. 45 S., R. 22 E.,
Tract 37.
T. 45 S., R. 23 E.,
Sec. 31, lot 1;
Sec. 32, lot 1.

The areas described aggregate 144.17 acres in Lee County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their vegetative resources other than the mineral laws.

3. This withdrawal will expire 40 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Management and Policy Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

April 2, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-8355 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-GJ-M

43 CFR Public Land Order 6844

[MT-930-4214-10; MTM 78802]

Withdrawal of Public Lands for the Upper Missouri National Wild and Scenic River Corridor; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 93,871.41 acres of public lands and interest in lands from surface entry and mining for 20 years for the Bureau of Land Management to protect the resource values within the Upper Missouri National Wild and Scenic River Corridor. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, BLM, Lewistown District Office, Airport Road, Lewistown, Montana 59457, 406-538-7461.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands and or interest in public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, to protect the resource values within the Upper Missouri National Wild and Scenic River Corridor:

Principal Meridian Montana

T. 28 N., R. 12 E.,
Sec. 1, SE¼SW¼;
Sec. 3, Lot 11, SE¼SW¼, SW¼SE¼;
Sec. 4, Lot 7;
Sec. 5, Lot 11, NW¼;SE¼;
Sec. 6, NW¼SE¼;
Sec. 8, SE¼NE¼;
Sec. 9, Lot 1, NE¼NW¼, S½NW¼;
Sec. 11, Lot 1, NE¼NW¼;
Sec. 12, Lot 12;
Sec. 13, SE¼NW¼, NE¼SW¼;
Sec. 24, Lots 3 and 5, SW¼NE¼, SE¼ NW¼, E½SW¼, NW¼SE¼;
Sec. 25, NE¼NE¼, S½NE¼, SE¼SW¼, S½SE¼.
T. 27 N., R. 12 E.,
Sec. 26, NW¼SE¼.
T. 24 N., R. 13 E.,
Sec. 3, Lots 2, 3, 6, and 7, SE¼NW¼, NE¼ SW¼, S½SW¼, NW¼SE¼, S½SE¼;
Sec. 4, Lots 1 to 4, inclusive, Lots 6 to 7, inclusive, SW¼NE¼, S½NW¼, N½ SW¼, SE¼SW¼;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 9, Lots 2 to 3, inclusive, SW¼NE¼, E½NW¼, S½SW¼, SW¼SE¼;

Sec. 10, Lot 3, N½NE¼, SW¼NE¼, E½ NW¼, NE¼SW¼, NW¼SE¼;
Sec. 15, Lot 1, SW¼NW¼, W½SW¼;
Sec. 17, N½NE¼, NE¼NW¼;
Sec. 21, Lot 1, E½NW¼, SE¼SE¼;
Sec. 22, Lots 1 to 8, inclusive, SE¼NE¼, NW¼NW¼, S½SW¼, SW¼SE¼;
Sec. 23, Lots 1 to 6, inclusive, NW¼;
Sec. 24, SW¼NE¼, SW¼SW¼;
Sec. 25, Lots 1 to 8, inclusive, NW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 26, Lots 2 to 3, inclusive, S½NE¼, NW¼, N½SE¼;
Sec. 27, N½NE¼, SW¼NE¼, W½, W½ SE¼;
Sec. 28, E½;
Sec. 33, NE¼, SE¼SE¼;
Sec. 34, W½NW¼, NW¼SW¼, S½SW¼.

T. 25 N., R. 13 E.,
Sec. 4, SW¼NW¼, NW¼SW¼, SE¼ SW¼, SW¼SE¼;
Sec. 5, Lot 2, SE¼NE¼, SE¼SW¼;
Sec. 6, Lot 3;
Sec. 7, NE¼NE¼;
Sec. 8, Lots 1 to 3, inclusive, W½NW¼, NW¼SW¼, SE¼;
Sec. 9, Lots 2, 5, and 6, NW¼NE¼, NE¼ NW¼, SW¼SW¼;
Sec. 17, E½E½;
Sec. 20, NE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 21, Lot 5, NW¼NW¼, W½SW¼;
Sec. 22, NW¼, NE¼SW¼;
Sec. 28, Lots 1 and 4, W½NW¼, NW¼ SW¼;
Sec. 29, NE¼, NE¼SW¼, N½SE¼, SE¼ SE¼;
Sec. 31, NE¼NE¼, S½NE¼;
Sec. 32, E½NE¼, NW¼NW¼, S½NW¼, NE¼SE¼;
Sec. 33, Lots 4 to 6, inclusive, Lot 8, NE¼ NE¼, SW¼SW¼, E½SE¼;
Sec. 34, NE¼NW¼, NW¼SW¼, S½ SW¼.

T. 26 N., R. 13 E.,
Sec. 19, NW¼SE¼;
Sec. 29, SW¼SW¼;
Sec. 30, Lot 4;
Sec. 31, Lots 2 to 4, inclusive, Lots 8 and 9, SE¼NW¼, E½SW¼, SW¼SE¼;
Sec. 32, NW¼NW¼, SE¼NW¼.

T. 23 N., R. 14 E.,
Sec. 1, Lots 1, 3, and 4, S½N½, S½;
Sec. 2, Lots 1 to 3, inclusive, S½N½, S½;
Sec. 3, Lots 4 to 5, inclusive, SW¼NW¼, NW¼SW¼, SE¼SW¼;
Sec. 4, Lots 1 to 12, inclusive, NW¼SW¼, SE¼SW¼;
Sec. 5, Lots 1 to 6, inclusive, S½NW¼, NE¼SW¼;
Sec. 6, Lots 1 to 2, inclusive, S½NE¼;
Sec. 9, W½NE¼, E½NW¼, E½SW¼, SE¼;
Sec. 10, Lots 5 to 10, inclusive, NE¼, E½ NW¼;
Sec. 11, Lots 1 to 4, inclusive, N½NW¼, SW¼NW¼, S½SE¼;
Sec. 12, Lots 1, 4, and 5, NE¼, E½NW¼, SE¼;
Sec. 13, Lots 4 and 5, E½NE¼, SW¼SW¼, NE¼SE¼;
Sec. 14, W½NE¼, NW¼, W½SE¼, SE¼ SE¼;
Sec. 15, N½;
Sec. 23, N½NE¼;
Sec. 24, Lots 1 to 4, inclusive, N½NW¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼ SE¼;
Sec. 25, NE¼, NE¼NW¼, S½NW¼.

T. 24 N., R. 14 E.,
Sec. 19, Lots 3, 4, 7, 8, 13, 14, 16, 17, and 18;
Sec. 29, S½SE¼;
Sec. 30, Lots 3 to 8, inclusive, 11 to 20, inclusive, SE¼;
Sec. 31;
Sec. 32;
Sec. 33, NW¼NW¼, S½NW¼, SW¼;
Sec. 35, SE¼SW¼.

T. 22 N., R. 15 E.,
Sec. 1, Lots 1 to 8, inclusive, S½N½;
Sec. 2, Lots 1 to 4, inclusive, and Lots 6 to 7, inclusive, SE¼NE¼, W½SW¼, SE¼ SW¼;
Sec. 3, Lot 8, W½SW¼, SE¼SW¼, SW¼ SE¼;
Sec. 4, Lots 1 to 4, inclusive, S½;
Sec. 5, Lot 1, S½SE¼;
Sec. 6, Lot 1, SW¼NE¼, SW¼SE¼;
Sec. 9, N½, N½SW¼;
Sec. 10, NW¼NE¼, NW¼NW¼;
Sec. 11, W½NE¼, SE¼NE¼, NW¼, N½ S½;
Sec. 12, S½NW¼.

T. 23 N., R. 15 E.,
Sec. 7, Lots 13 to 18, inclusive;
Sec. 18, Lots 1 to 10, inclusive, Lots 12 to 19, inclusive;
Sec. 19, Lots 2 to 20, inclusive, SE¼;
Sec. 25, SE¼NE¼, SE¼SW¼, E½SE¼;
Sec. 29, S½SW¼;
Sec. 30, Lots 1 to 4, inclusive, Lots 6 to 15, inclusive, Lots 17 to 20, inclusive, E½;
Sec. 31, Lots 1 to 3, inclusive, Lot 6, Lots 9 to 11, inclusive, Lot 15, Lots 17 to 23, inclusive, NE¼;
Sec. 32;
Sec. 33;
Sec. 34, NW¼NW¼, S½NW¼, S½;
Sec. 35, S½.

T. 22 N., R. 16 E.,
Sec. 4, Lot 4, W½SW¼;
Sec. 5, Lots 1 to 4, inclusive, SW¼, N½ SE¼;
Sec. 6, Lots 2 to 6, inclusive, and lot 9, NE¼ SE¼, S½SE¼;
Sec. 7, Lots 1 to 3, inclusive, NW¼NE¼, NE¼NW¼, NE¼SW¼.

T. 23 N., R. 16 E.,
Sec. 28, NW¼NE¼, NW¼NW¼, S½ NW¼, NW¼SW¼;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 32, Lots 3 to 5, inclusive, N½NE¼, SW¼NE¼, NW¼, N½SW¼;
Sec. 34, N½NE¼, N½SE¼.

T. 22 N., R. 17 E.,
Sec. 1, Lots 1 to 4, inclusive, S½N½.

T. 23 N., R. 17 E.,
Sec. 19, Lots 9, 19, and 20, NE¼NE¼;
Sec. 20, Lot 1 and Lots 4 to 9, inclusive, S½ NE¼, N½NW¼;
Sec. 21;
Sec. 22, Lots 1 to 3, inclusive, N½, N½ SW¼, SW¼SW¼;
Sec. 23, Lots 1 and 3, N½, NE¼SW¼, SE¼;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30, Lots 1, 2, 8, 9, and 14, NE¼NE¼, S½NE¼, SE¼;
Sec. 31, Lot 1, Lots 7 to 10, inclusive, N½E¼, N½SE¼;
Sec. 32, N½, N½SW¼, NW¼SE¼;
Sec. 33, N½NE¼, NW¼;
Sec. 34, N½NE¼, NE¼NW¼;
Sec. 35, NE¼NE¼, W½NE¼, NW¼.

T. 22 N., R. 18 E.,
Sec. 2, Lot 4, SW¼NW¼;
Sec. 3, Lots 1 to 4, inclusive, S½N½;
Sec. 4, Lots 1 to 4, inclusive, S½N½;
Sec. 5, Lots 1 to 4, inclusive, S½N½;
Sec. 6, Lots 1 to 5, inclusive, S½NE¼ SE¼ NW¼.

T. 23 N., R. 18 E.,
Sec. 11, SE¼SE¼;
Sec. 12, S½S½;
Sec. 13;
Sec. 14, E½NE¼, S½S½, NE¼SE¼;
Sec. 15, S½S½;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27, Lots 1 to 7, inclusive, NW¼NE¼, NW¼, NW¼SW¼, SE¼SE¼;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 29, S½N½, S½;
Sec. 30, Lots 1 to 5, inclusive, SW¼NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 31;
Sec. 32;
Sec. 33;
Sec. 34, Lot 3, NE¼NE¼, S½NE¼, S½;
Sec. 35, N½N½, SW¼NW¼, W½SW¼.

T. 23 N., R. 19 E.,
Sec. 1, Lots 1 to 4, inclusive, Lots 6 to 12, inclusive, S½S½;
Sec. 2, Lots 1 to 4, inclusive, Lots 9 to 12, inclusive, S½S½;
Sec. 3, Lots 1 to 12, inclusive, SW¼NW¼, SE¼SW¼, S½SE¼;
Sec. 4;
Sec. 5, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 7, Lot 4, SE¼SW¼, S½SE¼;
Sec. 8, E½, S½SW¼;
Sec. 9;
Sec. 10;
Sec. 11, N½;
Sec. 12;
Sec. 13, N½N½;
Sec. 15, N½;
Sec. 17;
Sec. 18;
Sec. 19;
Sec. 20, Lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, SE¼NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 21, N½, N½S½;
Sec. 29, W½NE¼, NW¼;
Sec. 30, N½.

T. 24 N., R. 19 E.,
Sec. 33, S½N½, S½;
Sec. 34;
Sec. 35.

T. 23 N., R. 20 E.,
Sec. 1;
Sec. 2;
Sec. 3, Lot 1, S½N½, S½;
Sec. 4, Lot 5, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 5, Lots 2 to 7, inclusive, Lot 11, S½N½, NE¼SE¼;
Sec. 6;
Sec. 7;

Sec. 8, S½NE¼, NW¼, S½;
Sec. 9;
Sec. 10, Lots 1 to 4, inclusive, Lots 6 to 8, inclusive, S½S½;
Sec. 11, Lots 1 to 3, inclusive, S½NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 12, Lot 1, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 14, NE¼, E½NW¼;
Sec. 15, NW¼NE¼, N½NW¼;
Sec. 18, Lots 1 to 2, inclusive, NE¼, E½-NW¼.

T. 24 N., R. 20 E.,
Sec. 31, Lots 1 to 7, inclusive, E½NW¼, NE¼SW¼;
Sec. 32, Lots 1 to 3, inclusive;
Sec. 34, Lot 4, NE¼SE¼;
Sec. 35, Lots 1 to 4, inclusive, N½S½.

T. 23 N., R. 21 E.,
Sec. 1;
Sec. 2, Lots 1 to 4, inclusive, S½N½, N½-S½;
Sec. 3, Lots 1 to 6, inclusive, S½NE¼, SE¼-NW¼, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 4;
Sec. 5;
Sec. 6;
Sec. 7, Lots 1 to 3, inclusive, NE¼, E½-NW¼, NE¼SW¼, N½SE¼;
Sec. 8, N½, N½S½;
Sec. 9, N½, N½S½;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 12, E½;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, E½.

T. 24 N., R. 21 E.,
Sec. 25, SW¼;
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 31;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35.

T. 22 N., R. 22 E.,
Sec. 1;
Sec. 2;
Sec. 3, Lots 1, 2, 7, and 8;
Sec. 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

T. 23 N., R. 22 E.,
Sec. 4, Lots 3 to 6, inclusive, Lots 11 to 14, inclusive, Lots 19 to 20, inclusive, SW¼;
Sec. 5, Lots 1 to 11, inclusive, Lots 14 to 19, inclusive, S½;
Sec. 6, Lots 1 to 10, inclusive, Lots 16 to 19, inclusive, Lots 22 to 28, inclusive, Lots 32 to 34, inclusive;
Sec. 7, Lots 2 to 18, inclusive, NE¼NE¼;
Sec. 8;
Sec. 9, W½
Sec. 17;
Sec. 18;
Sec. 19, Lots 1 to 8, inclusive, Lots 10 to 13, inclusive, N½SE¼;
Sec. 20, Lots 1, 2, and 7, NE¼, NE¼NW¼, S½NW¼, N½SW¼;
Sec. 21, Lot 1, Lots 3 to 9, inclusive, N½, NE¼SE¼;
Sec. 22;
Sec. 23;
Sec. 24, SW¼;
Sec. 25;
Sec. 26, Lots 3 to 4, inclusive, Lots 6 to 8, inclusive, NE¼, N½NW¼, SW¼SW¼;
Sec. 27, SW¼, NW¼SE¼, S½SE¼;
Sec. 28;
Sec. 29, Lots 1, 3, 4, and 6, S½NE¼; SE¼NW¼, S½;
Sec. 30, Lots 3 to 15, SE¼;
Sec. 31, Lots 1 to 9, inclusive, NE¼, N½SE¼;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 33, N½N½;
Sec. 34, N½, N½SW¼, SE¼;
Sec. 35.

T. 24 N., R. 22 E.,
Sec. 31, Lots 4 to 12, inclusive, S½NE¼, SE¼;
Sec. 32, S½N½, S½;
Sec. 33, S½NW¼, SW¼.

T. 23 N., R. 23 E.,
Sec. 28, SW¼NW¼, W½SW¼;
Sec. 29, S½N½, S½;
Sec. 30, Lots 2 to 4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31;
Sec. 32;
Sec. 33, W½W½.

The areas described aggregate 93,871.41 acres of public lands or interest in public lands located in Fergus, Blaine, Chouteau, and Phillips Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant of section 204(f), of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

4. The following description includes all lands within the rim-to-rim corridor of the Upper Missouri National Wild and Scenic River. Non-Federal lands and/or interest in lands in the area described will be automatically withdrawn as specified by paragraph 1 of this order upon acquisition by the United States under the provisions of the Wild and Scenic Rivers Act as amended, 16 U.S.C. 1277.

Principal Meridian Montana

T. 26 N., R. 12 E.,
Secs. 1 to 4, inclusive;
Sec. 5, S½;
Sec. 6, SE¼;
Sec. 7, NE¼;
Sec. 8, N½;
Sec. 9, NW¼;
Sec10, N½NE¼;
Sec. 11, NE¼, N½NW¼, N½SE¼:
Sec. 12, 13;
Sec. 24, E½, E½W½;
Sec. 25, E½, E½W½;
Sec. 36, E½.

T. 27 N., R. 12 E.,
Sec. 26, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½SW¼;
Sec. 35, E½, E½W½.

T. 23 N., R. 13 E.,
Sec. 3, NW¼NW¼;
Sec. 4, N½NE¼.

T. 24 N., R. 13 E.,
Secs. 3, 4;
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 9;
Sec. 10, N½, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16;
Sec. 17, NE¼, E½NW¼;
Sec. 21, N½, N½SW¼, SE¼;
Secs. 22 to 25, inclusive;
Sec. 26, N½, N½S½, SW¼SW¼;
Sec. 27;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34, N½NE¼, W½;
Sec. 35, NW¼NW¼;
Sec. 36, N½, SE¼.

T. 25 N., R. 13 E.,
Sec. 4, W½NW¼, S½;
Sec. 5;
Sec. 6, E½E½, NW¼NE¼, NE¼NW¼;
Sec. 7, NE¼NE¼;
Sec. 8, 9;
Sec. 10, W½SW¼;
Secs. 15 to 16, inclusive;
Sec. 17, E½E½;
Sec. 20, E½E½, SW¼SE¼;
Sec. 21;
Sec. 22, N½NE¼, W½;
Sec. 27, W½;
Sec. 28;
Sec. 29, NE¼, NE¼SW¼, N½SE¼, SE¼ SE¼;
Sec. 31, NE¼NE¼, S½NE¼, N½SE¼;
Sec. 32, NE¼NE¼, S½N½, NW¼NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 33;
Sec. 34, W½.

T. 26 N., R. 13 E.,
Sec. 7, S½SW¼;
Sec. 18, W½;
Sec. 19, W½, NW¼SE¼, S½SE¼;
Sec. 29, SW¼;
Secs. 30, 31;
Sec. 32, S½NE¼, W½, SE¼.

T. 23 N., R. 14 E.,
Sec. 1, NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 2, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 3, W½, SE¼;
Sec. 4;
Sec. 5, N½, N½S½;
Sec. 6, NE¼;
Sec. 9, E½W½, NW¼NW¼;
Sec. 10 to 13, inclusive;
Sec. 14, N½, SE¼;
Sec. 15, N½;
Sec. 16, NE¼;
Sec. 23, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 24;
Sec. 25, N½.

T. 24 N., R. 14 E.,
Sec. 19, Lots 3 to 8, inclusive, and Lots 13 to 18, inclusive;
Sec. 29, S½SE¼;

Sec. 30, Lots 3 to 8, inclusive, and Lots 11 to 20, inclusive, SE¼;
Sec. 31, 32;
Sec. 33, NW¼NW¼, S½NW¼, SW¼;
Sec. 35, SE¼SW¼.
T. 22 N., R. 15 E.,
Secs. 1 to 5, inclusive;
Sec. 6, Lots 1 to 5, inclusive, Lots 11 to 13, inclusive, Lot 22, S½NE¼, SE¼;
Sec. 9, N½, N½S½;
Sec. 10, N½, N½S½;
Sec. 11, N½, N½S½, S½SE¼;
Sec. 12.
T. 23 N., R. 15 E.,
Sec. 7, Lots 13 to 18, inclusive;
Sec. 18, Lots 1 to 20, inclusive;
Sec. 19, Lots 1 to 20, inclusive, SE¼;
Sec. 25, SE¼NE¼, NE¼SE¼, S½S½;
Sec. 27, SW¼SW¼;
Sec. 28, S½S½;
Sec. 29, S½S½;
Secs. 30 to 33, inclusive;
Sec. 34, SW¼NE¼, W½NW¼, SE¼ NW¼, S½;
Sec. 35, S½;
Sec. 36.
T. 22 N., R. 16 E.,
Sec. 4, W½W½;
Secs. 5, 6;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, NW¼, NW¼SW¼.
T. 23 N., R. 16 E.,
Sec. 22, E½SW¼, SE¼;
Sec. 23, S½;
Sec. 24, S½;
Secs. 25 to 36, inclusive.
T. 22 N., R. 17 E.,
Sec. 1, N½.
T. 23 N., R. 17 E.,
Sec. 19, Lots 11, 12, Lots 15 to 18 inclusive, E½;
Secs. 20 to 30, inclusive;
Sec. 31, Lots 1 to 12, inclusive, NE¼, N½SE¼;
Sec. 32, N½, N½SW¼, NW¼SE¼;
Sec. 33, N½NE¼, SW¼NE¼, NW¼;
Sec. 34, NE¼, N½NW¼;
Sec. 35, N½;
Sec. 36.
T. 22 N., R. 18 E.,
Sec. 2, W½NW¼;
Sec. 3, N½;
Sec. 4, N½;
Sec. 5, N½;
Sec. 6, N½.
T. 23 N., R. 18 E.,
Sec. 11, SE¼SE¼;
Sec. 12, S½S½;
Sec. 13;
Sec. 14, E½E½, S½SW¼, SW¼SE¼;
Sec. 15, S½S½;
Secs. 22 to 27, inclusive;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 29, S½N½, S½;
Sec. 30, S½NE¼, NW¼, S½;
Secs. 31 to 34, inclusive;
Sec. 35, N½N½, SW¼NW¼, W½SW¼.
T. 23 N., R. 19 E.,
Secs. 1 to 4, inclusive;
Sec. 5, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 7, S½S½;
Sec. 8, E½, S½SW¼;
Secs. 9, 10;
Sec. 11, N½;
Sec. 12;
Sec. 13, N½N½;
Sec. 15, N½;
Secs. 16 to 19, inclusive;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 21, N½, N½S½;
Sec. 29, W½NE¼, NW¼;
Sec. 30, N½.
T. 24 N., R. 19 E.,
Sec. 33, S½N½, S½;
Secs. 34 to 36, inclusive.
T. 23 N., R. 20 E.,
Secs. 1, 2;
Sec. 3, NE¼NE¼, S½N½, S½;
Sec. 4, S½N½, S½;
Sec. 5, NW¼NE¼, S½NE¼, NW¼, S½;
Secs. 6 to 11, inclusive;
Sec. 12, N½,SW¼, N½SE¼;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16;
Sec. 17, N½;
Sec. 18, N½.
T. 24 N., R. 20 E.,
Sec. 31, W½, S½SE¼;
Sec. 32, S½SW¼, SW¼SE¼;
Sec. 34, E½SE¼;
Sec. 35, S½;
Sec. 36.
T. 23 N., R. 21 E.,
Sec. 1;
Sec. 2, N½, N½S½;
Sec. 3, N½, SW¼, N½SE¼, SW¼SE¼;
Secs. 4 to 6, inclusive;
Sec. 7, N½, N½S½;
Sec. 8, N½, N½S½;
Sec. 9, N½, N½S½;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 12, E½;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, E½;
Sec. 36, N½NE¼.
T. 24 N., R. 21 E.,
Sec. 25, SW¼;
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Secs. 31 to 35, inclusive;
Sec. 36, S½NE¼, W½, SE¼.
T. 22 N., R. 22 E.,
Sec. 1, 2;
Sec. 3, E½;
Sec. 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 23 N., R. 22 E.,
Sec. 4, W½;
Secs. 5 to 8, inclusive;
Sec. 9, W½;
Sec. 16, W½;
Secs. 17 to 23, inclusive;
Sec. 24, SW¼;
Secs. 25 to 30, inclusive;
Sec. 31, N½, N½S½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 33, N½N½;
Sec. 34, N½, N½SW¼, SE¼;
Sec. 35, 36.
T. 24 N., R. 22 E.,
Sec. 31, S½N½, S½;
Sec. 32, S½N½, S½;
Sec. 33, S½NW¼, SW¼.
T. 23 N., R. 23 E.,
Sec. 28, SW¼NW¼, W½SW¼;
Sec. 29, S½N½, S½;
Sec. 30, S½N½, S½;
Sec. 31, 32;
Sec. 33, W½W½.

The areas described are located in Fergus, Blaine, Chouteau, and Phillips Counties.

Dated: April 2, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-8354 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-DN-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-551; RM-7015]

Radio Broadcasting Services; Clarksdale and Water Valley, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 268C3 for Channel 269A at Clarksdale, Mississippi, and modifies the license for Station WWUN(FM), Channel 269A, to specify operation on the higher class channel, in response to a petition filed by Sunflower Broadcasting Co., Inc. The coordinates for Channel 268C3 are 34-18-00 and 90-32-30. To accommodate the substitution at Clarksdale, it is necessary to substitute Channel 288A for 268A at Water Valley, Mississippi. The coordinates for Channel 288A are 34-07-14 and 89-36-38. In accordance with Commission policy, the applicant for Channel 268A at Water Valley will retain filing protection when it amends to specify Channel 288A. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 20, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-551, adopted March 27, 1991, and released April 5, 1991. 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. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center (202) 452-1422, 1714 21st Street, NW. Washington, DC. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi is amended by removing Channel 269A and adding Channel 268C3 at Clarksdale and by removing Channel 268A and adding Channel 268A at Water Valley.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-8454 Filed 4-9-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-533; RM-7529]

Radio Broadcasting Services; Florence, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Coast Radio Broadcasting, Inc., allots Channel 295A to Florence, Oregon, as that community's second local FM service. See 55 FR 47780, November 5, 1990. Channel 295A can be allotted to Florence in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for Channel 295A at Florence are North Latitude 43-58-06 and West Longitude 124-06-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 20, 1991. The window period for filing applications will open on May 21, 1991, and close on June 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-533, adopted March 27, 1991, and released April 5, 1991. 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. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 295A at Florence.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-8455 Filed 4-9-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 900258-1045]

RIN 0648-AD06

Groundfish of the Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule repealing the vessel registration requirements for the groundfish hook-and-line fishery in the Gulf of Alaska. This action is necessary to remove regulatory requirements that no longer serve a useful purpose. This action is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), (907) 871-7230.

ADDRESSES: Copies of the environmental assessment/regulatory impact review (EA/RIR) are available from Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska 99802.

SUPPLEMENTARY INFORMATION:

Background

Section 672.6 sets forth vessel registration requirements for the groundfish hook-and-line fishery in the Gulf of Alaska. An interim final rule (55 FR 12832; April 6, 1990) suspended § 672.6 for 180 days from April 1, 1990, through September 28, 1990. The interim final rule stated the reasons for repealing the registration requirements and requested comments on the permanent repeal of the requirements. No comments were received. This final rule makes the suspension permanent by removing § 672.6.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has determined that the area registration requirement for vessels fishing for groundfish with hook-and-line gear is no longer necessary for conserving and managing the groundfish fishery off Alaska, and has determined that this final rule is consistent with the Magnuson Fishery Conservation and Management Act.

The Alaska Region, NMFS, prepared an EA for this rule and the Assistant Administrator concluded that no significant impact on the environment will result by rescinding the requirement for area registration.

The Assistant Administrator determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 and accordingly, preparation of a regulatory impact analysis is not required. This determination is based on the socioeconomic impacts discussed in the EA/RIR prepared by the Alaska Region, NMFS.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic effect on a substantial number of small entities. Accordingly, preparation of a final regulatory flexibility analysis was not required.

This rule rescinds a collection of information requirement equal to a total burden to the fishery of 93 hours per year.

Because this final rule relieves a regulatory restriction, under the Administrative Procedure Act (5 U.S.C. 553(d)(1)), it can be and is being made effective immediately.

NOAA has determined that this final rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executiv Order 12612.

List of Subjects in 50 CFR Part 672

Fisheries.

Dated: April 4, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 672.6 [Removed]

2. Section 672.6 is removed and reserved.

[FR Doc. 91–8379 Filed 4–5–91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 69
Wednesday, April 10, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-91-003]

Amendment to the Cotton Research and Promotion Order

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Cotton Research and Promotion Order to provide for: (1) Importer representation on the Cotton Board; (2) the assessment of imported cotton and cotton products; (3) increasing the amount the Secretary of Agriculture can be reimbursed for conduct of a referendum from $200,000 to $300,000; (4) reimbursing government agencies who assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

The provisions of the Cotton Research and Promotion Act Amendments of 1990 are to be implemented by an amendment to the Cotton Research and Promotion Order. These amendments are proposed in accordance with the Cotton Research and Promotion Act Amendments of 1990 and will not become effective unless approved in a referendum to be held in accordance with the requirements of that act.

The Agricultural Marketing Service (AMS) is requesting comments concerning the proposed amendments.

DATES: Written comments concerning the proposed rule must be sent in triplicate and received no later than May 10, 1991.

ADDRESSES: Written comments should be sent to: Craig Shackelford, USDA, AMS, Cotton Division; P.O. Box 96456; room 2641–S; Washington, DC 20090–6456. All comments will be made available for public inspection at the office of the docket clerk during regular business hours. All comments should reference the date and page of the Federal Register publication. In addition, comments concerning the information collection requirements should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention Desk Officer for Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford (202) 447–2259.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a non-major rule under Executive Order 12291 since it does not meet the criteria for a major regulatory action contained in that order.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this proposed action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 35,000 producers and 650 collecting handlers who are presently subject to the Cotton Research and Promotion Order. There are also an estimated 10,000 importers that would become subject to the order. The majority of these producers, handlers and importers would be classified as small businesses under the criteria established by the Small Business Administration.

Under the proposed order refunds would be eliminated. Therefore it is estimated $41,075,853, for 1991, collected by handlers from producers would not be subject to refunds. At current refund rates of approximately 34 percent, $13,965,790 of the estimated $41,075,853 would not be subject to refunds. The economic impact of the proposed elimination of refunds is not expected to be significant. It is expected that assessments from imports would total $6,785,816 including reimbursements and that the total program would generate an estimated total of $47,861,669 based on 1991 forecast. The economic impact of an assessment on importers is not expected to be significant. The economic impact of the other proposed changes to the order as described in the preamble is also not expected to be significant. Furthermore, the Research and Promotion program is expected to benefit producers, handlers and importers by expanding and maintaining new and existing markets.

The proposed order also imposes reporting and recordkeeping burdens on importers. This burden should average less than .25 hours per year. Therefore, the economic impact is not expected to be significant.

Accordingly, 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.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. chapter 35) and section 3504(h) of the PRA, the information collection and recordkeeping requirements for domestic handlers and producers contained in this subpart, and the domestic handler reporting and refund application forms used by the Board under the information collection provisions and the recordkeeping requirements were previously approved by OMB and assigned control number 0581–0115 under the PRA.

Implementation of the provisions of the Cotton Research and Promotion Act Amendments of 1990 would require information collection requirements for importers comparable to existing requirements under the Order. Based on comparable Research and Promotion programs, it would require approximately 10 minutes for an importer to complete a reporting form and approximately 10 minutes to complete a reimbursement application. There would be an estimated 1,000 importers subject to these information collection requirements. Reporting forms and applications would be filed on a monthly basis yielding an estimated annual burden of 4080 hours. Importers would be expected to maintain and make available to the Secretary such books and records as necessary to carry out the provisions of the order and regulations. Importers would be required to retain such records for at least two years beyond the marketing year of their applicability.

In addition, importer organizations may request the Secretary for certification of eligibility to participate in nominating members to represent cotton importers on the Cotton Board. It is estimated that two organizations will

respond with an average reporting burden of two hours per response.

Producers and importers would also have an opportunity to submit referendum ballots. The estimated number of respondents for this form is 10,000 with an estimated average reporting burden .10 hours per response.

Individual producers and importers nominated for the Board would be required to submit a membership background information sheet. Information sheets have been previously approved by OMB and assigned OMB control number 0505–0001. The estimated number of respondents is 32 per year. Each respondent would submit one response when nominated, with an estimated average reporting burden of 0.5 hours per response.

Comments concerning the information collection requirements contained in this action should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

This proposal would amend the Cotton Research and Promotion Order to provide for: (1) Importer representation on the Cotton Board by an appropriate number of persons, as established by the Secretary of Agriculture, who import cotton and/or cotton products into the United States and are selected by the Secretary of Agriculture from nominations submitted by importer organizations certified by the Secretary of Agriculture; (2) assessments on imported cotton and products containing cotton at a rate determined in the same manner as for U.S. cotton. For supplemental assessments a value would be placed on the cotton content of imported cotton and cotton products based on an average of current and or historical cotton prices. It is anticipated that the value of imported cotton would be set annually based on a 12 month average of prices received by domestic producers. In addition, conversion factors would be used to determine the cotton content of imported products; (3) increasing the amount that the Secretary of Agriculture can be reimbursed for conducting any referendum from $200,000 to $300,000; (4) reimbursement to agencies of the federal government that assist in administering the import provisions for a reasonable amount of the expenses incurred by the agency in connection therewith; and (5) termination of the producer's right to demand a refund of assessments. In addition, the authority citation for part 1205 is amended for clarity.

These amendments are proposed in accordance with the Cotton Research and Promotion Act Amendments of 1990 (subtitle G of title XIX of the Food, Agriculture, Conservation and Trade Act of 1990, Pub. L. 101–624, November 28, 1990) which amended the Cotton Research and Promotion Act (7 U.S.C. 2101 *et. seq.*) The Cotton Research and Promotion Act Amendments of 1990 further require the Secretary to conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, and persons who are importers of cotton and who, during a 12 month period ending not later than 90 days prior to the conduct of the referendum under this section, imported a quantity of cotton with a value or weight in excess of the de minimis quantity, if any, established by the Secretary. The referendum is for the purpose of determining if a majority of those voting approve the proposed amendment to the order issued by the Secretary. Such a referendum will be conducted on a date to be announced by the Secretary in accordance with the Cotton Research and Promotion Act Amendments of 1990. In addition a review will be conducted once every five years in accordance with the requirements of the Cotton Research and promotion Act Amendments of 1990 by the Secretary to ascertain whether a referendum is needed to determine whether producers and importers favor or disfavor this proposed amendment to the order. Also in accordance with the 1990 amendments if the Secretary does not provide for a referendum one may be conducted upon the request of a requisite number of producers and importers. AMS is requesting public comment on these amendments.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and Recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority for part 1205 continues to read as follows:

Authority: Cotton Research and Promotion Act, as amended; 7 U.S.C. 2101–2118.

2. Section 1205.302 is revised to read as follows:

§ 1205.302 Act.

The term "Act" means the Cotton Research and Promotion Act, as amended (7 U.S.C. 2101–2118; 89–502, 80 Stat. 279, as amended).

3. Section 1205.304 is revised to read as follows:

§ 1205.304 Cotton.

Cotton means all upland cotton harvested in the United States, and, except as used in §§ 1205.311, and 1205.335, includes cottonseed of such cotton and the products derived from such cotton and its seed, and imports of upland cotton, including the upland cotton content of the products derived thereof. The term "cotton" shall not, however, include any entry of imported cotton by an importer which has a value or weight less than a de minimis amount established in regulations issued by the Secretary and industrial products as the Secretary determines are not made readily available to the consumer through normal marketing channels.

§ 1205.305 [Redesignated as § 1205.307]

4. Section 1205.305 "Fiscal Period" is redesignated as § 1205.307

§ 1205.306 [Redesignated as § 1205.308]

5. Section 1205.306 "Cotton Board" is redesignated as § 1205.308.

6. Section 1205.305 "Upland cotton" is added to read as follows:

§ 1205.305 Upland cotton.

Upland cotton means all cultivated varieties of the species Gossypium hirsutum L.

7. Section 1205.306 "Bale" is added to read as follows

§ 1205.306 Bale.

Except as used in § 1205.322 *Bale* means the package of lint cotton produced at a cotton gin or the amount of processed cotton in a manufactured product that is equivalent to a 500 pound bale of lint cotton.

§ 1205.307 [Redesignated as § 1205.309]

8. Section 1205.307 "Producer" is redesignated as § 1205.309.

§ 1205.308 [Redesignated as § 1205.311]

9. Section 1205.308 "Handler" is redesignated as § 1205.311.

§ 1205.309 [Redesignated as § 1205.312]

10. Section 1205.309 "Handle" is redesignated as § 1205.312.

11. Section 1205.309 "Importer" is added to read as follows:

§ 1205.309 Importer.

Importer means any person who enters or withdraws from warehouse,

cotton for consumption in the customs territory of the United States and the term import means any such entry.

§ 1205.310 [Redesignated as § 1205.313]

12. Section 1205.310 "United States" is redesignated as § 1205.313.

§ 1205.311 [Redesignated as § 1205.314]

13. Section 1205.311 "Cotton Producing State" is redesignated as § 1205.314.

§ 1205.312 [Redesignated as § 1205.315]

14. Section 1205.312 "Marketing" is redesignated as § 1205.315.

15. Section 1205.313 "Cotton Producer Organization" is redesignated as § 1205.316 and revised to read as follows:

§ 1205.316 Cotton-producer organization.

"Cotton-producer organization" means any organization which has been certified by the Secretary pursuant to § 1205.341.

§ 1205.314 [Redesignated as § 1205.318]

16. Section 1205.314 "Contracting organization or association" is redesignated as § 1205.318.

§ 1205.315 [Redesignated as § 1205.319]

17. Section 1205.315 "Cotton-producing region" is redesignated as § 1205.319.

§ 1205.316 [Redesignated as § 1205.320]

18. Section 1205.316 "Marketing year" is redesignated as § 1205.320.

§ 1205.321 [Redesignated from § 1205.317]

19. Section 1205.317 "Part and subpart" is redesignated as § 1205.321.

20. Section 1205.317 is added to read as follows:

§ 1205.317 Cotton-importer organization.

"Cotton-importer organization" means any organization which has been certified by the Secretary pursuant to § 1205.343.

§ 1205.318 [Redesignated as § 1205.322]

21. Section 1205.318 "Establishment and membership" is redesignated as § 1205.322 and revised to read as follows:

§ 1205.322 Establishment and membership.

(a) There is hereby established a Cotton Board composed of:

(1) Representatives of cotton producers, each of whom shall have an alternate, selected by the Secretary from nominations submitted by eligible producer organizations within a cotton producing state, as certified pursuant to § 1205.341, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible organizations, from nominations made by producers in a manner authorized by the Secretary, and

(2) Representatives of cotton importers, each of whom shall have an alternate, selected by the Secretary from nominations submitted by eligible importer organizations, as certified pursuant to § 1205.342, or, if the Secretary determines that a substantial number of importers are not members of or their interests are not represented by any such eligible organization, from nominations made by importers in a manner authorized by the Secretary.

(b) Membership on the Cotton Board shall be represented for:

(1) Each cotton-producing state by at least one member and by an additional member for each 1 million bales or major fraction (more than half) thereof of cotton produced in the state and marketed above 1 million bales during the period specified in the regulations for determining Board membership, and

(2) Cotton importers by one member for each 1 million bales or major fraction (more than one-half) thereof of imported cotton subject to assessment during the period specified in the regulations for determining board membership. The number of cotton importers represented on the Cotton Board shall in no case be less than two and the percentage of importers represented on the Board shall in no case be greater than 20 percent.

22. Section 1205.319 "Term of office" is redesignated as § 1205.323 and revised to read as follows:

§ 1205.323 Term of office.

All members of the Board and their alternates shall serve for terms of three years. Each member and alternate shall continue to serve until a successor is selected and has qualified.

23. Section 1205.320 "Nominations" is redesignated as § 1205.324 and revised to read as follows:

§ 1205.324 Nominations.

All nominations authorized under § 1205.322 shall be made within such a period of time and in such a manner as the Secretary shall prescribe. The eligible producer organizations within each cotton-producing state, as certified pursuant to § 1205.341, shall caucus for the purpose of jointly nominating two qualified persons for each member and each alternate member to be selected to represent the cotton producers of such cotton-producing state. The eligible importer organizations, as certified pursuant to § 1205.342, shall caucus for the purpose of jointly nominating two qualified persons for each member and alternate member to be selected to represent cotton importers. If joint agreement is not reached with respect to the nominees for any such position, each such organization may nominate two qualified persons for any position on which there is no agreement.

24. Section 1205.321 "Selection" is redesignated as § 1205.325 and revised to read as follows:

§ 1205.325 Selection.

From the nominations made pursuant to §§ 1205.322 and 1205.324, the Secretary shall select the members of the Board and an alternate for each member on the basis of representation provided for in §§ 1205.322 and 1205.323.

§ 1205.322 [Redesignated as § 1205.326]

25. Section 1205.322 "Acceptance" is redesignated as § 1205.326.

26. Section 1205.323 "Vacancies" is redesignated as § 1205.327 and revised to read as follows:

§ 1205.327 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the Board to qualify, or in the event of death, removal, resignation or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and selected in the manner specified in §§ 1205.322, 1205.324 and 1205.325.

27. Section 1205.324 "Alternate members" is redesignated as § 1205.328 and revised to read as follows:

§ 1205.328 Alternate members.

An alternate member of the Board, during the absence of the member for whom the person is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of death, removal, resignation or disqualification of a member, the alternate for the member shall act for the member until a successor for such member is selected and qualified. In the event that both a producer member of the Board and the member's alternate are unable to attend a meeting, the Board may designate any other alternate member from the same cotton-producing state or region to serve in such member's place and stead at such meeting. In the event that both an importer member and the member's alternate are unable to attend a meeting, the Board may designate any other importer alternate member to serve in such member's place and stead at such meeting.

§ 1205.325 [Redesignated as § 1205.329]

28. Section 1205.325 "Procedure" is redesignated as § 1205.329.

§ 1205.326 [Redesignated as § 1205.330]

29. Section 1205.326 "Compensation and reimbursement" is redesignated as § 1205.330.

§ 1205.327 [Redesignated as § 1205.331]

30. Section 1205.327 "Powers" is redesignated as § 1205.331 and paragraph (b) is revised to read as follows:

§ 1205.331 Powers.

* * * * *

(b) Subject to the approval of the Secretary, to make rules and regulations to effectuate the terms and provisions of this subpart including the designation of the handler or importer responsible for collecting the assessments authorized by § 1205.335, which may be different handlers or importers or classes of handlers or importers to recognize differences in marketing practices or procedures in any state or area;

* * * * *

31. Section 1205.328 "Duties" is redesignated as § 1205.332 and is amended by revising the first two sentences of paragraph (c) and by revising paragraph (i) to read as follows:

§ 1205.332 Duties.

* * * * *

(c) With the approval of the Secretary, to enter into contracts or agreements for the development and submission to it of research and promotion plans or projects authorized by § 1205.333, and for the carrying out of such plans or projects when approved by the Secretary, and for the payment of costs thereof with funds collected pursuant to § 1205.335, with an organization whose governing body consists of cotton producers selected by the cotton-producer organizations certified by the Secretary under § 1205.341, in such manner that the producers of each cotton-producing state will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such state bears to the total marketed by the producers of all cotton-producing states. Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. * * *

* * * * *

(i) To act as intermediary between the Secretary and any producer, importer or handler.

* * * * *

32. Section 1205.329 "Research and promotion" is redesignated as § 1205.333 and the introductory text is revised to read as follows:

§ 1205.333 Research and promotion.

The Cotton Board shall in the manner prescribed in § 1205.332(c) establish or provide for:

* * * * *

33. Section 1205.330 "Expenses" is redesignated as § 1205.334 and is amended by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 1205.334 Expenses.

* * * * *

(b) The Board shall reimburse the Secretary—

(1) for expenses up to $300,000 incurred by the Secretary in connection with any referendum conducted under the Act and

(2) for expenses incurred by the Department of Agriculture for administrative and supervisory costs up to five employee years annually.

(c) The Board shall reimburse any agency of the United States Government that assists in administering the import provisions of the Order for a reasonable amount of the expenses incurred by the agency in connection therewith.

(d) The funds to cover such expenses incurred under paragraphs (a), (b), and (c) of this section shall be paid from assessments received pursuant to § 1205.335.

34. Section 1205.331 "Assessments" is redesignated as § 1205.335 and revised to read as follows:

§ 1205.335 Assessments.

(a) Each cotton producer or other person for whom cotton is being handled shall pay to the handler thereof designated by the Cotton Board pursuant to regulations issued by the Secretary and such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, at such times and in such manner as prescribed by regulations issued by the Secretary, assessments as prescribed in paragraph (a) (1) and (2) of this section:

(1) An assessment at the rate of $1 per bale of cotton handled.

(2) A supplemental assessment on cotton handled which shall not exceed one percent of the value of such cotton as determined by the Cotton Board and approved by the Secretary and published in the Cotton Board rules and regulations. The rate of the supplemental assessment may be increased or decreased by the Cotton Board with the approval of the Secretary. The Secretary shall prescribe by regulation whether the assessment rate shall be levied on

(i) The current value of the cotton, or

(ii) An average valve determined from current and/or historical cotton prices and converted to a fixed amount for each bale.

(b) Each importer of cotton shall pay to the Cotton Board through the U.S. Customs Service, or in such other manner and at such times as prescribed by regulations issued by the Secretary, assessments as prescribed in paragraph (b) (1) and (2) of this section:

(1) An assessment of $11 per bale of cotton imported or equivalent thereof for cotton products.

(2) A supplemental assessment on each bale of cotton imported, or equivalent thereof for cotton products, which shall not exceed one percent of the value of such cotton as determined by the Cotton Board and approved by the Secretary and published in the Cotton Board rules and regulations. The rate of the supplemental assessment on imported cotton shall be the same as that paid on cotton produced in the United States. The rate of the supplemental assessment may be increased or decreased by the Cotton Board with the approval of the Secretary. The Secretary shall prescribe by regulation the value of imported cotton and cotton content of cotton products based on an average of current and/or historical cotton prices.

(c) Assessments collected under this section are to be used for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds reasonable and likely to be incurred by the Cotton Board and the Secretary under this subpart.

35. Section 1205.332 "Producer refunds" is redesignated as Section 1205.336 and revised to read as follows:

§ 1205.336 "Importer reimbursements".

Any cotton importer against whose imports any assessment is made and collected under the authority of the act who has reason to believe that a portion of such assessment was made on U.S. produced cotton or cotton other than Upland cotton shall have the right to demand and receive from the Cotton

Board a reimbursement of that portion of the assessment upon submission of proof satisfactory to the Board that the importer.

(1) Paid the assessment and

(2) That the cotton was produced in the U.S. or is other than Upland cotton.

Any such demand shall be made by the importer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary. Such time period shall provide the importer at least 90 days from the date of collection to submit the reimbursement form to the Board. Any such reimbursement shall be made within 60 days after demand therefor.

§ 1205.333 Redesignated as § 1205.337.

36. Section 1205.333 "Influencing governmental action" is redesignated as § 1205.337.

37. Section 1205.334 "Reports" is redesignated as § 1205.338 and revised to read as follows:

§ 1205.338 Reports.

Each handler and importer subject to this subpart and importers of de minimis amounts of cotton may be required to report to the Cotton Board periodically such information as is required by regulations, which may include but not be limited to the following:

(a) Number of bales handled or imported;

(b) Number of bales on which an assessment was collected;

(c) Name and address of person from whom the handler or importer has collected the assessments on each bale handled;

(d) Date collection was made on each bale handled or imported.

38. Section 1205.335 "Books and records" is redesignated as Section 1205.339 and revised to read as follows:

§ 1205.339 Books and records.

Each handler and importer subject to this subpart and importers of de minimis amounts of cotton shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

39. Section 1205.336 "Confidential treatment" is redesignated as § 1205.340 and revised to read as follows:

§ 1205.340 Confidential treatment.

All information obtained from such books, records or reports shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this § 1205.340 shall be deemed to prohibit—

(a) The issuance of general statements based upon the reports of a number of handlers or importers subject to this subpart or importers of de minimis amounts of cotton, which statements do not identify the information furnished by any person, or

(b) The publication by the direction of the Secretary, of the name of any person violating this subpart, together with a statement of the particular provisions of this subpart violated by such person.

40. Section 1205.337 "Certification of cotton producer organizations" is redesignated as § 1205.341 and the concluding text is revised to read as follows:

§ 1205.341 Certification of cotton producer organizations.

* * * * *

The primary consideration in determining the eligibility of an organization shall be whether its cotton producer membership consists of a sufficiently large number of cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. Any cotton producer organization found eligible by the Secretary under this § 1205.341 will be certified by the Secretary, and the Secretary's determination as to eligibility is final.

41. Section 1205.338 "Suspension and termination" is redesignated as § 1205.343 and revised to read as follows:

§ 1205.343 Suspension and termination.

(a) The Secretary will, whenever the Secretary finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, to determine whether cotton producers and importers favor the suspension or termination of this subpart, and the Secretary shall suspend or terminate such subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of producers and importers of cotton voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of cotton, and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.

42. Section 1205.339 "Proceedings after termination" is redesignated as Section 1205.345, and paragraphs (b) and (c) are revised to read as follows:

§ 1205.345 Proceedings after termination.

* * * * *

(b) The said trustees shall

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Cotton Board under any contracts or agreements entered into by it pursuant to § 1205.332(c);

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all funds, property and claims vested in the Board or the trustees pursuant to this § 1205.345.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to this § 1205.345 shall be subject to the same obligation imposed upon the Cotton Board and upon the trustees.

* * * * *

§ 1205.340 [Redesignated as § 1205.346]

43. Section 1205.340 "Effect of termination or amendment" is redesignated as § 1205.346.

§ 1205.341 [Redesignated as § 1205.347]

44. Section 1205.341 "Personal liability" is redesignated as § 1205.347.

45. A new § 1205.342 "Certification of cotton importer organizations" is added to read as follows:

§ 1205.342 Certification of cotton importer organizations.

Any importer organization may request the Secretary for certification of eligibility to participate in nominating

members and alternate members to represent cotton importers on the Cotton Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Nature and size of organization's active membership, proportion of total active membership accounted for by cotton importers and the total amount of cotton imported by the organization's cotton importer members;

(b) The extent to which the cotton importer membership of such organization is represented in setting the organization's policies;

(c) Evidence of stability and permanency of the organization;

(d) Sources from which the organization's operating funds are derived;

(e) Functions of the organization; and

(f) The organization's ability and willingness to further the aims and objectives of the Act.

The primary consideration in determining the eligibility of an organization shall be whether its membership consists of a sufficiently large number of cotton importers who import a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. Any importer organization found eligible by the Secretary under this § 1205.342 will be certified by the Secretary, and the Secretary's determination as to eligibility is final.

§ 1205.342 [Redesignated as § 1205.348]

46. Section 1205.342 "Separability" is redesignated as § 1205.348.

Dated: April 3, 1991.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91-8201 Filed 4-9-91; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Modification of Airport Radar Service Area in the Vicinity of Islip, NY; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is proposing to modify the Islip Airport Radar Service Area (ARSA) by releasing that amount of airspace not required to contain aircraft operations conducted to and from the Long Island MacArthur Airport, Islip, NY, back to the public. An informal airspace meeting has been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and to provide interested persons an opportunity to discuss objections to the proposal. All comments received from such meetings will be considered prior to the issuance of a Notice of Proposed Rulemaking (NPRM).

Comments must be received on or before June 10, 1991.

DATES: Meeting time and date: 7 p.m. local, May 8, 1991.

Place: Holiday Inn at MacArthur Airport; 3845 Veterans Memorial Highway, Ronkonkoma, NY 11799.

ADDRESSES: Send or deliver comments in duplicate to: Edward R. Trudeau, Manager, System Management Branch, AEA-530, Islip, ARSA Modification, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone; (718) 917-0857.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA Eastern Region. Representatives from the FAA will present a formal briefing on problems and proposals for change that have been received from the public. All other participants will be given an opportunity to make a presentation.

(b) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the team to allocate an appropriate amount of time for each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(c) Any person who wishes to present a position paper to the Team, pertinent to the topic of the modification of the Islip ARSA, may do so. Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(d) The meeting will not be formally recorded, however, informal tape recordings of presentations will be made to ensure that each respondents comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Islip ARSA modification will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until June 10, 1991.

Agenda

Opening Remarks and Discussion of Meeting Procedures
Briefing on Identified Problems and Change Proposals
Public Presentations
Closing Comments

Issued in Jamaica, New York, on March 19, 1991.

John S. Walker,

Acting Manager, Air Traffic Division.

[FR Doc. 91-8306 Filed 4-9-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[EE-20-91]

RIN 1545-AP62

Membership in a Retirement System—State and Local Government Employees; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing relating to rules for determining whether an employee of a State and local government entity is a member of a retirement system of that entity for purposes of determining whether the employee's wages are subject to tax under the Federal Insurance Contribution Act (FICA).

DATES: The public hearing will be held on May 20, 1991, beginning at 10 a.m. Outlines of oral comments must be received by May 6, 1991.

ADDRESSES: The public hearing will be held on the Second Floor, room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (EE–20–91), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 3121(b)(7)(F) of the Internal Revenue Code. The proposed regulations appear in the proposed rules section of this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Thursday, May 6, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge of the hearing.

By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91–8174 Filed 4–8–91; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 31

[EE–20–91]

RIN 1545–AP62

Membership in a Retirement System—State and Local Government Employees

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 3121(b)(7)(F) of the Internal Revenue Code. The proposed regulations contain rules for determining whether an employee of a State and local government entity is a member of a retirement system of that entity for purposes of determining whether the employee's wages are subject to tax under the Federal Insurance Contribution Act (FICA). The proposed regulations reflect the enactment of section 3121(b)(7)(F) by the Omnibus Budget Reconciliation Act of 1990. The proposed regulations will provide State and local government entities with guidance necessary to comply with the law and will affect State and local government entities, their retirement systems and certain of their employees.

DATES: Written comments and requests to speak (with an outline of oral comments) at the public hearing must be received by May 10, 1991. See notice of hearing published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments and requests to speak (with an outline of oral comments) at the public hearing to: Internal Revenue Service, P.O. Box 7064, Ben Franklin Station, Attention: CC: CORP:T:R (EE–20–91), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Robin Ehrenberg (202) 377–9372 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Statutory Authority

This document contains proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 3121(b)(7)(F) of the Internal Revenue Code of 1986 (Code). The proposed regulations reflect the enactment of section 3121(b)(7)(F) by section 11332 of the Omnibus Budget Reconciliation Act of 1990, Public Law No. 101–508, 104 Stat. 1388 (OBRA 1990). These regulations are to be issued under the authority contained in sections 3121 and 7805 of the Code.

Background

Under prior law, service as an employee for a State or local government entity was generally not treated as employment for purposes of the Federal Insurance Contributions Act (FICA), and wages of such an employee were thus generally not subject to FICA tax, unless there was an agreement under section 218 of the Social Security Act in effect between the State and the Secretary of Health and Human Services covering the service. OBRA 1990 amended prior law by adding a new section 3121(b)(7)(F) to the Internal Revenue Code. Section 3121(b)(7)(F) generally expands the definition of "employment" for FICA tax purposes to include service performed after July 1, 1991, as an employee for a State or local government entity unless the employee is a "member of a retirement system" of such entity. Exceptions are provided for certain emergency workers, election workers, patients in hospitals and other individuals. The rule in section 3121(b)(7)(F) also does not affect prior-law exceptions from employment such as that provided for services performed by certain students employed in public schools, colleges and universities, and certain other groups.

OBRA 1990 made a similar change to corresponding provisions of the Social Security Act. Thus, service by an employee of a State or local government entity who is not a member of a retirement system of such entity after July 1, 1991, will generally be taken into account in determining the employee's eligibility for Social Security and Medicare benefits.

Overview of Regulations

1. Meaning of Retirement System

OBRA 1990 authorized the Secretary of the Treasury (in coordination with the Social Security Administration) to limit the definition of a "retirement system" as necessary to carry out the purposes of section 3121(b)(7)(F) and corresponding provisions of the Social Security Act. A major purpose of those sections is to ensure that service by employees of State and local government entities will be covered either under Social Security or under a public retirement system providing meaningful benefits.

This purpose would be frustrated if an employer could avoid payment of FICA taxes with respect to an employee by, for example, covering the employee under a plan that provided minimal retirement benefits. The proposed regulations therefore require that, in order for service in the employ of a State

or local government entity to qualify for the exception from employment under section 3121(b)(7), the employee must be a member of a retirement system that provides at least a minimum level of retirement benefits to that employee.

Under the proposed regulations, generally any retirement system that satisfies this minimum retirement benefit requirement may be treated as a retirement system for purposes of section 3121(b)(7)(F). Thus, for example, the fact that a retirement system is not a qualified plan under the Internal Revenue Code is not relevant. Furthermore, benefits provided through employee contributions are taken into account to the same extent as benefits provided through employer contributions. Thus, for example, under some circumstances a plan may be treated as a retirement system even if it is completely funded through elective or after-tax employee contributions.

The proposed regulations provide that a defined benefit retirement system maintained by a State or local government entity will generally satisfy the minimum retirement benefit requirement with respect to an employee if the employee has a total accrued benefit comparable to the basic retirement benefit the employee would have under Social Security, based on his or her total compensation and periods of service with the entity. Generally, early retirement benefits may not be taken into account in determining whether this requirement is satisfied. Similarly, a defined contribution retirement system will generally satisfy this requirement for a period within a plan year if an allocation equal to at least 7.5 percent of an employee's compensation for the period is made to his or her account.

The proposed regulations authorize the Commissioner to develop additional methods for determining whether a retirement system satisfies the minimum retirement benefit requirement besides those described above. Pursuant to this grant of authority, a proposed revenue procedure is being issued contemporaneously with this notice of proposed rulemaking, setting forth a number of safe harbor formulas for defined benefit retirement systems. A retirement system that uses one of these safe harbor formulas will be deemed to satisfy the minimum retirement benefit requirement with respect to all employees whose benefits are computed under the formula. For example, the revenue procedure provides that a retirement system that provides an annual retirement benefit beginning at age 65 that is equal to at least 1.5 percent of an employee's average compensation over his or her last three years of employment for every year of credited service will generally satisfy the minimum retirement benefit requirement.

The safe harbor formulas in the proposed revenue procedure were designed to produce a retirement benefit equivalent to the Primary Insurance Amount under Social Security for the average wage-earner. This formula-based approach was chosen in the proposed revenue procedure because it was recognized that an individual-by-individual approach alone would impose unnecessary administrative burdens on employers. The Treasury and Internal Revenue Service specifically request comments on the safe harbor formulas in the proposed revenue procedure and on any additional safe harbor formulas that may be appropriate.

In developing the minimum retirement benefit requirement and the related safe-harbor formulas in the proposed revenue procedure, a number of valuable ancillary benefits provided under the Social Security system were disregarded. These benefits include disability and survivor benefits and post-retirement cost-of-living increases in benefits. Thus, a retirement system does not have to provide these benefits, or to provide the actuarial equivalent of the value of these benefits, to an employee in order to satisfy the minimum retirement benefit requirement; similarly, these ancillary benefits cannot be taken into account in determining whether that requirement is met.

Of course, section 3121(b)(7)(F) has no application to service that is already covered under Social Security, e.g., under a voluntary agreement between the State and the Secretary of Health and Human Services, and the minimum retirement benefit requirement thus does not apply to benefits provided with respect to such service. However, an individual who is covered under Social Security with respect to service in one position is not necessarily treated as a member of a retirement system with respect to service in another position, since Social Security is not itself treated as a retirement system. Further, the fact that a retirement system does not satisfy the safe harbor formulas does not mean that the services of all participants in the system are subject to FICA. Rather, failure to provide minimum retirement benefits to a participant in a retirement system affects only that participant and has no effect on the status of any other participants as members of the retirement system.

The proposed regulations provide that the minimum retirement benefit requirement does not apply to defined benefit retirement systems in existence on November 5, 1990 (the date of enactment of OBRA 1990) for plan years beginning before January 1, 1993, unless coverage under the retirement system is materially increased or benefit levels are materially reduced. A special fresh-start testing method is also provided for such defined benefit retirement systems for plan years beginning after that date.

2. Meaning of Member

The legislative history of OBRA 1990 states that, except as otherwise provided in rules promulgated by the Secretary of the Treasury, rules similar to the rules promulgated under section 219 of the Internal Revenue Code that are used to determine whether an individual is an active participant in a retirement plan for purposes of contributing to an Individual Retirement Account are to apply in determining whether an employee is a "member" of a retirement system. Under the rules promulgated under section 219, an employee generally is not treated as a participant in a defined contribution plan unless and until the employee actually receives an allocation to his or her account under the plan. The proposed regulations generally apply this rule to both defined benefit and defined contribution retirement systems. Thus, under the proposed regulations, an employee is generally only treated as a member of a retirement system if he or she actually participates in the system and actually has an accrued benefit or actually receives an allocation sufficient to satisfy the minimum retirement benefit requirement. Allocations or accruals that are conditioned on the satisfaction of service, employee election or other requirements are generally not taken into account for this purpose unless and until the employee has actually satisfied those requirements.

In order to provide certainty at the beginning of a calendar year regarding whether an employee will be treated as a member of a retirement system for that year, and to minimize administrative burdens on employers, the proposed regulations provide an alternative lookback rule for determining whether an employee is a member of a retirement system, in addition to the general rule described above. Under the alternative lookback rule, an employee may be treated as a member of a retirement system for a calendar year if he or she was a member of the retirement system (as defined

above) on the last day of the plan year ending in the previous calendar year. For example, under the general rule an employee generally is not treated as a member of a retirement system that conditions participation on the performance of 1,000 hours of service until the 1,000 hours have actually been performed. Under the alternative lookback method, however, if the employee performed 1,000 hours of service in the plan year ending in the prior calendar year, and the retirement system satisfied the minimum retirement benefit requirement for the year as a result, he or she may generally be treated as a member of the retirement system throughout the current calendar year even if no benefit accrual or allocation occurs during that calendar year. If the alternative lookback rule is used, it must be used consistently from year to year with respect to all employees of a State, political subdivision or instrumentality thereof who are covered under a particular retirement system.

Under the alternative lookback rule, a reasonable belief test is substituted for the lookback test in an employee's first and last years of participation. Thus, for example, a new employee who is admitted to a plan on the day he or she is hired but will not accrue a benefit for the first year of participation unless he or she is still employed on the last day of the plan year may be treated as a member of the retirement system throughout the plan year if it is reasonable to believe that the employee will in fact be present at that time and will accrue a benefit sufficient to satisfy the minimum retirement benefit requirement.

The proposed regulations also provide special transition rules for the period July 1 through December 31, 1991. Under these rules, an employee may generally be treated as a member of a retirement system if it is reasonable to believe that he or she will become a member by the end of the plan year. Thus, for example, an employer that expects to establish a plan covering a group of employees who are currently not covered by its retirement system may be able to treat those employees as members of a retirement system for the remainder of 1991 even if establishment of the plan requires legislation which cannot be enacted until 1992.

Part-time, seasonal and temporary employees make up a disproportionate number of the State and local government employees who are not currently covered either under a public retirement system or under a voluntary coverage agreement with the Secretary of Health and Human Services. See, for example, U.S. Department of Health and Human Services, Office of Inspector General, Office of Audit, Social Security Coverage for State and Local Government Employees not Participating in Public Employees' Retirement Systems Would Benefit These Workers and Enhance the Trust Funds (September 1987). These employees generally have higher turnover rates than comparable permanent and full-time employees. Although an individual must generally work for 40 quarters in order to become "fully insured" and thus entitled to (i.e., vested in) his or her basic retirement benefit under Social Security, most part-time, seasonal and temporary employees would become vested in their Social Security benefits if they were covered by the Social Security system, even if they changed jobs frequently during their working lives. This is because, under the Social Security system, credited service continues to accumulate as an employee moves from job to job and moves in and out of the workforce, i.e., Social Security benefits are fully portable. By contrast, part-time, seasonal and temporary employees covered under a public retirement system that does not provide the full portability feature of Social Security face a significant risk that they will never vest in any of the benefits they accrue under the system.

Because retirement systems maintained by State and local government entities generally lack the full portability feature of Social Security, a requirement that part-time, seasonal and temporary employees be vested in any retirement benefits relied on to meet the minimum retirement benefit requirement is necessary to provide retirement income protection that is comparable to the protection provided under the Social Security system. The proposed regulations therefore require that, in order for such an employee to be treated as a member of a retirement system, he or she must be 100-percent vested in the retirement benefit used to satisfy the minimum retirement benefit requirement. Comments are requested on the definition of part-time, seasonal and temporary employee as used in the proposed regulations, in particular, those situations in which the possibility of renewal of a contract of a temporary employee should be taken into account in determining whether such an individual is essentially a full-time employee.

3. Re-hired Annuitants

The proposed regulations provide that re-hired annuitants may be treated as a member of a retirement system even if they do not actually receive any additional accruals or allocation to their account during a year and even if they do not have a total accrued benefit under the system sufficient to satisfy the minimum retirement benefit requirement. For this purpose, a re-hired annuitant is defined as any former participant of a State or local retirement system who has previously retired from service with the current employer and is either in pay status under a retirement system maintained by this employer or has reached normal retirement age under such retirement system.

Coordination With Medicare

Under current law (section 3121(u)), service as an employee of a State or local government entity is generally treated as employment for purposes of the Medicare portion of FICA taxes, despite the general rule in section 3121(b)(7) excluding such service from the definition of employment. This rule applies only in the case of employees hired on or after April 1, 1986. No such grandfather rule exists under new section 3121(b)(7)(F). Thus, service by an employee that is treated as employment by reason of new section 3121(b)(7)(F) must be treated as employment for purposes of both the Social Security and the Medicare portion of FICA taxes, regardless of when the employee was hired.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending the issuance of final regulations. These regulations will be generally effective for services after July 1, 1991. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Appear at the Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held. Notice of the time, place, and date of the public hearing and other details relating thereto is published elsewhere in this issue of the Federal Register.

Drafting Information

The principal author of these proposed regulations is Robin Ehrenberg of the Office of Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes; Fishing vessels; Gambling; Income taxes; Penalties; Pensions; Railroad retirement; Reporting and recordkeeping requirements; Social security; Unemployment compensation.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME AT SOURCE

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR part 31 are as follows:

Paragraph 1. The authority citation for part 31 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Section 31.3121(b)(7)–2 also issued under 26 U.S.C. 3121(b)(7)(F).

Par. 2. A new section 31.3121(b)(7)–2 is added, to read as follows:

§ 31.3121(b)(7)–2 Service by employees who are not members of a public retirement system.

(a) *Table of contents.* This paragraph contains a listing of the major headings of this § 31.3121(b)(7)–2.

§ 31.3121(b)(7)–2 Service by employees who are not members of a public retirement system.

(a) *Table of contents.*
(b) *Introduction.*
(c) *General rule.*
(1) *Inclusion in employment of service by employees who are not members of a retirement system.*
(2) *Treatment of individuals employed in more than one position.*
(d) *Definition of qualified participant.*
(1) *General rule.*
(2) *Special rule for part-time, seasonal and temporary employees.*
(3) *Alternative lookback rule.*
(4) *Treatment of former participants.*
(e) *Definition of retirement system.*
(1) *Requirement that system provide retirement-type benefits.*
(2) *Requirement that system provide minimum level of benefits.*
(f) *Transition rules.*
(1) *Application of qualified participant rules during 1991.*
(2) *Additional transition rules for plans in existence on November 5, 1990.*

(b) *Introduction.* Under section 3121(b)(7)(F), wages of an employee of a State or local government after July 1, 1991, are generally subject to tax under FICA unless the employee is a member of a retirement system maintained by the State or local government entity. This § 31.3121(b)(7)–2 provides rules as to whether an employee is a "member of a retirement system". These rules generally treat an employee as a member of a retirement system if he or she participates in a system providing retirement benefits, and has an accrued benefit or receives an allocation under the system that is comparable to the benefits he or she would have or receive under Social Security. In the case of part-time, seasonal and temporary employees, this minimum retirement benefit is required to be nonforfeitable.

(c) *General rule*—(1) *Inclusion in employment of service by employees who are not members of a retirement system.* Except in the case of service described in section 3121(b)(7)(F) (i) through (v), the exception from employment under section 3121(b)(7) does not apply to service in the employ of a State or any political subdivision thereof, or of any instrumentality of one or more of the foregoing that is wholly owned thereby, after July 1, 1991, unless the employee is a member of a retirement system of such State, political subdivision or instrumentality at the time the service is performed. An employee is not a member of a retirement system at the time service is performed unless at that time he or she is a qualified participant (as defined in paragraph (d) of this section) in a retirement system that meets the requirements of paragraph (e) of this section with respect to that employee.

(2) *Treatment of individuals employed in more than one position.* Under section 3121(b)(7)(F), whether an employee is a member of a retirement system is determined on an entity-by-entity rather than a position-by-position basis. Thus, if an employee is a member of a retirement system with respect to service he or she performs in one position in the employ of a State, political subdivision or instrumentality thereof, the employee is treated as a member of a retirement system with respect to all service performed for the same State, political subdivision or instrumentality in any other positions. A State is a separate entity from its political subdivisions, and an instrumentality is a separate entity from the State or political subdivision by which it is owned for purposes of this rule. This rule is illustrated by the following examples:

Example 1. An individual is employed full-time by a county and is a qualified participant (as defined in paragraph (d) of this section) in its retirement system with regard to such employment. In addition to this full-time employment, the individual is employed part-time in another position with the same county. The part-time position is not covered by the county retirement system, however, and neither the service nor the compensation in the part-time position is considered in determining the employee's retirement benefit under the county retirement system. Nevertheless, if the retirement system satisfies the requirements of paragraph (e) of this section with respect to the individual, the exclusion from employment under section 3121(b)(7) applies to both the employee's full-time and part-time service with the county.

Example 2. An individual is employed full-time by a State and is a member of its retirement system. The individual is also employed part-time by a city located in the State, but does not participate in the city's retirement system. The services of the individual for the city are not excluded from employment under section 3121(b)(7), because the determination of whether services constitute employment for such purposes is made separately with respect to each political subdivision for which services are performed.

(d) *Definition of qualified participant*—(1) *General rule*—(i) *Defined benefit retirement systems.* Whether an employee is a qualified participant in a defined benefit retirement system is determined as services are performed. An employee is a qualified participant in a defined benefit retirement system (within the meaning of paragraph (e)(1) of this section) with respect to services performed on a given day if, on that day, he or she is or ever has been an actual participant in the retirement system and, on that day, he or she actually has a total accrued benefit under the retirement system that meets the minimum retirement benefit requirement of paragraph (e)(2) of this section. An employee cannot be treated as an actual participant or as actually having an accrued benefit for this purpose to the extent that such participation or benefit is subject to any conditions (other than vesting), such as a requirement that the employee attain a minimum age, perform a minimum period of service, or

make an election in order to participate, or be present at the end of the plan year in order to be credited with an accrual, that have not been satisfied. This rule is illustrated by the following examples:

Example 1. A State maintains a defined benefit plan that is a retirement system within the meaning of paragraph (e)(1) of this section. Under the terms of the plan, employees in positions covered by the plan must complete 6 months of service before becoming participants. The exception from employment in section 3121(b)(7) does not apply to services of an employee during the employee's 6 months of service prior to his or her initial entry into the plan. The same result occurs even if, upon the satisfaction of this service requirement, the employee is given credit under the plan for all service with the employer (i.e., if service is credited for the 6-month waiting period). This is true even if the employee makes a required contribution in order to gain the retroactive credit.

Example 2. A political subdivision maintains a defined benefit plan that is a retirement system within the meaning of paragraph (e)(1) of this section. Under the terms of the plan, service during a plan year is not credited for accrual purposes unless a participant has at least 1,000 hours of service during the year. Benefits that accrue only upon satisfaction of this 1,000 hour requirement may not be taken into account in determining whether an employee is a qualified participant in the plan before the 1,000 hour requirement is satisfied.

(ii) *Defined contribution retirement systems.* Whether an employee is a qualified participant in a defined contribution retirement system is determined as services are performed. An employee is a qualified participant in a defined contribution or other individual account retirement system (within the meaning of paragraph (e)(1) of this section) with respect to services performed on a given day if, on that day, he or she has satisfied all conditions (other than vesting) for receiving an allocation to his or her account (exclusive of earnings) that meets the minimum retirement benefit requirement of paragraph (e)(2) of this section with respect to compensation earned or received during any period ending on that day and beginning on or after the beginning of the plan year of the retirement system. This rule is illustrated by the following examples:

Example 1. A State-owned hospital maintains a nonelective defined contribution plan that is a retirement system within the meaning of paragraph (e)(1) of this section. Under the terms of the plan, employees must be employed on the last day of a plan year in order to receive any allocation for the year. Employees may not be treated as qualified participants in the plan before the last day of the year.

Example 2. Assume the same facts as in *Example 1* except that, under the terms of the plan, an employee who terminates service before the end of a plan year receives a pro rata portion of the allocation he or she would have received at the end of the year, e.g., based on compensation earned since the beginning of the plan year. If the pro rata allocation would satisfy the minimum retirement benefit requirement of paragraph (e)(2) of this section with respect to compensation since the beginning of the plan year, employees are treated as qualified participants in the plan during the period since the beginning of the year.

Example 3. A political subdivision maintains an elective defined contribution plan that is a retirement system within the meaning of paragraph (e)(1) of this section. The plan has a calendar year plan year and two open seasons—in December and June—when employees can change their contribution elections. In December, an employee elects not to contribute to the plan. In June, the employee elects (beginning July 1) to contribute a uniform percentage of compensation for each pay period to the plan for the remainder of the plan year. The employee is not a qualified participant in the plan during the period January-June, because no allocations are made to the employee's account with respect to compensation during that time, and it is not certain at that time that any allocations will be made. If the level of contributions during the period July-December satisfies the minimum retirement benefit requirement of paragraph (e)(2) of this section with respect to compensation during that period, however, the employee is treated as a qualified participant during that period.

Example 4. Assume the same facts as in *Example 3*, except that the plan allows participants to cancel their elections in cases of economic hardship. In October, the employee suffers an economic hardship and cancels the election (effective November 1). If the contributions during the period July–October are high enough to satisfy the minimum retirement benefit requirement of paragraph (e)(2) of this section with respect to compensation during that period, the employee is treated as a qualified participant during that period. In addition, if the contributions during the period July–October are high enough to satisfy the requirements for the entire period July–December, the employee is treated as a qualified participant in the plan throughout the period July–December, even though no allocations are made to the employee's account in the last two months of the year. There is no requirement that the period used to determine whether an employee is a qualified participant on a given day remains the same from day to day, as long as the period begins on or after the beginning of the plan year and ends on the date the determination is being made.

(2) *Special rule for part-time, seasonal and temporary employees*—(i) *In general.* A part-time, seasonal or temporary employee is not a qualified participant on a given day unless any benefit relied upon to satisfy the requirements of paragraph (d)(1) of this section is 100-percent nonforfeitable on that day.

(ii) *Definitions of part-time, seasonal and temporary employee.* A part-time employee is any employee who normally works 20 hours or less per week. A seasonal employee is any employee who normally works on a full-time basis less than 5 months in a year. Thus, for example, individuals who are hired annually by a political subdivision during the tax-return season in order to process incoming returns and work full-time over a 3-month period are seasonal employees. A temporary employee is any employee performing services under a contractual arrangement with the employer of 2 years or less duration (without regard to extensions). An employee will not be treated as a temporary employee for purposes of this rule solely because he or she is included in a unit of employees covered by a collective bargaining agreement of 2 years or less duration. Also, for purposes of this rule, elected officials are not considered part-time, seasonal or temporary employees.

(3) *Alternative lookback rule*—(i) *In general.* An employee may be treated as a qualified participant in a retirement system throughout a calendar year if he or she was a qualified participant in such system (within the meaning of paragraphs (d) (1) and (2) of this section) at the end of the plan year of the system ending in the previous calendar year. This rule is illustrated by the following examples:

Example 1. A political subdivision maintains a retirement system within the meaning of paragraph (e)(1) of this section. An employee is a qualified participant within the meaning of paragraph (d)(1) of this section in the retirement system on the last day of the plan year ending on May 31, 1995. If the alternative lookback rule is used to determine FICA liability, no such liability exists with respect to the employee or employer for calendar year 1996 by reason of section 3121(b)(7)(F). The same result would apply if the determination is being made with respect to calendar year 1992 and the lookback year was the plan year ending May 31, 1991, even though that plan year ended before the effective date of section 3121(b)(7)(F).

Example 2. A political subdivision maintains an elective defined contribution plan described in section 457(b) of the Code. An employee is eligible to participate in the plan but does not elect to contribute for a plan year. Under the general rule of paragraph (d)(1) of this section, the employee is not a qualified participant in the plan during the plan year because contributions sufficient to meet the minimum retirement benefit requirement of paragraph (e)(2) of this section are not being made. However, if an employee's status as a qualified participant is being determined under the alternative lookback rule, then the employee is a qualified participant for the calendar year in

which the determination is being made if he or she was a qualified participant as of the end of the plan year that ended in the previous calendar year.

(ii) *Application in first year of participation.* If the alternative lookback rule is used, an employee may be treated as a qualified participant on any given day during his or her first plan year of participation in a retirement system (within the meaning of paragraph (e)(1) of this section) if and only if it is reasonable on such day to believe that the employee will be a qualified participant (within the meaning of paragraphs (d) (1) and (2) of this section) on the last day of such plan year. The rule in this paragraph (d)(3)(ii) may not be used to treat an employee as a qualified participant until the employee actually becomes a participant in the retirement system. If this reasonable belief is correct, and the employee is a qualified participant on the last day of his or her first plan year of participation, then the exemption from employment in section 3121(b)(7) will apply without regard to section 3121(b)(7)(F) to services of the employee for the balance of the calendar year in which the plan year ends. For purposes of this paragraph, it is not reasonable to assume the establishment of a new plan until such establishment actually occurs. This rule is illustrated by the following example:

Example. A political subdivision maintains a retirement system within the meaning of paragraph (e)(1) of this section and uses the alternative lookback rule of this paragraph (d)(3). Under the terms of the plan, service during a plan year is not credited for accrual purposes unless a participant has at least 1,000 hours of service during the year. A newly hired employee becomes a participant in the second month of the plan year. If it is reasonable to believe that the employee will be credited with 1,000 hours of service by the last day of his or her first year of participation and thereby becomes a qualified participant by reason of accruing a benefit that satisfies the minimum retirement benefit requirement of paragraph (e)(2) of this section, the services of the employee are not subject to FICA tax as of the date the employee enters the plan until the end of that plan year. If the employee is a qualified participant on the last day of his or her first plan year of participation, then the exemption from employment for purposes of FICA will apply to services of the employee for the balance of the calendar year in which the plan year ended.

(iii) *Application in last year of participation.* If the alternative lookback rule is used, an employee may be treated as a qualified participant on any given day during his or her last year of participation in a retirement system (within the meaning of paragraph (e)(1) of this section) if and only if it is reasonable to believe on such day that the employee will be a qualified participant (within the meaning of paragraphs (d) (1) and (2) of this section) on his or her last day of participation. For purposes of this paragraph (d)(3)(iii), an employee's last year of participation means the plan year that the employer reasonably ascertains is the final year of such employee's participation (e.g., where the employee has a scheduled retirement date or where the employer intends to terminate the plan).

(iv) *Special rule for defined contribution retirement systems.* An employee may not be treated as a qualified participant in a defined contribution retirement system under this paragraph (d)(3) if compensation for less than a 12-month period is regularly taken into account in determining allocations to the employee's account for the plan year unless, under all of the facts and circumstances, such arrangement is not a device to avoid the imposition of FICA taxes. An arrangement under which compensation taken into account is limited to the wage base described in section 3121(x)(1) is not considered a device to avoid FICA taxes by reason of such limitation. This rule is illustrated by the following example:

Example. A political subdivision maintains a defined contribution plan that covers all of its full-time employees and is a retirement system within the meaning of paragraph (e)(1) of this section. Under the plan, a portion of each participant's compensation in the final month of every plan year is allocated to the participant's account. Employees covered under the plan generally may not be treated as qualified participants under the alternative lookback rule for any portion of the calendar year following the year in which such allocation is made.

(v) *Consistency requirement.* Beginning with calendar year 1992, if the alternative lookback rule is used to determine whether an employee is a qualified participant, it must be used consistently from year to year and with respect to all employees of the State, political subdivision or instrumentality thereof making the determination. If a retirement system is sponsored by more than one State, political subdivision or instrumentality, this consistency requirement applies separately to each plan sponsor.

(4) *Treatment of former participants*—(i) *In general.* In general, the rules of this paragraph (d) apply equally to former participants who continue to perform service for the same employer or who return after a break in service. Thus, for example, a former employee with a deferred benefit under a defined benefit retirement system who is reemployed but does not resume participation in the retirement system, may continue to be a qualified participant in the system after becoming reemployed if his or her total accrued benefit under the system meets the minimum retirement benefit requirement of paragraph (e)(2) of this section (taking into account all periods of service required to be taken into account under that paragraph).

(ii) *Treatment of re-hired annuitants.* An employee who is a former participant in a retirement system maintained by a State, political subdivision or instrumentality thereof who has previously retired from service with the State, political subdivision or instrumentality and is either in pay status (i.e., is currently receiving retirement benefits) under the retirement system or has reached normal retirement age under such retirement system is deemed to be a qualified participant in such retirement system without regard to whether the employee continues to accrue a benefit or whether the distribution of benefits under the retirement system has been suspended pending cessation of services.

(e) *Definition of retirement system*—(1) *Requirement that system provide retirement-type benefits.* For purposes of section 3121(b)(7)(F), a retirement system includes any pension, annuity, retirement or similar fund or system within the meaning of section 218 of the Social Security Act that is maintained by a State, political subdivision or instrumentality thereof to provide retirement benefits to its employees who are participants. Whether a plan is maintained to provide retirement benefits with respect to an individual is determined under the facts and circumstances of each case. For example, a plan providing only retiree health insurance or other deferred welfare benefits is not considered a retirement system for this purpose. The legal form of the system is generally not relevant. Thus, for example, a retirement system may include a plan described in section 401(a), an annuity plan or contract under section 403 or a plan described in section 457(b) or (f) of the Internal Revenue Code. The Social Security system is not a retirement system for purposes of section 3121(b)(7)(F) and this section. These rules are illustrated by the following examples:

Example 1. Under an employment arrangement, a portion of an employee's compensation is regularly deferred for 5 years. Because a plan that defers the receipt of compensation for a short span of time rather than until retirement is not a plan that provides retirement benefits, this

arrangement is not a retirement system for purposes of section 3121(b)(7)(F).

Example 2. An individual holds two positions with the same political subdivision. The wages earned in one position are subject to FICA tax pursuant to an agreement (under section 218 of the Social Security Act) between the Secretary of Health and Human Services and the State in which the political subdivision is located. Because the Social Security system is not a retirement system for purposes of section 3121(b)(7)(F), the exception from employment in section 3121(b)(7) does not apply to service in the other position unless the employee is otherwise a member of a retirement system of such political subdivision.

(2) *Requirement that system provide minimum level of benefits*—(i) *In general.* A pension, annuity, retirement or similar fund or system is not a retirement system with respect to an employee unless it provides a retirement benefit to the employee that is comparable to the benefit provided under the Old-Age portion of the Old-Age, Survivor and Disability Insurance program of Social Security. Whether a retirement system satisfies this requirement is generally determined on an individual-by-individual basis. Thus, for example, a pension plan that is not a retirement system with respect to an employee may nevertheless be a retirement system with respect to other employees covered by the system.

(ii) *Defined benefit retirement systems.* A defined benefit retirement system maintained by a State, political subdivision or instrumentality thereof satisfies the requirements of paragraph (e)(2)(i) of this section with respect to an employee on a given day if and only if, on that day, the employee has an accrued benefit under the system that entitles the employee to an annual benefit commencing on or before his or her Social Security retirement age that is at least equal to the annual Primary Insurance Amount the employee would have under Social Security. For this purpose, the Primary Insurance Amount an individual would have under Social Security is determined as it would be under the Social Security Act if the employee had been covered under Social Security for all periods of service with the State, political subdivision or instrumentality, had never performed service for any other employer, and had been fully insured within the meaning of section 214(a) of the Social Security Act, except that all periods of service with the State, political subdivision or instrumentality must be taken into account (i.e., without reduction for low-earning years).

(iii) *Defined contribution retirement systems.* A defined contribution retirement system maintained by a State, political subdivision or instrumentality thereof satisfies the requirements of paragraph (e)(2)(i) of this section with respect to an employee if and only if allocations to the employee's account (not including earnings) for a period are at least 7.5 percent of the employee's wages (within the meaning of section 3121(a) and 3121(v)) for service for the State, political subdivision or instrumentality during the period. A retirement system does not satisfy this requirement unless employees' accounts are credited with earnings at a rate that is reasonable under all the facts and circumstances, or the accounts are held in a separate trust that is subject to general fiduciary standards and employees' accounts are credited with actual earnings on the trust fund.

(iv) *Additional testing methods.* Additional testing methods may be designated by the Commissioner in revenue procedures, revenue rulings, notices or other documents of general applicability.

(f) *Transition rules*—(1) *Application of qualified participant rules during 1991.* An employee may be treated as a qualified participant in a retirement system (within the meaning of paragraph (e)(1) of this section) on a given day during the period July 1 through December 31, 1991, if it is reasonable on that day to believe that he or she will be a qualified participant under the general rule in paragraph (d)(1) and (2) of this section at the end of the plan year that includes such day. For purposes of this paragraph (f)(1), given the facts and circumstances of a particular case, it may be reasonable to assume that the terms of a plan will be changed or that a new retirement system will be established by the end of calendar year 1992, as long as affirmative steps have been taken to accomplish this result. These rules are illustrated as follows:

Example. A State maintains a defined benefit plan that satisfies the requirements of paragraph (e) of this section. The plan does not cover a particular class of full-time employees as of July 1, 1991. However, in light of the enactment of section 3121(b)(7)(F), State officials administering the plan for the State intend to request that the legislature amend the State statute to include that class of employees in the existing plan and otherwise to modify the terms of the plan to meet the requirements of section 3121(b)(7)(F) and this section. The State legislature meets from January to March each year. State officials administering the plan have publicized the proposed amendment providing for the addition of these employees to the plan. Under the transition rule for 1991, if it is reasonable to believe that the legislature will pass this bill in the 1992 session and provide retroactive coverage to July 1, 1991, service by the employees who will be covered under the plan by reason of the amendment is not treated as employment by reason of section 3121(b)(7)(F) during the period prior to January 1, 1992.

(2) *Additional transition rules for plans in existence on November 5, 1990*—(i) *Application of minimum retirement benefit requirement in plan years beginning before 1993*—(A) *In general.* A retirement system is not subject to the minimum retirement benefit requirement of paragraph (e)(2) of this section for any plan year beginning before January 1, 1993, provided that the plan is a defined benefit retirement system and was maintained by the State, political subdivision or instrumentality for its employees on or before November 5, 1990. A retirement system is not described in this paragraph (f)(2)(i)(A) if there has been either a material decrease in the level of retirement benefit under the retirement system or a material increase in coverage under the retirement system pursuant to an amendment adopted subsequent to November 5, 1990. Whether such a material decrease in benefits or material increase in coverage has occurred is determined under the facts and circumstances of each case. A decrease in benefits is not material to the extent that it does not decrease the benefit payable at normal retirement age. For purposes of this paragraph (f)(2)(i)(A), a material increase in coverage does not occur solely by reason of adding new hires or new employer groups to the plan. These rules are illustrated by the following examples:

Example 1. A plan that was in existence on November 5, 1990, is subsequently amended to include part-time employees. Previously, this class of employees was not covered under the retirement system. The plan must meet the minimum retirement benefit requirement beginning in the plan year for which the amendment is effective, because an increase in coverage occurs where coverage is extended to a class of employees that have previously been excluded under the retirement system.

Example 2. The retirement formula under a retirement system that was in existence on November 5, 1990, is amended to use career average compensation instead of a high 3-year average, without any increase in the benefit formula. This amendment constitutes a material decrease in the level of benefit under the retirement system. Therefore, the retirement system is subject to the minimum retirement benefit requirement for the plan year for which the amendment is effective and for all succeeding plan years.

(B) *Treatment in plan years beginning after 1992 of benefits accrued during previous plan years.* The general rule

that a defined benefit retirement system satisfies the minimum retirement benefit requirement on the basis of total benefits accrued to date is modified for plans in existence on November 5, 1990. If a defined benefit retirement system in existence on November 5, 1990, does not meet the minimum retirement benefit requirement solely because the benefits accrued for an employee as of the last day of the last plan year beginning before January 1, 1993, do not meet the minimum retirement benefit requirement of paragraph (e)(2) of this section with respect to service and compensation before that time, then the retirement system will be deemed to comply with the requirements of paragraph (e)(2) of this section if the future service accruals would comply with the requirement of paragraph (e)(2) of this section. This rule is illustrated by the following example:

Example. A defined benefit plan maintained by a State was in existence on November 5, 1990. It provides a retirement benefit on the last day of the 1992 plan year that is insufficient to satisfy the requirements of paragraph (e)(2) of this section based on employees' total service and compensation with the State at that time. The plan will nevertheless satisfy the requirements of paragraph (e)(2) of this section if it is amended to provide benefits sufficient to satisfy the requirements of paragraph (e)(2) of the section based on employees' service and compensation in plan years beginning after December 31, 1992.

(ii) *Application of qualified participant rules.* If a retirement system is exempt from the minimum retirement benefit requirement of paragraph (e)(2) of this section by reason of the transition rule in paragraph (f)(2)(i)(A) of this section, an employee may be treated as a qualified participant in the system on a given day if, on that day, he or she is actually a participant in the retirement system, and, on that day, it is reasonable to believe that he or she will actually accrue a benefit before the end of the plan year of such retirement system in which the determination is made. A participant is not treated as accruing a benefit for purposes of this rule if his or her accrued benefits increase solely as a result of an increase in compensation. However, an employee is treated as a qualified participant for a plan year if the employee satisfies all of the applicable conditions for accruing the maximum current benefit for such year but fails to accrue a benefit solely because of a uniformly applicable benefit limit under the plan. In addition, an employee may be treated as a qualified participant in the system on a given day if he or she is a re-hired annuitant within the meaning of paragraph (d)(4)(ii) of this section. This rule is illustrated by the following example:

Example. A political subdivision maintains a defined benefit plan that is a retirement system within the meaning of paragraph (e)(1) of this section but does not satisfy the requirements of paragraph (e)(2) of this section. If the plan is not subject to the minimum retirement benefit requirement, an employee who is a participant in the retirement system as of the end of a plan year beginning before January 1, 1993, and may reasonably be expected to accrue a benefit under the plan by the end of such plan year may be treated as a qualified participant in the retirement system throughout the plan year regardless of the actual size of the accrual.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-94, RM-7662]

Radio Broadcasting Services; La Crescent, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by White Eagle Broadcasting, Inc., proposing the substitution of Channel 274C3 for Channel 274A at La Crescent, Minnesota, and modification of the license for Station KQEG to specify operation on Channel 274C3. Proposed coordinates for Channel 274C3 are 43-45-30 and 91-17-00.

DATES: Comments must be filed on or before May 28, 1991, and reply comments on or before June 12, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: J. Richard Carr, Peper, Martin, Jensen, Maichel and Hetlage, 1875 Eye Street NW., suite 1200, Washington, DC 20006 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-94, adopted March 27, 1991, and released April 5, 1991. 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. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-8456 Filed 4-9-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 78-19; Notice 02]

RIN 2127-AA45

Federal Motor Vehicle Safety Standards; Pedestrian Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Termination of rulemaking proceeding.

SUMMARY: This notice terminates a rulemaking proceeding that began in 1981, when NHTSA published a notice of proposed rulemaking (NPRM) on a new standard for pedestrian leg protection. After further research and analysis, the agency has determined that there is not sufficient indication that the proposal would lead to improved pedestrian protection.

FOR FUTHER INFORMATION CONTACT: Samuel Daniel, Office of Vehicle Safety

Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366–4921.

SUPPLEMENTARY INFORMATION: On January 22, 1981 NHTSA published an NPRM (46 FR 7015) on pedestrian leg impact protection. The proposed rule would have limited the amount of force that could be exerted by a vehicle's front structure, particularly the bumper, on an adult pedestrian's leg in a crash. The proposed test requirement involved striking a car (at a speed up to 20 miles per hour) with a device designed to simulate the impact response of a pedestrian's leg. The notice proposed limits on the simulator's impact acceleration response and rebound velocity that were intended to reduce the severity of a pedestrian's injury. NHTSA believed the proposal would have had the effect of requiring softer materials for vehicle bumpers. (Docket No. 78–19–NO1).

The agency's decision to issue the NPRM was based in part on tests of a 1978 model year Pontiac LeMans that the agency modified to meet the proposed standard. NHTSA chose the vehicle because the LeMans was representative of a typical class of passenger car then in production. The agency believed that if the feasibility of reducing the severity of pedestrian impacts could be demonstrated with the LeMans, the results could be applied to other production vehicles. (46 FR at 7016). The agency tested the LeMans by impacting it with instrumented test dummies, and found that there was a marked lessening of the peak accelerations on the test dummies.

After the NPRM was published, a trend emerged toward lower passenger car front structures ("profiles"). The agency conducted impact tests on a 1984 Mazda 626, a vehicle with a low frontal profile, to evaluate the performance of the vehicle designs. NHTSA replaced the Mazda's production bumper with a bumper that was designed to meet the proposed deflection requirements. The tests did not demonstrate that the new bumper would reduce the injury severity to the leg when the bumper was on a low profile vehicle.

Absent data showing that vehicles that meet the requirements proposed by the NPRM would provide improved protection, the agency has no reason to mandate the soft bumper. Thus, NHTSA has decided to terminate this rulemaking action.

Although this notice terminates agency efforts to improve one aspect of pedestrian safety, it has no effect on agency efforts regarding another area of pedestrian safety. The agency announced in the 1981 NPRM that NHTSA would divide the pedestrian protection rulemaking into two areas. The first area is the leg impact protection rulemaking, which is the subject of the 1981 proposal and today's termination. The second area relates to child and adult pedestrian head and upper body impacts. The agency has ongoing research into the second area, and will continue the program for both child and adult pedestrian protection.

Issued on April 4, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91–8295 Filed 4–8–91; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 910482–1082]

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce issues a preliminary notice of change in the quota for wreckfish in the snapper-grouper fishery off the South Atlantic states in accordance with the framework procedure of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), as amended. This notice proposes a quota of up to three million pounds (1,360,791 kilograms), whole weight, as follows: one million pounds (453,597 kilograms), whole weight, during each of the periods April 16, 1991, through July 15, 1991, and July 16, 1991, through October 15, 1991; with an additional one million pounds for the period October 16, 1991, through January 14, 1992, available if analysis of current data indicates that it is the appropriate harvest level for the resource. The intended effect is to protect the wreckfish resource.

DATES: Written comments must be received on or before April 25, 1991.

ADDRESSES: Copies of documents supporting this action may be obtained from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South Carolina 29407–4699.

Comments on the proposed rule should be sent to Peter J. Eldridge, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–893–3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species, including wreckfish, are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

In accordance with procedures approved in Amendment 3 to the FMP, the Council convened an assessment group to assess the condition of the wreckfish resource. Based on the group's report and a public hearing on that report, the Council has recommended a wreckfish quota of up to 3 million pounds (1,360,791 kilograms), whole weight. One million pounds (453,597 kilograms) of the quota would be available when the fishing season opens on April 16, 1991. An additional one million pounds (453,597 kilograms) would be available on July 16, 1991. If current data on catch per unit of effort and mean size indicate that the wreckfish resource can sustain additional harvest without significant danger of being overfished, an additional one million pounds (453,597 kilograms) would be available on October 16, 1991. If the data indicate the wreckfish resource is in danger of being overfished, the Secretary will close the fishery for the remainder of the fishing year at the two million pound harvest level by notice in the Federal Register. Upon attainment of each of the above quotas, the fishery would be closed until an additional quota became available.

The Council proposed this action because (1) it spreads the harvest of wreckfish over a greater portion of the year, thus reducing the probability that prices will be radically reduced because of temporary overabundance; (2) it provides time to evaluate the status of the resource in this relatively new fishery; and (3) it provides flexibility in determining the annual total allowable catch, thus ensuring a balance between the danger of overfishing and the waste of underutilization.

In the final rule to implement Amendment 3 to the FMP (56 FR 2443, January 23, 1991), NOAA announced that a multiplication factor of 1.18 was being applied to the weight of eviscerated wreckfish to determine equivalent whole weight. A multiplication factor is required because

wreckfish are normally landed in eviscerated form. Recent scientific information indicates that a multiplication factor of 1.11 more correctly represents the relationship of eviscerated to whole weight, and that factor will be used when the wreckfish fishery opens on April 16, 1991.

Other Matters

This action is authorized by 50 CFR 646.25 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 5, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is proposed to be amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 646.24 is revised to read as follows:

§ 646.24 Wreckfish quota and closure.

(a) Persons fishing for wreckfish are subject to a quota of up to 3 million pounds (1,360,791 kilograms), whole weight, each fishing year, distributed as follows:

(1) A quota of one million pounds (453,597 kilograms) is available on April 16;

(2) A quota of one million pounds (453,597 kilograms) is available on July 16; and

(3) A quota of one million pounds (453,597 kilograms) is available on October 16, unless the fishery is closed for the remainder of the fishing year by notice in the **Federal Register.**

(b) When a quota specified in paragraph (a) of this section is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the **Federal Register.** After the effective date of such notice, until an additional quota is available, wreckfish may not be harvested or possessed in or from the EEZ and the purchase, barter, trade, offer for sale, and sale of wreckfish taken from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to the effective date of the notice in the **Federal Register** and were held in cold storage by a dealer or processor.

[FR Doc. 91-8418 Filed 4-5-91; 11:19 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 69
Wednesday, April 10, 1991

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Topics Discussed in FY 1990 by the Agricultural Advisory Committees for Trade

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: This notice is provided in order to notify the public of activities of the Agricultural Policy Advisory Committee (APAC) for Trade and the ten Agricultural Technical Advisory Committees (ATACs) for Trade as required by section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 2). The advice received from the committees during fiscal year 1990 concerned on array of agricultural trade issues with the most significant being the following:

Uruguay Round of Multilateral Trade Negotiations—Committee discussions concentrated on developments related to the preparation and tabling of U.S. negotiating proposals and on building domestic and international support for comprehensive market-oriented reforms. Discussions also centered on examining proposals made by other countries and/or the chairman of the Agricultural Negotiating Group for an agricultural agreement.

Section 1132 of the Food Security Act of 1985—The committees reviewed the 1989 annual report required under Section 1132. This report describes agricultural production and trade policies of more than 100 countries. It identifies foreign government programs that aid agricultural export or impede agricultural imports from the United States. It also identifies market opportunities for U.S. agricultural exports. The committees developed specific recommendations for action to be taken by the Federal Government and private industries to reduce the foreign trade barriers and to expand export opportunities identified in the report.

Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Farm Act)—The committees provided advice and comment for use in developing the 1990 Farm Act.

U.S.-Mexico Free-Trade Agreement—The committees provided advice and comment for use in the development of a bilateral trade agreement, including labor and services.

U.S.-Canada Free-Trade Agreement—The committees provided advice and comment regarding issues arising under the agreement, including issues with respect to implementation, snapback, tariff reductions, accelerated tariff reductions, Canadian milk production, and broiler hatching eggs and chick import quotas. The agreement took effect in January 1989.

Other Issues—The committees discussed the Presidential Economic Summit in Houston, Texas; the Dairy Export Incentive Program; sanitary and phytosanitary health regulations or issues; trade access to the Far and Near East (including Australia and Israel); the Taiwan wine accord; the Export Enhancement Program (EEP), the Acreage Reduction Program(ARP), and the Targeted Export Assistance (TEA) which is currently titled Market Promotion Program; Taiwan's high quality beef tariff binding; U.S.-Korea and U.S.-Japan beef agreements; Japan's peanut quota; the entry of Spain and Portugal into the European Community; the U.S.-Soviet bilateral trade agreement; a USSR processed foods team report; dispute settlement panel reports under the General Agreement on Tariffs and Trade (GATT) on U.S. import restrictions on sugar and sugar containing products; and tobacco exports.

Details of the above committee discussions are not available since meetings and advice given are open only to members of the committees in accordance with section 135(f)(2) of the Trade Act of 1974, as amended (19 U.S.C. 2155(f)(2)).

Issued at Washington, DC this 29th day of March 1991

Duane Acker,

Administrator, Foreign Agricultural Service.

[FR Doc. 91-8437 Filed 4-9-91; 8:45 am]
BILLING CODE 3410-10-M

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

Meeting

AGENCY: Christopher Columbus Quincentenary Jubilee Commission.

ACTION: Notice of meeting.

SUMMARY: This notice announces a forthcoming meeting of the Christopher Columbus Quincentenary Jubilee Commission, a presidential commission established in 1984 (Pub. L. 98-375). The meeting will be held in Washington, DC, and will be chaired by Commissioner Frank J. Donatelli.

DATES: Plenary Sessions: Thursday, April 4, 1991, from 2 p.m. to 5 p.m. (Open), Friday, April 5, 1991, from 9:30 a.m. to noon (Open).

ADDRESSES: All meetings will be held at the Mayflower Hotel, 1127 Connecticut Avenue, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: James Kuhn, Executive Director (202) 632-1992.

SUPPLEMENTARY INFORMATION: The Commission will review proposals for endorsement submitted by interested individuals and organizations.

James Kuhn,

Executive Director.

[FR Doc. 91-8395 Filed 4-9-91; 8:45 am]
BILLING CODE 6820-RB-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Incidental Take of Marine Mammals

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

ACTION: Notice of receipt of request for a letter of authorization.

SUMMARY: NMFS has received a request from Amoco Production Corporation and Shell Western E&P Inc. for a Letter of Authorization that would allow a take of marine mammals (by harassment) incidental to exploration activities in the Beaufort Sea and the Chukchi Sea during the 1991 open-water season.

DATES: Comments should be received no later than May 10, 1991.

ADDRESSES: Dr. Nancy Foster, Director, Office of Protected Resources 1335 East-West Highway, Silver Spring, MD 20910. A copy of the requests may be obtained by writing to this address or by telephoning the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Resources, NMFS, (301) 427–2322 or Ron Morris, Western Alaska Field Office, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Regulations governing the taking of marine mammals incidental to oil and exploration activities in Alaska were published July 18, 1990 (55 FR 29214). The regulations are based on section 101(a)(5) of the Marine Mammal Protection Act and NMFS' determination that the taking of six species of marine mammals (bowhead, gray and beluga whales and bearded, ringed and spotted seals) incidental to exploratory activity in the Beaufort and Chukchi Seas will have a negligible impact on the species or stocks and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. The regulations include permissible methods of taking, and require exploration companies to monitor the effects of their activities on marine mammals and to cooperate with the Alaska native communities to ensure that marine mammals are available for subsistence.

A Letter of Authorization must be requested annually by each group or individual conducting an exploratory activity where there is the likelihood of taking any of the six species of marine mammals identified in the regulations. NMFS grants the Letters based on a determination that the total level of taking by all applicants in any one year is consistent with the estimated level of activity used to make a finding of negligible impact and a finding of no unmitigable adverse impacts.

The regulations require the applicant to submit a request for a Letter of Authorization at least 90 days before the activity is scheduled to begin. NMFS must publish notices of each request in the **Federal Register** with an opportunity for public comment.

Requests for Letter of Authorization must include a plan of cooperation that identifies what measures have been and will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses. It must include a description of the activity including the methods to be used, the dates and duration of the activity, and the specific location. Also, it must include a site-specific plan to monitor the effects on marine mammals that are present during exploratory activities.

Summary of Request from Amoco

On March 27, 1991, NMFS received a request from Amoco Production Company for a Letter of Authorization that would allow non-lethal takes of bowhead, gray and beluga whales and bearded, ringed and spotted seals incidental to planned exploratory drilling operations, known as the Galahad Prospect, during the 1991 open-water season in the Beaufort Sea off the coast of Alaska. The request includes a description of the specific operations Amoco plans to conduct, the measures it has employed and will continue to implement to minimize any potential conflicts between those activities and subsistence hunting, and a plan to monitor any effects of the activities on marine mammals.

Amoco anticipates drilling one exploratory well at the Galahad Prospect beginning about July 1, 1991 and ending operations about mid-November 1991. The Galahad Prospect is located in the eastern Alaska Beaufort Sea about 32.2 miles from Barter Island and 74.4 miles from Prudhoe Bay. Short-term effects may result from noise, drilling discharges and ice managment. The planned activity is located 30 miles from shore and 34 miles from the nearest subsistence hunting community (Kaktovik). Amoco has met with the residents of Nuiqsut, Kaktovik and Barrow to brief them about the operations planned at the Galahad Prospect. The request includes a site-specific plan to monitor the effects of exploratory activities on marine mammals.

Summary of Request from Shell Western E&P Inc.

On April 3, 1991, NMFS received a request from Shell Western E&P Inc. (SWEPI) for a Letter of Authorization that would allow non-lethal takes of bowhead, gray and beluga whales and bearded, ringed and spotted seals incidental to its planned oil and gas exploratory operations during the 1991 open-water season in the Chukchi Sea off the coast of Alaska. The request includes a description of the specific operations to be conducted, the measures SWEPI has taken, and will continue to take, to minimize potential conflicts between exploration activities and subsistence hunting, and a plan to monitor the effects of operations on marine mammals. SWEPI anticipates completing the drilling of an exploratory well at its Crackerjack Prospect that was started last season. If weather and ice conditions permit, SWEPI is considering drilling another well at another prospect in the Chukchi Sea. These prospects are located 75 to 200 miles from the nearest subsistence hunting communities. Between March 5 and March 15, 1991, SWEPI met with the communities of Wainwright, Point Lay, Point Hope, Barrow and Kotzebue to discuss its operations plans for the 1991 drilling season. Also, SWEPI has included in its request a site-specific plan to monitor the effects of exploratory activities on marine mammals.

Dated: April 4, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91–8381 Filed 4–9–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals: Issuance of Permit; Singapore Zoological Gardens (P354A)

On August 17, 1990, notice was published in the **Federal Register** (55 FR 33742) that an application had been filed by the Singapore Zoological Gardens, 80 Mandai Lake Road, Singapore 2572, for a permit to obtain ten (10) California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that on April 4, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that Singapore Zoological Gardens offers an acceptable program for education or conservation purposes. The Singapore facilities are open to the public on a regular scheduled basis and access to the facilities is not limited or restricted other than by the charging of an admission fee.

The Permit is available for review by appointment in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, room 7324, Silver Spring, Maryland 20910 (301/427–2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514–6196).

Dated: April 5, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-8419 Filed 4-9-91; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

April 4, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: April 12, 1991.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, 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, refer to the Quota Status Reports posted on the bulletin boards on each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain textile products are being reduced to account for special carryforward and carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 51946, published on December 18, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 4, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on April 12, 1991, you are directed to amend the directive of December 12, 1990 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Philippines:

Category	Adjusted 12-month limits [1]
Sublevels in group I:	
331	893,262 dozen pairs.
347/348	891,016 dozen.
647/648	610,851 dozen.
659-H [2]	794,854 kilograms.
Group II	
200-229, 300-326, 330, 332, 349, 350, 353, 354, 359-O[3], 360, 362, 369-O[4], 400-414, 432, 434-442, 444, 448, 459, 464-469, 600-603, 606-629, 630, 632, 644, 653, 654, 659-O[5], 665-670 and 831-859, as a group.	86,685,999 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[3] Category 359-O all HTS numbers except 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359-S).

[4] Category 369-O: all HTS numbers except 6307.10.2005 (Category 369-S).

[5] Category 659-O: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.11.1010 and 6211.12.1020 (659-S).

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. 91-8410 Filed 4-9-91; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Prepare a Site-Specific Environmental Impact Statement; Chemical Stockpile Disposal Program

Intent to prepare a Site-Specific Environmental Impact Statement (SSEIS) and to initiate the public scoping process for the construction and operation of a chemical agent disposal facility at Lexington-Blue Grass Army Depot, Kentucky.

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: This announces the Notice of Intent to prepare an SSEIS on the potential impact of the design, construction, operation and closure of the proposed chemical agent demilitarization facility at Lexington-Blue Grass Army Depot, Kentucky. The proposed facility will be used to demilitarize all chemical agents and munitions currently stored at Lexington-Blue Grass Army Depot. Potential environmental impacts will be examined for several locations of the on-site incineration facility and "no action" alternatives. The "no action" alternative is considered to be continued storage of the agents and munitions at the Lexington-Blue Grass Army Depot.

SUPPLEMENTARY INFORMATION: In its Record of Decision (53 FR No. 38, pp. 5816-17) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program, the Department of the Army selected on-site disposal by incineration at all eight chemical munitions storage sites within the continental United States. The Army has decided that a SSEIS will be prepared to assess the site-specific health and environmental impacts of on-site incineration of chemical agents and munitions at the Lexington-Blue Grass Army Depot. The first phase of this effort will entail the collection and analysis of detailed site-specific information to ensure that the selected programmatic alternative (on-site incineration) remains valid for Lexington-Blue Grass Army Depot. A separate report, required by Congress, summarizing this effort will be published prior to preparation of the

draft SSEIS for Lexington-Blue Grass Army Depot. An independent review will be conducted to verify that all appropriate site-specific data have been evaluated. If the Phase I analysis so indicates, the Army will certify to the Congress that the programmatic on-site destruction decision remains valid. The draft SSEIS will be developed after the Phase I report and should be available in the Fall of 1992. Upon completion of the draft SSEIS, the public will be notified of its availability for review.

Notice of public meeting

Notice is further given of the Army's intention to conduct a scoping meeting to aid in determining the significant issues related to the proposed action at Lexington-Blue Grass Army Depot. Public, as well as Federal, State and local agencies, participation and input are welcome. The scoping meeting will be held on April 25, 1991, at 6:30 p.m. at the Clark-Moore Middle School, Richmond, Kentucky. Interested individuals, governmental agencies and private organizations are encouraged to attend and submit information and comments for consideration by the Army.

FOR FURTHER INFORMATION CONTACT: Program Manager for Chemical Demilitarization, ATTN: SAIL-PMI (Ms. Marilyn Tischbin), Aberdeen Proving Ground, Maryland 21010-5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final SSEIS should contact the Program Manager at the above address.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E)

[FR Doc. 91-8423 Filed 4-9-91; 8:45 am]

BILLING CODE 3710-08-M

Withdrawal of a Notice of Intent To Prepare and Coordinate an Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice to withdraw a notice of intent to prepare and coordinate an environmental impact statement.

SUMMARY: This notice withdraws the 20 June 1989, 54 FR 25894, Notice of Intent to Prepare and Coordinate an Environmental Impact Statement for the Buffalo Metropolitan Area—Lower Tonawanda Creek—Flood Damage Reduction Study, Niagara and Erie Counties, New York.

The U.S. Army Corps of Engineers, Buffalo District has investigated flooding in the Lower Tonawanda Creek watershed and has determined that the Corps of Engineers, acting for the Federal Government, could take "No Action" based on an evaluation of the problems and considered alternatives, as directed by the study authority and planning policies. With the study "No Action" alternative, the expected preparation and coordination of an environmental impact statement as indicated in the notice of intent published in the **Federal Register**, 54 FR 25894, will not be necessary.

FOR FURTHER INFORMATION CONTACT: Tod Smith, U.S. Army Corps of Engineers, Buffalo District, Environmental Analysis Section, 1776 Niagara Street, Buffalo, New York 14207-3199 (716) 879-4173.

SUPPLEMENTARY INFORMATION:

Authority: The subject study was conducted under the authority of the Buffalo Metropolitan Area—Lower Tonawanda Creek—Flood Damage Reduction Study.

Proposed Action

See **SUMMARY** above.

Alternatives

Initially, numerous measures and eventually, thirteen plans and the "No Action" alternative were assessed and evaluated. Measures and plans (combinations of measures) included: [Non-Structural]: flood insurance, flood warning, flood proofing, relocation, flood plain management, (many of which occur to some degree under "No Action" without project conditions), and [Structural]: retention, clearing and snagging, channelization, levees, floodwalls, and diversions.

Scoping Process

Study activities were coordinated with government agencies, interest groups, and the general public via public meetings/workshops, written correspondence, telephone communication, and report coordination (1987-1990).

Significant Issues

Considered alternatives were assessed and evaluated for engineering and economic feasibility, and environmental and social acceptability, and implementability.

Scoping Meeting

No longer applicable.

Availability

No longer applicable.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer

[FR Doc. 91-8349 Filed 4-9-91; 8:45 am]

BILLING CODE 3710-GP-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent to Award a Grant to the International Research Center for Energy and Economic Development

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5), it is making a noncompetitive financial assistance award based on a solicited application satisfying the criteria of 10 CFR 600.7(b)(2)(i)(A) and (D). This award will be made under grant number DE-FG01-91IE10948 to the International Research Center for Energy and Economic Development (ICEED) of the University of Colorado for the conduct of two international conferences to be held April 21-24, 1991.

Scope

The grant will provide $30,000 in funding to ICEED to assist it in preparing for and conducting the Twelfth International Area Conference on April 21-23, 1991, and the Eighteenth International Energy Conference on April 23-24, 1991. The purpose of these conferences is to expand the transfer of data and ideas through individual contact among the attendees and through publication of the proceedings.

The International Area Conference, entitled "Regional and Shared-Interest Blocs: How Viable?", will assess and examine groupings in the energy arena. Discussions will concentrate on a new Europe, the emerging North American energy market, major producer and consumer bodies, the Pacific Basin initiative and other regional bodies.

The International Energy Conference, whose title this year is "The Oil and Gas Industries: Implications of Restructuring", will address the ongoing changes in the oil and gas industries. Topics to be covered include privatization, financial elements, downstream investment, market volatility, long-term production and capacity problems, and implications for the various energy sectors following the Gulf conflict of 1990-1991.

Eligibility

Eligibility for this award is being limited to ICEED. ICEED has planned and hosted the International Energy Conference for 18 years and the International Area Conference for 12 years. Its extensive knowledge of the Middle East, its solid world-wide reputation, and its contacts throughout academia, industry and governments of consuming and producing countries, in addition to its experience in hosting international conferences make ICEED uniquely qualified to conduct these conferences.

The term of the grant shall be two months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Gretchen Hukill, PR-322.1, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91-8443 Filed 4-9-91; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Commercial Buildings Energy Consumption: Solicitation of Comments for the Design of the 1992 Commercial Buildings Energy Consumption Survey

AGENCY: Office of Energy Markets and End Use, Energy Information Administration, Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is examining data requirements, user needs, costs to respondents, and respondent burden for energy consumption and related data for the 1992 Commercial Buildings Energy Consumption Survey (CBECS). The CBECS, which was formerly called the Nonresidential Buildings Energy Consumption Survey (NBECS), provides basic statistical information on the consumption of and expenditures for energy in commercial buildings, and on the energy-related characteristics of these buildings. It is designed to meet the needs of many users in addition to meeting the legislative requirements of EIA as specified in section 52(a) of the Federal Energy Administration Act of 1974 (Pub. L. No. 93-275 (FEA)).

Section 52(a) of the FEA Act requires the EIA to establish a national energy information system that "* * * shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate * * *"

The purpose of this Federal Register notice is to obtain information on: The need for commercial building energy consumption data; the types of data that can be provided; and the strengths and weaknesses of existing commercial building energy consumption data. This information is required prior to the redesign of the CBECS planned for the 1992 survey cycle. As required by the Paperwork Reduction Act, EIA will submit a formal request for clearance for the 1992 CBECS to the Office of Management Budget by March 1, 1992.

DATES: Written comments must be submitted on or before May 10, 1991. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intentions to do so as soon as possible.

ADDRESSES: Send comments to: Julia D. Oliver, (EI-652), Energy Information Administration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Her telephone number is (202) 586-5744 and her FAX number is (202) 586-9753.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Oliver at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

II. Request for Comments

I. Background

The EIA serves as the Government's primary source of energy statistics and provides information to the Executive Branch, Congress, State and local governments, industry and the general public. EIA's mission is to ensure that accurate, timely, and objective statistics on the Nation's energy position are available for use in private and public decisionmaking. The legislation that created the EIA provides for the collection of data on energy supply and demand to fulfill these responsibilities. As part of its program, the EIA conducts energy consumption surveys in the residential, residential transportation, commercial and manufacturing sectors.

The CBECS provides basic statistical information on the consumption of and expenditures for energy in commercial buildings, and on the energy-related characteristics of these buildings. (Previous surveys were conducted in 1979, 1983, 1986 under the name of the Nonresidential Buildings Energy Consumption Survey. As of the 1989 survey, the title of the survey was changed to the CBECS.) To obtain this information, personal interviews are conducted for a sample of commercial buildings in the 50 States and the District of Columbia. For buildings in the survey, data are collected on structural characteristics, activities conducted inside the building, energy conservation measures, heating and air-conditioning equipment, and both the types and uses of energy consumed. In response to needs for additional data that were identified in the preparation of the National Energy Strategy and through feedback from users of the past CBECS reports and data files, EIA is planning to expand the survey to collect more detailed information on: the vintage, capacity and energy efficiency of the heating, cooling, and ventilation equipment; major appliances used in the building; lighting equipment in the building by type and square footage covered; participation in utility-sponsored conservation and demand-side management programs; conservation procedures and demand-shifting technologies used; building ownership and occupancy characteristics; and size of building. A major goal of this user-needs survey is to determine at what level of detail this information can be collected from building occupants.

Obtaining information from the CBECS user community and from the potential CBECS respondents on the strengths and weaknesses of the survey is an important part of the 1992 questionnaire design effort.

II. Request of Comments

The EIA is soliciting comments from data users on the building-level energy consumption data that are required for public policy formulation and analysis, building research, and program monitoring and evaluation purposes in the commercial building sector. EIA is soliciting comments on the types of applicable information currently available from sources such as energy suppliers or their associations, building owners and managers or their associations, other Federal, State or local government agencies, and other private sources. Finally, the EIA is soliciting estimates from potential respondents on the burden and costs to them of providing the data to EIA.

In addition to the publication of this notice, the EIA will directly contact and solicit comments from public policymakers (at the local, State, and Federal levels), public policy groups, the

building energy research community, potential survey respondents and industry trade associations.

The following general questions are provided to assist in the preparation of responses:

As a current or prospective user of commercial building energy consumption data:

1. For what purposes do you use, or would you use, commercial building energy consumption data? Be specific.

2. What data sources are you currently using, if any?

What types of data are provided?

How often are the data available?

Are the data maintained on a consistent schedule or intermittently?

Are the data distributed in a paper or electronic medium or both?

Are the data current enough to meet your needs? (If not, specify the problem.)

What are the costs, if any, associated with using it?

Do you have access to the individual building data or only tabulated aggregate data?

3. What are the strengths and weaknesses of these sources?

4. In your opinion, what are the major gaps, if any, in the data currently available on commercial building energy consumption?

5. Please provide other comments that you believe to be relevant.

As a potential respondent:

1. Do you or your establishment/firm/organization currently maintain energy consumption and expenditure data?

2. If you do maintain such data, are the data compiled monthly, annually, or for some other period of time? Are the data maintained consistently or intermittently? Are the data maintained in a paper or electronic medium or both?

3. Are you aware of other Federal, State, or local agencies or private organizations that collect similar data? If so, please provide the names of such agencies or organizations.

EIA is also interested in receiving comments from persons regarding their views on the costs and benefits of the EIA maintaining data on commercial building energy consumption.

Any written comments received in response to this notice will be available for public inspection at the DOE's Freedom of Information Office.

Statutory Authority

Sections 5(a), 5(b), 13(b) and 52 of Pub. L. No. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. §§ 764(a), 764(b), 772(b), 790a.

Issued in Washington, DC, April 4, 1991.

Douglas R. Hale,

Acting Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91–8445 Filed 4–9–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ES91–22–000, et al.]

Gulf States Utilities Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 3, 1991.

Take notice that the following filings have been made with the Commission:

1. Gulf States Utilities Company

[Docket No. ES91–22–000]

Take notice that on March 28, 1991, Gulf States Utilities Company ("Applicant") filed an application with the Federal Energy Regulatory Commission pursuant to section 204 of the Federal Power Act authorizing the Applicant to issue $200 million of secured or unsecured Debentures prior to June 30, 1991 and for authority to issue by negotiation and for exemption from competitive bidding requirements pursuant to §§ 34.2(b)(2) of the Commission's regulations.

Comment date: April 26, 1991 in accordance with Standard Paragraph E at the end of this notice.

2. Lakewood Cogeneration, L.P.

[Docket No. QF88–418–001]

On March 26, 1991, Lakewood Cogeneration, L.P. tendered for filing an amendment to its filing in this docket.

The amendment revises the computations for the operating and efficiency values of the proposed cogeneration facility.

Comment date: 21 days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–8360 Filed 4–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP91–1616–000, et al.]

ANR Pipeline Company, et al.; Natural Gas Certificate Filings

April 3, 1991.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP91–1616–000]

Take notice that on March 21, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to construct, own and operate facilities necessary to provide storage related natural gas transportation service for Centra Gas Manitoba Inc. (Centra), a Canadian local distribution company, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

ANR states that ANR and Centra have entered into certain contractual arrangements whereby ANR has agreed to provide firm storage services for Centra for a maximum storage volume of 14.7 MMdth of gas annually, for a twenty year term commencing on April 1, 1993. ANR states that storage service will be provided through ANR's existing storage facilities, and under terms of ANR's FERC Gas Tariff, Original Volume No. 3, covering open access storage services. ANR states no new ANR facilities are required for the storage service.

ANR states that Centra's gas which will be stored by ANR during the Summer Period (April 1–October 31) will, in part, be transported and delivered by TransCanada Pipelines, Ltd. (TCPL) for Centra's account, to Great Lakes Gas Transmission Limited Partnership (Great Lakes) at the U.S.-Canadian border near Emerson, Manitoba, for delivery to ANR at Crystal Falls, Michigan, for injection into ANR's storage complex in Michigan. ANR states that part of Centra's gas supply originates in the United States, and ANR will provide

firm transportation of up to 21,212 dth per day on ANR's Southeast mainline from various receipt points to ANR's storage complex in Michigan. ANR states that the transportation ANR provides Centra will be under ANR's FERC Gas Tariff, Original Volume No. 1–A.

ANR requests approval of the contractual arrangement whereby ANR has secured capacity rights on Great Lakes' system necessary to effectuate the receipt and delivery of Centra's gas. Further, ANR requests approval of ANR's use of the same Great Lakes capacity during periods when it is not being used on Centra's behalf. ANR states the available Great Lakes capacity will be used by ANR for system supply purposes.

ANR further reports that the gas which ANR proposes to store for Centra, less fuel, will be redelivered by ANR to Great Lakes during the Winter Period (November 1–March 31) at various interconnection points adjacent to ANR's storage complex in Michigan. ANR states that Great Lakes will transport such gas to TCPL at Emerson for the benefit of Centra. ANR states that the transportation agreement executed with Centra currently provides for redelivery of a Maximum Daily Quantity of 197,706 dth/d during the Winter Period. ANR states ANR's agreement with Great Lakes provides for Winter Period transportation by Great Lakes on Centra's behalf of up to 225,000 Mcf/d.

ANR states that certain related transportation services to be performed for Centra by ANR will require the addition of facilities on ANR's system. ANR reports that these proposed facilities will cost approximately $18.2 million for a 10.3 mile, 30-inch outside diameter (OD) pipeline loop in Cheboygan and Washington Counties, Wisconsin, and a 4.0 mile, 42-inch OD pipeline loop in Porter County, Indiana, plus minor piping modifications at ANR's existing Kewaskum, Wisconsin compressor station. ANR proposes to finance the construction cost with funds on hand.

Comment date: April 24, 1991, in accordance with Standard Paragraph F at the end of this notice.

2. Great Lakes Gas Transmission Limited Partnership

[Docket No. CP91–1634–000]

Take notice that on March 22, 1991, Great Lakes Gas Transmission Limited Partnership (Great Lakes), One Woodward Avenue, Suite 1600, Detroit, Michigan 48226, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Great Lakes to construct and operate facilities to provide natural gas transportation service for ANR Pipeline Company (ANR), all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Great Lakes states that ANR has entered into an arrangement with Centra Gas Manitoba Inc. (Centra), a Canadian local distribution company, to provide Centra with gas transportation and storage service. Great Lakes states that to provide such service, ANR has requested that Great Lakes provide firm transportation of up to 57,398 Mcf of gas per day. Great Lakes states that the transportation will be from an existing point of interconnection between the facilities of Great Lakes and TransCanada Pipelines Limited (TCPL) located at the U.S.-Canadian border near Emerson, Manitoba, and an equivalent quantity will be delivered to ANR at an existing point of interconnection between the facilities of Great Lakes and ANR, located near Fortune Lake, Michigan. Great Lakes stated that during the injection-cycle, this firm service will be used by ANR to transport volumes for Centra, for subsequent delivery to various ANR storage fields in Michigan. Great Lakes reports the volumes will be withdrawn from storage and redelivered to Great Lakes at existing points of interconnection between the facilities of Great Lakes and ANR in Michigan. Great Lakes states that ANR will deliver up to an aggregate of 225,000 Mcf per day at these receipt points, and Great Lakes will deliver an equivalent quantity to TCPL at Emerson. Great Lakes states that, in general, Centra will have the volumes injected into storage by ANR from April 1st through October 31st (Summer Period), and withdrawn from storage from November 1st through March 31st (Winter Period).

Great Lakes states that, to implement the arrangements, ANR and Great Lakes entered into a Transportation Service Agreement dated March 4, 1991, which provides, among other things, for an anticipated commencement date of April 1, 1993, and an initial term of twenty years. Greal Lakes further sates that the Agreement provides that reservation fees and utilization fees for the transportation services will be determined from the maximum similar rates under Great Lakes' Rate Schedules FT and IT, both of which are filed in original Volume No. 3 of Great Lakes' FERC Gas Tariff.

Great Lakes states that, it will construct and install two compressor units, each with a 15,700 horsepower rating, one at its existing Shevlin compressor station, the other at its existing Cloquet station, both located in Minnesota. Great Lakes further states that four new aerodynamic assemblies will be installed at existing compressor units at these stations. Great Lakes states that the projected cost of all construction is approximately $32,000,000. Great Lakes proposes to finance this project with internally generated funds, together with borrowings as required.

Comment date: April 24, 1991, in accordance with Standard Paragraph F at the end of the notice.

3. Eastern Shore Natural Gas Company

[Docket No. CP91–1665–000]

Take notice that on March 28, 1991, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19903–0615, filed in Docket No. CP91–1665–000 a request pursuant to § 157.205 of the Commission Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add two new delivery points to Chesapeake Utilities Corporation (Chesapeake), an existing customer, under Eastern Shore's blanket certificate issued in Docket No. CP83–40–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Easten Shore proposes to constuct and operate one tap in New Castle County, Delaware to serve Chesapeake's Delaware Division. Eastern Shore estimates peak day volumes to be 200 MMBtu and annual volumes to be 20,000 MMBtu. Eastern Shore states that the gas would be used for system supply.

Eastern Shore also proposes to construct and operate a sales tap near Hurlock, Maryland to serve Chesapeake's Cambridge Gas Division. Eastern Shore estimates firm peak day volumes to be 100 MMBtu and annual volumes to be 24,400 MMBtu and interruptible peak volumes to be 250 MMBtu and annual volumes to be 27,000 MMBtu. Eastern Shore states that the gas would be used for system supply.

Eastern Shore asserts that the delivery of gas through the proposed taps would be within the customers' existing entitlements and that the impact on Eastern Shore's other customers' peak and annual deliveries would be insignficant.

Eastern Shore further states that its tariff does not prohibit additional delivery points to existing customers.

Comment date: May 20, 1991, in accordance with Standard Paragraph G at the end of the notice.

4. Columbia Gulf Transmission Company, et al.

[Docket Nos. CP91-1666-000, CP91-1667-000, CP91-1668-000, CP91-1674-000, CP91-1675-000 and CP91-1676-000]

Take notice that Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: May 20, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1666-000 (3-28-91)	Exxon Corporation (producer).	25,000 10,000 3,650,000	LA	LA	11-1-90, FTS-2, Firm.	ST91-7609 2-16-91
CP91-1667-000 (3-28-91)	Louisiana Municipal Natural Gas (municipal corp.).	25,000 2,465 900,000	TX, OTX, LA, OLA, MS, AL.	LA	1-2-91, IT, Interruptible.	ST91-6947 2-1-91
CP91-1668-000 (3-28-91)	Consolidated Fuel Corporation (marketer).	12,000 12,000 4,380,000	TX, OTX, LA, OLA, MS, AL.	SC, GA	1-16-91, IT, Interruptible.	ST91-6950 1-29-91
CP91-1674-000 (3-29-91)	PSI Gas Marketing, Inc. (marketer).	103,000 103,000 37,595,000	Various	Various	5-9-89, ITS, Interruptible.	ST91-7712 3-1-91
CP91-1675-000 (3-29-91)	Citizens Gas Supply Corporation (marketer).	20,600 20,600 7,519,000	Various	Various	5-6-86, ITS, Interruptible.	ST91-7677 2-13-91
CP91-1676-000 (3-29-91)	Goodrich Oil Co. (producer).	77,250 77,250 28,196,250	LA, TX	MS, LA	12-21-90, ITS, Interruptible.	ST91-6804 1-14-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

Applicant's address	Blanket docket
Columbia Gulf Transmission Company, 3805 West Alabama, Houston, Texas 77027.	CP86-239-000
Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563.	CP88-316-000
United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	CP88-6-000

5. Northern Natural Gas Company

[Docket No. CP91-1682-000]

Take notice that on April 1, 1991, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-1682-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for TXO Gas Marketing Corporation, a marketer, under the blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that, pursuant to an agreement dated February 28, 1991, under its Rate Schedule IT, it proposes to transport up to 100,000 MMBtu per day equivalent of natural gas. Northern indicates that it would transport 75,000 MMBtu on an average day and 36,500,000 MMBtu annually. Northern further indicates that the gas would be transported from various points on Northern's system, and would be redelivered in Kansas, Texas, and Oklahoma.

Northern advises that service under § 284.223(a) commenced February 28, 1991, as reported in Docket No. ST91-7836-000.

Comment date: May 20, 1991, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within

the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8361 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10932-001 Washington]

Gailbraith Hydro, Inc.; Surrender of Preliminary Permit

April 3, 1991.

Take notice that Gailbraith Hydro, Inc., permittee for the Gailbraith/WRIA 010373 Project No. 10932, to be located on the Gailbraith and WRIA 010373 creeks in Whatcom County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on September 17, 1990, and would have expired on August 31, 1993.

The permittee filed the request on March 5, 1991, and the preliminary permit for Project No. 10932 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8362 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-80-001]

Algonquin Gas Transmission Co. Compliance Filing

April 3, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on March 29, 1991, filed proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective March 3, 1991

Sub. First Revised Sheet No. 20
Sub. Original Sheet Nos. 87-90
Sub. Original Sheet No. 91
Sub. Original Sheet No. 94-99
First Revised Sheet No. 673
Sub. First Revised Sheet No. 674
Sub. Original Sheet No. 674A
Sub. Original Sheet No. 674B
Sub. Original Sheet No. 674C

Proposed To Be Effective March 7, 1991

Sub. Second Revised Sheet No. 20
Sub. Original Sheet No. 92
Sub. Original Sheet No. 93
Sub. Original Sheet No. 674D
Sub. Original Sheet No. 674E
Sub. Original Sheet No. 674F
Sub. Original Sheet No. 674G
Sub. Original Sheet No. 674H
Sub. Original Sheet No. 674I
Sub. Original Sheet No. 674J
Sub. Original Sheet No. 674K
Sub. Original Sheet No. 674L
Sub. Original Sheet No. 674M
Sub. Original Sheet No. 674N
Sub. Original Sheet No. 674O

Algonquin states that its filing implements the requirements of the Commissions's March 1, 1991 Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions. ("March 1, 1991, Order")

Algonquin's compliance filing flows through Algonquin's upstream suppliers take-or-pay charges to its customers on an as-billed basis. The revised tariff sheets reflect a 50 percent reduction of the small customers take-or-pay costs, and a reallocation of such costs to the other customers paying take-or-pay surcharges, in accordance with the requirements as set forth in Order 528-A.

Algonquin states that First Revised Sheet 673 has been revised to remove the provison allowing Algonquin to file take-or-pay tracker filing with less than 30 day notice.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8363 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-37-016]

High Island Offshore System; Report of Refunds

April 3, 1991.

Take notice that High Island Offshore System (HIOS), on March 13, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds, made in accordance with the provisions of article VI of the Stipulation and Agreement approved by the Commission on October 30, 1990, in Docket Nos. RP89-37-000, *et al.* The report summarizes amounts made by HIOS to its shippers of a refund received from U-T Offshore System (U-TOS) as a result of the Commission's approval of U-TOS' offer of settlement in Docket No. RP89-38-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of Practice and Procedure 18 CFR 385.211 and 385.214 (1990). All such protests should be filed on or before April 11, 1991. 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. Persons that are already parties to the proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8364 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-22-004]

Natural Gas Pipeline Co. of America; Compliance Filing

April 3, 1991.

Take notice that on April 1, 1991, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of May 1, 1991:

First Revised Sheet No. 180
First Revised Sheet No. 181

Natural states that the purpose of this filing is to comply with the March 1, 1991, "Order Directing Revised Allocations to Small Customer Fixed Charges to Comply with Order No. 528-A," 54 FERC ¶61,219 (1991) (Order). The filing reflects an aggregate 50 percent reduction to Natural's G-1 customers from levels under the modified methodology that Natural previously filed on November 9, 1990, and that the Commission approved on December 7, 1990, 53 FERC ¶61,349 (1990). Natural states further that the reduction in this filing is based upon negotiated allocation factors. The amount of the reduction reflected in this filing, which is $218,310.22, has been reallocated to DMQ-1 customers consistent with the Order. Natural further states that no further adjustments to the November 9 filing, in either principle or interest, are reflected in the instant filing.

Natural requests any waiver of the Commission's Regulations which may be necessary to permit the tendered tariff sheets to take effect May 1, 1991. Natural states that copies of the filing have been mailed to Natural's jurisdictional sales customers, interested state regulatory agencies and all parties set out on the official service list of the above-docketed proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8365 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-194-010, et al.]

Panhandle Eastern Pipe Line Co.; Notice of Filing of Pipeline Refund Report

April 3, 1991.

Take notice that Panhandle Eastern Pipe Line (Panhandle) on January 30, 1991 submitted for filing a Refund Report for the period September 1, 1985 through October 31, 1985 in compliance with the Commission's Orders issued August 2, 1990 (Order Affirming in Part and Modifying in Part Initial Decision) and December 7, 1990 (Order Granting in Part and Denying in Part Rehearing).

Panhandle states that a copy of the information was sent to each of Panhandle's affected customers and the respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before April 11, 1991. Protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8366 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-53-003]

Panhandle Eastern Pipe Line Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on March 28, 1991, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Docket No. RP91-53-000

Fourth Revised Sheet No. 3-C.4
Fourth Revised Sheet No. 3-C.5
Fourth Revised Sheet No. 3-C.6
Fourth Revised Sheet No. 3-C.7
Fourth Revised Sheet No. 3-C.8

Docket No. RP91-52-000

Fourth Revised Sheet No. 3-C.10
Fourth Revised Sheet No. 3-C.11
Fourth Revised Sheet No. 3-C.12
Fourth Revised Sheet No. 3-C.13
Fourth Revised Sheet No. 3-C.14

The subject tariff sheets bear an issue date of March 28, 1991, and a proposed effective date of April 1, 1991.

Panhandle states that these revised tariff sheets are being filed in compliance with the Commission's Orders dated January 16, 1991 in the above-referenced proceedings, which were consolidated pursuant to Ordering Paragraph (C) of the Commission's Order dated January 16, 1991 in Docket No. RP91-52-000. Specifically, Panhandle's filing reflects the adjustments to the monthly amortized amounts which customers were allocated in in the December 17, 1990 filings to reconcile those amounts with the amounts customers paid under the Optional Deferred Payment Plan. Panhandle further states that its proposal for an Optional Deferred Payment Plan was approved by the Commission in Ordering Paragraph (C) of the Commission's Order dated January 16, 1991 in Docket No. RP91-53-001.

Panhandle states that under its Optional Deferred Payment Plan, customers had the option for the first three (3) months (January 1991-March 1991) of the thirty-six (36) month amortization period approved in these consolidated proceedings to pay amounts that were previously being paid by customers under Panhandle's then approved Order No. 500 recovery filings. To the extent that a customer elected the deferred payment plan, the difference in the amounts would be spread over the remaining thirty-three (33) months of the amortization period. Panhandle also stated in its filing dated December 17, 1990, that at the end of the three (3) month period, Panhandle would file revised tariff sheets to reflect any adjustments related to customers' use of the optional deferred payment plan.

Panhandle states that copies of this filing have been sent to all affected sales and transportation customers, affected state commissions and all parties on the service lists in the proceedings in Docket Nos. RP91-52-000 and RP91-53-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.,

Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8367 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-28-001]

Panhandle Eastern Pipe Line Co., Notice of Compliance Filing

April 3, 1991

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on April 1, 1991, tendered for filing the revised tariff sheets listed on Appendix A attached to the filing.

Panhandle states that on February 28, 1991 in the above-referenced proceeding, the Federal Regulatory Commission (Commission) issued an order accepting for filing and suspending tariff sheets filed by Panhandle subject to refund and conditions. Ordering Paragraphs (B), (C) and (D) of the Commission's Order directed Panhandle to file within 30 days of issuance of the order, revised rates and additional information to reflect only Commission authorized changes in billing determinants and proper pipeline supplier rates in its ANGTS rate adjustment.

Panhandle further states it is also submitting revised tariff sheets to be effective January 1, 1991 and April 1, 1991 to reflect the changes required by Ordering Paragraph (C) of the order February 28, 1991. The revised tariff sheets effective January 1, 1991 reflect the currently effective GRI Funding Unit accepted by the Commission on December 27, 1990 in Docket No. TM91-8-28-000. The revised tariff sheets effective April 1, 1991 reflect Panhandle's filing in Docket No. TQ91-2-28-000 to re-establish normal PGA procedures in accordance with Section 18 of the General Terms and Conditions.

Panhandle states that copies of its filing have been served on all jurisdictional sales customers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8368 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-55-000]

Questar Pipeline Co.; Notice of Rate Change

April 3, 1991

Take notice that on March 29, 1991, Questar Pipeline Company tendered for filing and acceptance the Thirteenth Revised Sheet No. 12 to its FERC Gas Tariff, Original Volume No. 1, to be effective June 1, 1991.

Questar states that the purpose of this filing is to adjust the purchased gas cost under its sale-for-resale Rate Schedule CD-1 effective June 1, 1991.

Questar states that Thirteenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.69791/Dth which is $0.34172 higher than the currently effective rate of $2.62619/Dth. The demand base cost of purchased gas as adjusted remains unchanged at $0.00601/Dth. The surcharge adjustment is decreased $0.19897/Dth from $0.15207/Dth to ($0.04690)/Dth, effective June 1, 1991.

Questar states that it has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such protests should be filed on or before April 23, 1991. 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 to public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8369 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-73-002]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 28, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Sub Alt Ninth Revised Sheet No. 52
Sub Alt Ninth Revised Sheet No. 53
Sub Alt Eighth Revised Sheet No. 54
Sub Alt Ninth Revised Sheet No. 55

Texas Eastern states that the tariff sheets submitted herewith are being filed to reflect the removal of all take-or-pay costs allocated to customers related to United Gas Pipe Line Company's Docket No. RP90-132 and the crediting of amounts previously billed to customers by Texas Eastern for those costs related to United Gas Pipe Line Company's Docket No. RP90-132.

The proposed effective date of the tariff sheets listed above is February 15, 1991, the date accepted by the Commission in its February 14, 1991 order in Docket Nos. RP91-72, *et al.*

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions and all parties in Docket Nos. RP97-72, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8370 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-75-002]

Texas Eastern Transmission Corp. Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 28, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Twelfth Revised Sheet No. 68
Twelfth Revised Sheet No. 69
Eleventh Revised Sheet No. 70
Twelfth Revised Sheet No. 71
Fourteenth Revised Sheet No. 76
Second Revised Sheet No. 483C
Second Revised Sheet No. 483D

Texas Eastern states that these tariff sheets are being filed to establish the monthly take-or-pay surcharges billed by Texas Eastern to its customers in order to recover surcharges billed to Texas Eastern by Texas Gas Transmission Corporation for take-or-pay costs paid to upstream pipeline suppliers of Texas Gas Transmission Corporation.

The proposed effective date of the tariff sheets listed above is April 1, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions and all parties in Docket Nos. RP97-72, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8371 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-130-000]

Transcontinental Gas Pipe Line Corp.; Notice of Tariff Filing

April 3, 1991

Take notice that on April 1, 1991, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, which tariff sheets are contained in Appendix A attached to the filing. The proposed effective date of these tariff sheets is May 1, 1991.

Transco states that the purpose of the instant filing is to (i) calculate Transco's Producer Settlement Payment (PSP) charges for the Annual Recovery Period May 1, 1991 through April 30, 1992 and (ii) reflect, effective May 1, 1991, the elimination of Fixed and Commodity Litigant Producer Settlement Payment (LPSP) charges which Transco was authorized to collect over a one-year amortization period May 1, 1990 through April 30, 1991.

Transco states that copies of the instant filing are being mailed to customers, state commissions and other interested parties.

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8372 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-54-003]

Trunkline Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991

Take notice that Trunkline Gas Company (Trunkline) on March 28, 1991, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 3-A.5
Fourth Revised Sheet No. 3-A.8

The subject tariff sheets bear an issue date of March 28, 1991, and a proposed effective date of April 1, 1991.

Trunkline states that these revised tariff sheets are being filed in compliance with the Commission's Order dated January 16, 1991 in the above-referenced proceeding. Specifically, Trunkline's filing reflects the adjustment to the monthly amortized amounts which customers were allocated in the December 17, 1990 filings to reconcile those amounts with the amounts customers paid under the Optional Deferred Payment Plan. Trunkline further states that its proposal for an Optional Deferred Payment Plan was approved by the Commission in Ordering Paragraph (B) of the Commission's Order dated January 16, 1991 in Docket No. RP91-54-000.

Trunkline states that under its Optional Deferred Payment Plan, customers had the option for the first three (3) months (January 1991-March 1991) of the thirty-six (36) month amortization period approved in these consolidated proceedings to pay amounts that were previously being paid by customers under Trunkline's then approved Order No. 500 recovery filings. To the extent that a customer elected the deferred payment plan, the difference in the amounts would be spread over the remaining thirty-three (33) months of the amortization period. Trunkline also stated in its filing dated December 17, 1990, that at the end of the three (3) month period, Trunkline would file revised tariff sheets to reflect any adjustments related to customers' use of the Optional Deferred Payment Plan.

Trunkline states that a copy of this filing has been sent to all affected sales and transportation customers, affected state commissions and all parties on the service list in the proceedings in Docket No. RP91-54-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8373 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-38-013 et al]

U-T Offshore System; Notice of Filing of Pipeline Refund Report

April 3, 1991

Take notice that U-T Offshore System (U-TOS) on December 26, 1990 submitted for filing a Refund Report for the period January 1, 1989 through October 30, 1990 in compliance with the Commission's Order Approving Uncontested Settlement issued October 30, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before April 11, 1991. Protests will be considered by the Commission but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 9-8374 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-226-001]

Valero Interstate Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991

Take notice that Valero Interstate Transmission Company ("Vitco"), on March 29, 1991 tendered for filing the following tariff sheets as required by the Commission letter order dated March 6, 1991:

FERC Gas Tariff, Original Volume No. 1

3rd Revised Sheet No. 7.1
3rd Revised Sheet No. 8.1
Original Sheet No. 8.1.1
2nd Revised Sheet No. 8.2
21st Revised Sheet No. 14
Original Sheet No. 14a
24th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

32nd Revised Sheet No. 6
5th Revised Sheet No. 7
1st Revised Sheet No. 50
1st Revised Sheet No. 54
1st Revised Sheet No. 107
1st Revised Sheet No. 115
1st Revised Sheet No. 123
1st Revised Sheet No. 131
1st Revised Sheet No. 139
1st Revised Sheet No. 156
1st Revised Sheet No. 172

Vitco states that the above tariff sheets are being filed to comply with the Commission "Order Approving Uncontested Settlement" issued March 6, 1991 in Docket No. RP89-226-000.

The proposed effective date of the above filing is May 1, 1991. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by May 1, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8375 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-56-000]

Valero Interstate Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 1991

Take notice that Valero Interstate Transmission Company ("Vitco"), on March 29, 1991 tendered for filing the following tariff sheets as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

25th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

33rd Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A.

The change in rates to Rate Schedule S-3 includes a decrease in purchased gas cost of $.3536 per MMBtu, a negative surcharge on Account 191 of $0.1509 per MMBtu and a surcharge of $0.3354 applicable to take-or-pay settlement costs.

The proposed effective date of the above filing is June 1, 1991. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by June 1, 1991.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8376 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-117-000]

Viking Gas Transmission Co.; Re-Notice of Proposed Changes in FERC Gas Tariff [1]

April 5, 1991.

Take notice that on March 14, 1991, Viking Gas Transmission Company (Viking) tendered for filing First Revised Sheet Nos. 81F, 81G, 81H, 81I and Second Revised Sheet No. 82 to its FERC Gas Tariff, Original Volume No. 1, to be effective April 14, 1991. Viking states that the revised tariff sheets are being filed to permit Viking to allocate capacity that may become available during a month to interruptible transportation customers that have submitted nominations that were not originally scheduled and to clarify Viking's rights in the event of certain capacity limitations. Viking states that the tariff revisions will help it to use its pipeline capacity more efficiently and to provide increased service for its customers.

Viking states that copies of the filing were served on all of Viking's customers and interested state commissions.

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[1] Notice was issued on March 19, 1991, but through administrative error was not published in the Federal Register.

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 18 CFR 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8496 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-3-43-005 and RP89-140-010]

Williams Natural Gas Co.; Notice of Filing of Pipeline Refund Report

April 3, 1991

Take notice that Williams Natural Gas Company (WNG) on January 2, 1991, submitted for filing a report of refunds made to jurisdictional customers for the period May 1, 1989 through October 31, 1990 in compliance with the Commission's Order Accepting and Suspending Tariff Sheets Subject to Conditions, issued May 30, 1990 and, Order Granting in Part and Denying in Part Rehearing, issued September 18, 1990 in the subject proceedings.

WNG states that a copy of this report has been served upon jurisdictional customers, state regulatory commissions having jurisdiction, and all parties to Docket Nos. TQ90-3-43 and RP89-140.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before April 11, 1991. Protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8377 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-56-003]

Williston Basin Interstate Pipeline Co.; Notice of Compliance Filing

April 3, 1991

Take notice that on March 3, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing under protest certain revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff.

Williston Basin states that the revised tariff sheets were filed under protest in compliance with the Commission's March 1, 1991 "Order Directing Revised Allocations to Small Customer Fixed Charges to Comply with Order No. 528-A" as more fully described in the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before April 10, 1991. 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. Persons that are already parties to this proceeding need not file a motion to intevene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-8378 Filed 4-9-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. F-029]

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures From Snyder General Corporation

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Snyder General Corporation (Snyder) from the existing Department of Energy (DOE) test procedures for furnaces regarding blower time delay for the company's GUI, GNI, GUH, GUA, GDA and PGMA central furnaces.

Today's notice also publishes a "Petition for Waiver" from Snyder. Snyder's Petition for Waiver requests DOE to grant relief from the DOE test procedures relating to the blower time delay specification. Snyder seeks to test using a blower delay time of 60-seconds for its GUI, GNI, GUH, GUA, GDA and PGMA central furnaces instead of the specified 1.5-minutes delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than May 10, 1991.

ADDRESSES: Written comments (8 copies) and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-029, Mail Stop CE-90, room 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-3012.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GE-41, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation

and Renewable Energy (Assistant Secretary) to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresenatative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An interim waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On January 4, 1991, Snyder filed an Application for an Interim Waiver regarding blower time delay. Snyder's Application seeks an interim waiver from the DOE test provisions that require a 1.5-minutes time delay between the ignition of the burner and starting of the circulating air blower. Instead, Snyder requests the allowance to test using a 60-second blower time delay when testing its GUI, GNI, GUH, GUA, GDA and PGMA central furnaces. Snyder states that the 60-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 1.0 percent, according to Snyder. Since current DOE test procedures do not address this variable blower time delay, Snyder asks that the interim waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to the Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 F.R. 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; and Amana Refrigeration, Inc., 56 FR 853, January 9, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on comparable basis.

Therefore, based on the above, DOE is granting Snyder an Interim Waiver for GUI, GNI, GUH, GUA, GDA and PGMA central furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver to Snyder General Corporation was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition of Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, April 4, 1991.

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

April 4, 1991

Mr. David B. Schumacher,

Manager, Development Engineering, Snyder General Corporation, 401 Randolph Street, Red Bud, IL 62278–1098

Dear Mr. Schumacher: This is in response to your January 4, 1991, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for Snyder furnaces regarding blower time delay for the Snyder General Corporation (Snyder) GUI, GNI, GUH, GUA, GDA and PGMA central furnaces.

Previous waivers for timed blower delay control have been granted by DOE to Coleman Company, 50 F.R. 2710, January 18, 1985; Magic Chef Company, 50 F.R. 41553, October 11, 1985; Rheem Manufacturing Company, 53 F.R. 48574, December 1, 1988, and 55 F.R. 3253, January 31, 1990; Trane Company, 54 F.R. 19226, May 4, 1989, and 55 F.R. 41589, October 12, 1990; Lennox Industries 54 F.R. 50525, December 7, 1989; DMO Industries, 55 F.R. 4004, February 6, 1990; Heil-Quaker Corporation, 55 F.R. 13184, April 9, 1990; Carrier Corporation, 55 F.R. 13182, April 9, 1990; and Amana Refrigeration Inc., 56 F.R. 853, January 9, 1991.

Snyder's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact of competitive disadvantage Snyder will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Snyder's Application for an Interim Waiver from the DOE test procedures for its GUI, GNI, GUH, GUA, GDA and PGMA central furnaces regarding blower time delay is granted.

Snyder shall be permitted to test its GUI, GNI, GUH, GUA, GDA and PGMA central furnaces on the basis of the test procedures specified in 10 CFR Part 430, Subpart B, Appendix N, with the modification set forth below.

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5-minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5-minutes (t-), unless: (1) the furnace employed a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5-minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ±0.01 inch of water gauge of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 day period, if necessary.

Sincerely,

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

January 4, 1991

Assistant Secretary Conservation and Renewable Resources,

United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585

Gentlemen: This is a Petition of Waiver and Application for Interim Waiver submitted pursuant to Title 10 CFR, part 430.27. Waiver is requested from the furnace test procedure found in Appendix N to Subpart B of Part 430.

The current test procedure requires a 1.5 minute delay between burner and supply air blower startup. The SnyderGeneral Corporation is requesting the use of 60 seconds instead of 1.5 minutes when testing our GUI, GNI, GUH, GUA, GDA and PGMA central furnace families incorporating a timed fan control with a maximum timed on adjustment of 60 seconds. The current procedure does not credit SnyderGeneral for additional energy savings that are realized when a shorter blower on time is utilized. Test data for each model series indicates an average 1% AFUE increase when a 60 second timed on delay is used. Copies of confidential test data confirming these energy savings will be forwarded to you upon request.

SnyderGeneral is confident that this petition for Waiver will be granted, and therefore, requests an Interim Waiver until the final ruling is made. Similar waivers have been granted to Evcon, Rheem Manufacturing, Carrier, Inter-City Products, Lennox Industries and the Trane Company. Also, the proposed ASHRAE 103–88 currently under consideration by DOE contains the coverage requested in this Petition for Waiver.

Manufacturers that domestically market similar products have been sent a copy of the Petition for Waiver and Application for Interim Waiver.

Best regards,

Snyder General Corporation.

David B. Schumacher,

Manager, Development Engineering.

[FR Doc. 91–8444 Filed 4–9–91; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CAS–RM–79–105]

Energy Conservation Program for Consumer Products; Extension of Compliance Date for Final Rule Regarding Test Procedures and Energy Conservation Standards for Water Heaters

AGENCY: Conservation and Renewable Energy Office, Department of Energy.

SUMMARY: On February 14, 1991, the Gas Appliance Manufacturers Association (GAMA) petitioned the Department of Energy (DOE) on behalf of 15 manufacturers to extend the compliance date of the Final Rule regarding test procedures and energy conservation standards for water heaters published in the **Federal Register** on October 17, 1990 (55 FR 42162). Today's notice publishes a letter granting an extension of the compliance date for those manufacturers from April 15, 1991, to October 15, 1991.

Issued in Washington, DC, April 3, 1991.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Mr. Frank A. Stanonik,

Associate Director of Technical Services, Gas Appliance Manufacturers Association, 1901 North Moore Street, Arlington, VA 22209

Dear Mr. Stanonik: The Department of Energy (DOE) has received the letter dated February 14, 1991, from the Gas Appliance Manufacturers Association (GAMA). GAMA, on behalf of 15 water heater manufacturers, requested an extension of the effective date of the final rule regarding test procedures and energy conservation standards for water heaters published in the **Federal Register** on October 17, 1990. 55 FR 42162. The letter states that because of the time required for manufacturers to reconfigure their test facilities, the length of time required to conduct each test, and the large number of models to be tested, the manufacturers will be unable to complete the tests by April 15, 1991.

DOE has reviewed this information and agrees that the revised test procedures represent a significant test burden that manufacturers cannot reasonably complete by April 15, 1991. Furthermore, DOE notes that extending the effective date of this final rule will not result in any loss of energy savings since test procedures provide a standard measurement of energy efficiency and all water heaters will be required to meet applicable energy conservation standards.

Therefore, after reviewing the above, DOE is extending the effective date from April 15, 1991, to October 15, 1991, for the manufacturers listed in Appendix A of this letter.

Sincerely,

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Appendix A

American Appliance Mfg. Corporation
Bock Water Heaters
Bradford-White Corporation
Crispaire Corporation
Energy Utilization Systems, Inc.
Ford Products Corporation
GSW Water Heating Company Ltd.
Heat Transfer Products, Inc.
Mor-Flo Industries, Inc.
Rheem Manufacturing Company—Water Heater Division
A. O. Smith Water Products Co.
State Industries, Inc.
Therma-Star Products Group—DEC International
Vaughn Manufacturing Company
Water Heater Innovations

[FR Doc. 91–8453 Filed 4–9–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of February 4 Through February 8, 1991

During the week of February 4 through February 8, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Rockwell International, 2/4/91; LFA–0094

Rockwell International filed an Appeal from a partial denial issued to it by the Acting Deputy General Counsel for Litigation (AO) of the Department of Energy (DOE) concerning a request for information which it submitted under the Freedom of Information Act. The AO withheld drafts and memoranda pursuant to Exemption 5. The DOE concluded that the AO's determination was correct and that Rockwell's arguments concerning the procedural aspects of Exemption 5 were without merit. The case was remanded to the AO for an additional search for responsive material.

Refund Applications

Cornell Construction Co., Inc., 2/4/91; RR272–46

The DOE issued a Decision and Order granting a Motion for Reconsideration filed by the Cornell Construction Company, Inc. In its Motion, Cornell requested that OHA amend a November 21, 1989 Decision and Order granting the firm's Application for Refund and approve a supplemental crude oil refund based upon previously unreported purchases of liquid asphalt. In granting the Motion, the OHA noted that Cornell's failure to report the additional gallons in its original claim was not attributable to any omission or oversight by Cornell. Rather, the invoices for the additional purchases had been the subject of a Department of Justice subpoena and, therefore, were inaccessible to Cornell. Accordingly, the Motion for Reconsideration was granted, and Cornell was awarded a supplemental refund of $2,972.

Dwelling Managers, Inc., 2/7/91; RF272–4242

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Dwelling Managers, Inc., (DMI) based on the firm's purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. A group of twenty-eight states and two U. S. Territories (the States) filed objections to the Application. The States contended that DMI, a residential property management company, was able to pass through all overcharges to its tenants. DMI acknowledged that it passed on some increased costs pursuant to a January 12, 1980 fuel surcharge provision for rent stablized apartments. Since the applicant was unable to determine the amount of the cost passthrough, the OHA determined that DMI had been fully compensated for its increased petroleum products costs incurred for its rent stablized apartments in 1980 and in January 1981. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury concerning DMI's remaining heating oil purchases and that DMI was eligible to receive a refund equal to its full allocable share for these purchases. The refund granted in this Decision was $32,773.

Food Services of America, et al., 2/6/91; RF272–61682, et al. RD272–61905, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge monies to four firms that purchased refined petroleum products for use in food production operations. The DOE rejected identical objections filed by a consortium of 28 States and two territories (the States), finding them insufficient to rebut the end-user presumption of injury. Therefore, the Applications for Refund filed by these four firms were granted and related Motions for Discovery filed by the States were denied. The refund amount granted to these four applicants was $70,161.

Garden State Tanning, 2/8/91; RF272–44640

Garden State Tanning (Garden State), a firm that tans and finishes leather, filed an Application for Refund as an end-user of refined petroleum products in the Subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application and provided evidence concerning the leather industry as a whole. The DOE determined that the States had failed to produce any convincing evidence to show that Garden State had been able to pass on the crude oil overcharges to its customers. The DOE rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as Garden State were injured by crude oil overcharges or unable to pass through any alleged overcharges. Therefore, the DOE rejected the States' objections and granted Garden State Tanning a refund of $16,453 based on its approved purchases of 20,566,159 gallons of petroleum products.

Humana Incorporated, 2/8/91; RF272–25968, RD272–25968

Humana Incorporated (Humana), a hospital management company, filed an Application for Refund as an end-user of refined petroleum products in the Subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application filed by Humana, provided evidence concerning the health industry as a whole, and filed a Motion For Discovery. The DOE determined that the States had failed to produce any convincing evidence to show that Humana had been able to pass on the crude oil overcharges to its customers. The DOE rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as Humana were injured by crude oil overcharges. Humana was unable to pass through its alleged overcharges. Therefore, the DOE rejected the States' objections, granted a refund of $29,360, based on the firms approved purchases of 36,700,000 gallons of petroleum products, and denied the Motion for Discovery filed by the States.

J. L. Healy Construction Co., 2/8/91; RF272–11138, RD272–11138

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to the J. L. Healy Construction Co. (Healy), an asphalt construction firm, based upon its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. A group of states and U.S. territories (the States) objected to the Application, challenging Healy's eligibility to utilize the end-user presumption of injury and filed a Motion for Discovery. The DOE rejected the States' argument noting that the objection was overly broad and speculative, failing to address the specific situation of the applicant. The DOE denied the Motion for Discovery. The refund granted in this Decision was $27,418.

Kaiser Cement Corporation, 2/6/91; RF272–508; RD272–508

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Kaiser Cement Corporation (Kaiser), based upon the firm's purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. During this period, the applicant was involved in the production of both cement and building materials used in the construction industry. Kaiser was an end-user of the products claimed and was therefore presumed injured. A consortium of 28 states and two territories filed a Statement of Objections and Motion for Discovery in the proceeding. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users in this case. Therefore, the Application for Refund was granted and the Motion for Discovery denied. The refund granted to Kaiser is $275,116.

The Upjohn Company, 2/8/91; RF272–9891, RD272–9891

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to The Upjohn Company (Upjohn), based upon its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Upjohn, a manufacturer of chemicals, health care products, and pharmaceuticals, demonstrated the volume of its claim by using contemporaneous records and reasonable estimates. Upjohn was an end-user of the products it claimed and was therefore presumed injured by the DOE. A group of states and territories (the States) filed Objections to the Application, contending that the firm was not injured because it was able to pass through to customers any overcharges they suffered due to the elasticities of supply and demand that exist in any industry. The States also argued that the pharmaceutical industry in general did not suffer injury because the demand for pharmaceuticals is always high, forcing customers to purchase them regardless of price increases. The DOE found the States' Objections to be without merit. Accordingly, the DOE granted Upjohn a refund of $116,868. The States also filed a Motion for Discovery in connection with the Application, which was denied for reasons discussed in earlier Subpart V crude oil Decisions.

Texaco Inc./Forrest City Texaco Gennusa's Northlake Texaco, 2/5/91; RF321–2518, RF321–3512

The DOE issued a Decision and Order concerning two Applications for Refund

filed in the Texaco Inc. special refund proceeding. Both Applications were filed by the current owners of retail service station businesses that purchased Texaco refined petroleum products during the Texaco consent order period. However, ownership of the two service stations was acquired by the present proprietors after the consent order period. The DOE determined that the right to seek a refund on the basis of the eligible Texaco products purchased by either station was not transferred to the current owners when they acquired the stations. Therefore, these applicants are not eligible for refunds in the Texaco proceeding, and both Applications were denied.

Texaco Inc./R.J. Reynolds Industries, Inc. 2/8/91; RF321-5303

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding concerning an Application for Refund filed by R.J. Reynolds Industries, Inc., on its own behalf and on behalf of several affiliates. One of the affiliates was a reseller of Texaco products while the rest were consumers. The applicant stated that it accepted the presumption of injury with respect to the reselling affiliates; accordingly, it was not required to demonstrate injury. The DOE found that the reselling affiliate should be granted a refund under the mid-level presumption of injury and that the consuming affiliates should be granted a refund equal to their full allocable share. The total refund granted was $51,067 ($41,817 principal and $9,250 interest).

The Brewer Company, 2/5/91; RF272-22560, RD272-22560

The Brewer Company, a firm that manufactures and sells specialty asphalts, filed an Application for Refund as an end-user of refined petroleum products in the Subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application filed by The Brewer Company, provided evidence concerning the construction industry as a whole, and filed a Motion for Discovery. The DOE determined that the States had failed to produce any convincing evidence to show that The Brewer Company had been able to pass on the crude oil overcharges to its customers. The DOE also rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as The Brewer Company were injured by crude oil overcharges. The Brewer Company was unable to pass through its alleged overcharges through the use of price escalator clauses. The DOE granted The Brewer Company a refund of $31,639 based on its approved purchases of 39,548,544 gallons of petroleum products and denied the Motion for Discovery filed by the States.

Walter R. Schmidt, 2/5/91; RF272-45537,RD272-45537

The DOE issued a Decision and Order denying an Application for Refund filed in the Subpart V crude oil special refund proceeding by Walter R. Schmidt, allegedly a purchaser of petroleum products. Mr. Schmidt did not submit any documentation that would substantiate his purchase claim of 102,422,157 gallons. Accordingly, his Application was denied. Counsel for a group of 30 States and Territories (the States) had submitted comments opposing Mr. Schmidt's refund claim as well as a Motion for Discovery. In view of the denial of Mr. Schmidt's claim, the Motion for Discovery was moot and dismissed.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Co./Jenkins Arco Service, Inc. et al	RF304-3801	02/08/91
Atlantic Richfield Co./National Butane Company, Luzerne Electric Division	RF304-6889; RF304-7551	02/06/91
Atlantic Richfield Co./Virg's Arco Service	RF304-12165	02/04/91
Dalton's Gulf Service et al	RF272-19354	02/06/91
Eastern Seaboard Petroleum	RF272-381	02/06/91
Exxon Corporation/Littles Super Market	RF307-875	02/06/91
Exxon Corporation/Rollins Leasing Corp., White's Exxon	RF307-10152, RF307-10169	02/08/91
Gulf Oil Corp./Mintzer Petroleum Corporation	RF300-9325	02/04/91
Mack Oil Co., Houghton County Road Commission	RF272-25460, RF272-26459	02/04/91
Merit Operating Corporation et al	RF272-42025	02/04/91
Shell Oil Company/Brilad Oil Co., Inc. et al	RF315-0008	02/05/91
South Texas Drilling & Exploration et al	RF272-27789	02/05/91
Texaco Inc./Clairmont Texaco et al	RF321-5701	02/05/91
Texaco Inc./Sherer Oil Co.	RF321-60325	02/04/91
Texaco Inc./Tony's Texaco on Woodstock et al	RF321-2005	02/06/91
Texaco Inc./Williamson Oil Co. et al	RF321-4216	02/06/91
The Empire District Electric Company	RF272-71299	02/04/91
Wilson Foods Corp. et al	RF272-77216	02/07/91

The following submissions were dismissed:

DISMISSALS

Name	Case No.
Ace Asphalt & Paving Company	RF272-71757
Adams Texaco at 2495	RF321-7996
Al's Texaco	RF321-12439
Bert Weber Texaco	RF321-12412
Bishop & Sons Cartage, Inc.	RF272-70255

DISMISSALS—Continued

Name	Case No.
Blackie's Arco of Portland	RF304-11546
Breckenridge Ski Corporation	RF272-70317
Bruce D. Hamilton	RF321-12507
Bruce D. Hamilton	RF321-12506
C.R. Lee & Sons	RF300-13784
Carlisle Texaco	RF321-11278
Centralia Tire & Texaco	RF321-12420
Charles Baccaro	RF321-2661
Charles Baccaro	RF321-2662

DISMISSALS—Continued

Name	Case No.
Chuck's Turtle Creek Texaco	RF321-114
College Texaco	RF321-12572
Council's Texaco Service	RF321-3188
Davis Texaco Service	RF321-12425
Dykeman's Texaco	RF321-1002
Ed's Texaco	RF321-6471
G.D. Lyddan & Son	RF300-13813
General Gas & Oil Co	RF321-12233
George Horine Texaco Service	RF321-11738

DISMISSALS—Continued

Name	Case No.
George White's Texaco	RF321-285
Gibbon's Oil Co	RF300-13660
Harmon Boles Gas Products, Inc	RF304-12162
Human Service Station	RF300-14630
Kirby Gulf	RF300-13476
Langford Texaco	RF321-12587
Marty Corporation	RF272-70210
Mike's Texaco	RF321-9632
Mike's Texaco	RF321-9633
Mike's Texaco	RF321-706
Nelson's Texaco	RF321-403
Pickett Brothers Texaco	RF321-1194
Protho Junction Gulf Service	RF300-14115
Ricci's Texaco	RF321-3042
Richardson Oil Co	RF300-13289
Ringle Express, Inc	RF321-12542
Roscoe Texaco	RF321-1385
Setser Gulf	RF300-13851
Siltzer's Gulf Service	RF300-14188
Swearingen's Texaco Service	RF321-3328
Taylor's Texaco Service	RF321-1915
Tenney's Texaco	RF321-12415
Texaco Auto Center	RF321-9631
The Henley-Lundgren Company	RF304-6826
Tom Collins Texaco	RF321-9209
Weeks Texaco	RF321-1876
Wilson Oil Co	RF304-12014
Woody's Tow Service, Inc	RF272-70369

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 4, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-8446 Filed 4-9-91; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $3,624,920 (plus accrued interest) in crude oil overcharge funds. The funds are being held in escrow pursuant to settlement agreements involving Kern Oil & Refinery (and Larry D. Delpit), Erickson Refining Corporation, and Bill J. Graham. It is proposed that the funds be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case Number LEF-0022 (Kern Oil & Refinery), LEF-0023 (Erickson Refining Corp.) or LEF-0024 (Bill J. Graham).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to the settlement of enforcement proceedings entered into by the DOE and Kern Oil & Refinery, Erickson Refining Corporation, and Bill J. Graham which concerned alleged crude oil overcharges.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute $3,624,920 remitted by Kern Oil & Refinery, Erickson Refining Corp. and Bill J. Graham which are being held in escrow. The DOE has tentatively decided that the funds should be distributed in accord with the Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, which states that crude oil overcharge monies will be divided among the states, the federal government, and eligible purchasers of refined products. See 51 FR 27899 (August 4, 1986). Proposed claims procedures are explained in the Proposed Decision and Order.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in these proceedings will be available for public inspection between the hours of 1 to 5 p.m., Monday through Friday, except Federal Holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 3, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of firms: Kern Oil & Refinery and Larry D. Delpit; Erickson Refining Corporation, Bill J. Graham.

Date of filings: September 28, 1990, September 28, 1990, October 2, 1990.

Case numbers: LEF-0022; LEF-0023; LEF-0024.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

I. Background

In this Proposed Decision and Order, we consider three Petitions for the Implementation of Special Refund Procedures filed by the ERA for crude oil overcharge funds. The first Petition deals with Kern Oil & Refinery (Kern) and Mr. Larry D. Delpit (Delpit) (Case No. LEF-0022).

On March 31, 1987, the ERA issued a Proposed Remedial Order (PRO) (Case No. KRO-0520) to Kern and Delpit. The PRO alleged that Kern and Delpit committed violations of DOE regulations governing the sale, allocation and classification of crude oil during the period October 1979 through December 1980. The PRO found the respondents liable for $25,042,016 in overcharges. The PRO was being adjudicated by the Office of Hearings and Appeals when, on April 19, 1990, the DOE entered into a Consent Order with Kern and Delpit under the terms of which Kern and Delpit were required to pay $750,000 and $2,600,000, respectively, for a total of $3,350,000 in settlement of all alleged regulatory violations against them. These monies have been deposited in a single, interest bearing escrow account referred to herein as the Kern escrow fund.

Erickson Refining Corporation (Erickson), a crude oil reseller and refiner was audited by the ERA and subsequently charged with illegal crude

oil "layering" in violation of 10 CFR 212.186. The ERA alleged that during the period October 1979 through September 1980 Erickson illegally obtained $1,238,405.84 in crude oil overcharges, and directed that Erickson refund this amount, plus interest. On October 31, 1985, the OHA affirmed the PRO with minor modifications and issued a Remedial Order to Erickson. *See Erickson Refining Corp.*, 13 DOE ¶ 83,045 (1985).

A second PRO was issued to Erickson by the ERA on May 30, 1985. In this PRO, the ERA charged Erickson with manipulating the Entitlements Program, 10 CFR 211.67, in order to receive excessive entitlements benefits for the months of November 1978, August 1979 and October 1979. The OHA upheld the PRO and issued a Remedial Order on October 4, 1985, finding Erickson liable for the repayment of $218,183.16 in excessive entitlements benefits, plus interest. *See Erickson Refining Corp.*, 13 DOE ¶ 83,036 (1985).

Erickson subsequently declared bankruptcy. On May 7, 1990, the U.S. Bankruptcy Court for the Southern District of Texas entered an order approving a settlement agreement between Erickson and the DOE regarding Erickson's compliance with the Federal petroleum price and allocation regulations, including those issues involved in the two Remedial Orders discussed above. In accordance with the settlement agreement, Erickson remitted $59,000 to the DOE.

Bill J. Graham (Graham), a crude oil producer, was audited by the ERA for the period September 1, 1973 through February 28, 1977. The ERA issued a PRO to Graham on May 3, 1979. Graham contested the PRO unsuccessfully before the OHA. On March 28, 1980, OHA issued a Remedial Order to Graham which directed the firm to refund $117,520 in crude oil overcharges, plus interest. See *Bill J. Graham*, 5 DOE ¶ 83,016 (1980). Graham died without complying with the Remedial Order. In 1988, the DOE and Mr. Graham's widow entered into an agreement to settle the matter for $200,000 plus interest. In accordance with this agreement, $215,920 has been remitted to the DOE.

In sum, these parties have remitted a total of $3,624,920 to the DOE. This Proposed Decision and Order sets forth OHA's plan to distribute these funds. Comments are solicited.

II. Jurisdiction

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in the 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. See *Office of Enforcement*, 9 DOE ¶ 82,508 at 85,046–049 (1981) (discussing subpart V and the authority of the OHA to fashion procedures to distribute refunds). See also *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,398 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the three firms listed above, and have determined that such procedures are appropriate.

III. Crude Oil Overcharge Refund Procedures

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) ("the MSRP"). The MSRP, issued as a result of a court-approved Settlement Agreement *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan.), provides that crude oil overcharge funds will be divided among the states, the Federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved initially to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

The OHA has been applying the MSRP to all subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 6, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737 (April 10, 1987) (the April 1987 Notice). The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil monies under the subpart V regulations. All applicants for refunds would be required to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge monies that were in the DOE's escrow account at the time of the settlement and a portion of the funds in the M.D.L. 378 escrow at the time of the settlement.

The DOE has applied these procedures in numerous cases since the April 1987 Notice. See *e.g.*, *Amorient Petroleum Company, California*, 18 DOE ¶ 85,595, (1989); *New York Petroleum, Inc.*, 18 DOE ¶85,435 (1988); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell Oil*); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*). These procedures have been approved by the United States District Court for the District of Kansas and the Temporary Emergency Court of Appeals (TECA). Various States had filed a Motion with the District Court, claiming that the OHA violated the Stripper Well Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the States' Motion in its entirety. The court concluded that the M.D.L. 378 Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318, 1323 (D. Kan. 1987). The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24. The States appealed the latter ruling. In affirming Judge Theis' decision, the TECA found, "It is clear that OHA is only creating a formula for calculating the proper allocation of funds in the overcharge escrow accounts which were specifically reserved by the Settlement for Subpart V claimants." *In Re: The Department of Energy Stripper Well Exemption Litigation* 857 F.2d 1481, 1484 (Temp. Emer. Ct. App. 1988). This the

Court concluded was a reasonable and a rational choice well within OHA's authority.

IV. Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April 1987 Notice to the crude oil subpart V proceedings that are the subject of the present determination. As noted above, $3,624,920 in alleged crude oil violation amounts is covered by this Proposed Decision. We have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts, or $724,984 (plus interest), for direct refund to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. The amount of the reserve may be adjusted downward later if circumstances warrant.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. See *MAPCO, Inc.*, 15 DOE ¶ 85,097 at 88,191–92 (1986); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,869 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations. Following subpart V precedent, reasonable estimates of purchase volumes may be submitted. See *Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund.

Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond volumes of product pruchased during the period of crude oil price controls. See *A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893–96 (1987) (*A. Tarricone*). The end-user presumption of injury, however, is rebuttable. *Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits specific evidence which is of sufficient weight to cast serious doubt on whether a particular refund applicant was actually injured, and thus ineligible for the application of the end-user presumption, that individual applicant will be required to produce further evidence of injury to prove actual end-user status.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. See A. Tarricone, 15 DOE at 88,896. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). Applicants who received a crude oil refund pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under subpart V. See *Boise Cascade Corp.*, 16 DOE ¶ 85,214 at 88,411 (1987), *reconsideration denied*, 16 DOE ¶ 85,494 (1987), *aff'd sub nom. In re: Department of Energy Stripper Well Litigation*, 3 Fed. Energy Guidelines ¶ 26,613 (D. Kan. 1987); *Sea-Land Service, Inc.*, 16 DOE ¶ 85,496 at 88,991 n.1 (1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amounts involved in this determination ($3,624,920) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). See *Mountain Fuel*, 14 DOE at 88,868. This approach reflects the fact that crude oil overcharges were spread equally throughout the country by the Entitlements Program.* This yields a volumetric refund amount of $0.0000017936 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. See *Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date. A deadline of June 30, 1988, was established for all refund applications for the first pool of crude oil funds, implemented pursuant to the MSRP, up to and including *Shell Oil*. A deadline of October 31, 1989, was established for applications for refunds from the second pool of crude oil funds. The second pool was funded by those crude oil refund proceedings beginning with *World Oil Co.*, 17 DOE ¶ 85,568, *corrected*, 17 DOE ¶ 85,669 (1988), and ending with *Texaco Inc.*, 19 DOE ¶ 85,200, *corrected*, 19 DOE ¶ 85,236 (1989). A March 31, 1991 deadline for filing an application for refund from the third pool of funds was set in *Cibro Sales Corp.*, 20 DOE ¶ 85,036 (1990). A June 30, 1992 deadline for filing an application for refund from the fourth pool of funds was set in *Quintana Energy Corp.*, 21 DOE ¶ 85,032 (1991). Accordingly, we propose to utilize this June 30, 1992 deadline for refund applications submitted pursuant to this Decision. The volumetric refund amount from the fourth pool of crude oil funds will be increased as additional crude oil violation amounts are received in the future. Applicants may be required to submit additional information to document their refund claims for these future amounts. Notice of any additional amounts available in the future will be published in the Federal Register.

B. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that the remaining 80 percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $2,899,936 plus interest, be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the M.D.L. 378 Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under that Settlement Agreement.

Before taking the actions we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in the Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the Federal Register.

It is therefore ordered that: The refund amounts remitted to the Department of Energy by Kern Oil & Refinery (and Larry Delpit), Erickson Refining Corporation, and Bill J. Graham

*The Department of Energy established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themselves through the purchase and sale of "entitlements". This balancing mechanism had the effect of evenly disbursing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. See *Amber Refining Inc.*, 13 DOE ¶ 85,217 at 88,564 (1985).

shall be distributed in accordance with the foregoing Decision.

[FR Doc. 91-8447 Filed 4-9-91; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (Southeastern).

ACTION: Notice of approval on an interim basis of the Jim Woodruff Project rates.

SUMMARY: On April 20, 1991, the Deputy Secretary confirmed and approved on an interim basis, replacement Rate Schedule JW-1-C and existing Rate Schedule JW-2-B for the Jim Woodruff Project's power. The rates were approved on an interim basis through September 19, 1995, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on April 20, 1991.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Power Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

Rodney L. Adelman, WDC, Director, Washington Liaison Office, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued September 11, 1987, in Docket No. EF87-3031-000 confirmed and approved Wholesale Power Rate Schedules JW-1-B and JW-2-B through August 19, 1992. Rate Schedules JW-1-C and JW-2-B replace Rate Schedules JW-1-B and JW-2-B, respectively.

Issued in Washington, DC, April 2, 1991.

W. Henson Moore,
Deputy Secretary.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

[Rate Order No. SEPA-28]

Order Confirming and Approving Power Rates on an Interim Basis

In the Matter of: Southeastern Power Administration—Jim Woodruff Project Power Rates.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. On August 3, 1990, the Secretary of Energy issued Notice SEN-10D-90, attached hereto, granting the Deputy Secretary sign off authority respecting matters for which the Assistant Secretary, Conservation and Renewable Energy, is responsible. The Southeastern, Southwestern, and Alaska Power Administrations organizationally report to the Assistant Secretary, Conservation and Renewable Energy. This rate order is issued by the Deputy Secretary pursuant to said notice.

Background

Power from the Jim Woodruff Project is presently sold under Wholesale Power Rate Schedules JW-1-B and JW-2-B. All of these rate schedules were approved by the FERC on September 11, 1987, for a period ending August 19, 1992.

Public Notice and Comment

Southeastern prepared a Power Repayment Study dated April 1990 for the Jim Woodruff Project which showed that revenues at current rates were not adequate to meet repayment criteria. A revised repayment study shows that a stepped increase totaling additional revenue of $3,152,000 is necessary to meet the repayment criteria. To recover the additional revenue required, SEPA has proposed utilization of a replacement schedule, designated JW-1-C, and a continuation of existing Rate Schedule JW-2-B.

Opportunities for public review and comment on the extension of Rate Schedule JW-2-B and on proposed Rate Schedule JW-1-C and supporting documents were announced by Notice published in the **Federal Register** on August 13, 1990, and all affected customers were notified by mail. Pursuant to the Notice, a public information and comment forum was held in Tallahassee, Florida, on September 13, 1990, where an opportunity for oral presentation of views was afforded. A transcript of the public forum was made. By Notice published in the **Federal Register** on October 1, 1990, additional written comments were solicited through December 31, 1990. There were five substantive issues raised during the comment period. All comments were evaluated by Southeastern. A summary of the five substantive issues follows:

Comment 1

Southeastern should hold a public information forum to give out the information about a proposed rate increase and at a later time a public comment forum.

Response

Almost all comments were concerning the lack of a separate comment forum. Southeastern is willing to hold separate forums and scheduled a second forum as soon as the preference customers requested it. With only six customers, it was felt that a less formal arrangement whereby our customers are encouraged to consult directly with us might be more productive.

Comment 2

In order to reduce rate shock, Southeastern should propose a stepped rate increase.

Response

Southeastern agrees with the Preference Customers and is proposing a 40 percent rate increase as soon as possible and 20 percent rate increase on September 20 of 1991, 1992, 1993, and 1994.

Comment 3

Southeastern should have an annual meeting with preference customers.

Response

Southeastern believes that this is an excellent idea and will arrange future meetings.

Comment 4

Southeastern is encouraged to maintain diligent oversight of Corps of Engineers' funding of the project.

Response

Southeastern agrees with the statement and is developing procedures with the Corps of Engineers to more carefully scrutinize all costs in the project.

Comment 5

Customers are concerned about impacts of water supply allocation and management upstream of the Jim Woodruff Project.

Response

Southeastern is also concerned about the impact of water management on the Jim Woodruff Project and will continue to work with the preference customers to insure that their concerns are properly considered in the Corps of Engineers' decisions on water management.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in Janaury 1991, for the Jim Woodruff Project, reveals that with a stepped rate increase totaling $3,152,000 over the current revenues shown in the January 1991 current Southeastern repayment study, all system power costs are paid within their repayment life. The Administrator of Southeastern has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Southeastern has prepared with Departmental approval an Environmental Assessment of the rate adjustment under consideration and which concludes that, the increased rate would not significantly affect the quality of the human environment within the meaning of the National Environmental Protection Act of 1969, and the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Washington Liaison Office, James Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning _____, 1991, and ending no later than September 20, 1995.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective April 20, 1991, attached Wholesale Power Rate Schedules JW–1–C and JW–2–B. The rate schedules shall remain in effect on an interim basis through September 20, 1995, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, DC, this 2nd day of April 1991.

W. Henson Moore,

Deputy Secretary.

Sen–10D–90

SUBJECT: Authorities and Responsibilities of the Deputy Secretary and Under Secretary

Dated 8–3–90

The purpose of this notice is to provide clarification on the authorities and responsibilities of the Deputy Secretary and the Under Secretary. This Secretary of Energy notice supersedes SEN–10C–90, of 3–12–90.

The authorities and responsibilities of the Deputy Secretary and Under Secretary are divided organizationally and are as follows:

Deputy Secretary

Assistant Secretary, Nuclear Energy
Assistant Secretary, Conservation and Renewable Energy
Assistant Secretary, International Affairs and Energy Emergencies
Assistant Secretary, Congressional and Intergovernmental Affairs
Assistant Secretary, Fossil Energy
Office of Procurement and Assistance Management
Office of General Counsel
Office of Energy Research
Office of Policy, Planning and Analysis
Office of Public Affairs
Economic Regulatory Administration
Energy Information Administration
Office of Hearings and Appeals
Office of Small and Disadvantaged Business Utilization
Bonneville Power Administration
Western Area Power Administration
Federal Energy Regulatory Commission (liaison only)

Under Secretary

Assistant Secretary, Defense Programs
Assistant Secretary, Environment, Safety, and Health
Office of Financial Management and Controller
Office of Administration and Human Resource Management
Office of Civilian Radioactive Waste Management
Office of New Production Reactors
Office of Environmental Restoration and Waste Management
Office of Nuclear Safety
Office of Intelligence
Office of Scientific and Engineering Recruitment, Training and Development
Office of Minority Economic Impact
Operations Offices (AL, CH, ID, NV, OR, and SF)
Board of Contract Appeals

Consistent with the Inspector General Act of 1978, as amended, the Inspector General reports directly to the Secretary of Energy. In addition, the Office of the Secretary of Energy Advisory Board will report directly to the Office of the Secretary consistent with the Board's established Charter.

The Deputy Secretary and Under Secretary will have sign off authority under their own signatures for the day-to-day operations in their respective areas. Issues requiring my attention will continue to be forwarded to me and I will still be the signatory of items to Chairpersons of all Congressional Committees, Governors, Cabinet Secretaries, Heads of Agencies, Heads of Corporations, and any other areas which I identify.

The Deputy Secretary and Under Secretary will meet with the Secretarial Officers in their jurisdictions to discuss what is expected of them in terms of effective management of their operations, appropriate notification of important events, timely response to the Congress, correspondence, and accountability.

Special Assistant positions will be established in the Office of the Secretary. These Special Assistants will staff the documents and issues that come up from the program offices for the Deputy Secretary and Under Secretary. They will use their judgment on whether the document is complete for action or should be returned for revision. These Special Assistants will function as liaisons to their assigned program offices. Each Special Assistant will attend staff meetings in the program office and be up to date on the current operations of these offices.

Appropriate revisions to Departmental directives will be made to reflect these assignments.

James D. Watkins,

Admiral, U.S. Navy (Retired).

[FR Doc. 91–8448 Filed 4–9–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3920–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to

the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 10, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Quality Assurance Specifications and Requirements (ICR #0866.03). This ICR requests approval for an extension of an existing collection.

Abstract: Under 40 CFR parts 30–31, quality assurance documentation is required when State and local governments request Federal financial assistance for technical monitoring activities and when non-profit organizations apply for research funding. This documentation must be submitted to EPA as a component of the grant application package. In more detail, State and local governments must provide a written quality assurance plan that includes QA policy, objectives, functional activities, and specific QA and quality control (QC) activities designed to achieve the project data quality goals. Non-profit research organizations must provide a narrative summary of the proposed research activity that contains a description of the methods that will be used to assess the quality of the data generated, particularly with respect to precision and accuracy.

This documentation will be reviewed by EPA quality assurance personnel to determine if the proposed activity can realistically meet the data quality objectives the applicant has claimed.

Burden Statement: Public reporting burden for this collection of information is estimated to average 40 hours per response for QA plans prepared by State and local governments, and 3 hours per response for narrative summaries prepared by non-profit organizations, including reviewing instructions, searching existing information sources, and completing and reviewing the collection of information.

Respondents: State or local agencies, non-profit organizations applying for Federal financial assistance.

Estimated Number of Respondents: 1200.

Frequency of Collection: Annual.

Estimated Number of Responses per Resident: 1.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Request

EPA ICR #1575.01; section 313 Supplier Notification Survey; was approved 02/13/91; OMB #2070–0118; expires 12/31/91.

EPA ICR #0795.05; section 12(B) Notification of chemical Exports; was approved 02/13/91; OMB #2070–0030; expires 02/28/92. This ICR is approved for one year.

EPA ICR #0229; NPDES Discharge Monitoring Report; OMB #2040–0004; expiration date was extended to 09/30/91.

Dated: April 3, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–8430 Filed 4–9–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3920–2]

Underground Injection Control, Class II Wells; Intent To Form an Advisory Committee To Resolve Issues Related to the Class II Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces that an organizational meeting of the Advisory Committee will be held on April 17 and 18, 1991 from 9 a.m. to 5 p.m. at the Washington Marriott Hotel, 1221 22nd Street NW., Washington, DC 20037; telephone (202) 872–1500. The purpose of this meeting is to discuss key issues involved in the regulation of Class II wells and whether the Committee should be formed and deliberations proceed.

DATE: April 10, 1991.

NOTICE: The Agency had previously announced its intention to form an Advisory Committee to develop amendments to the Class II regulations through a Regulatory Negotiation Process (56 FR 4957) on February 7, 1991. The Agency was specifically interested in discussing amendments to the Construction Requirements under 40 CFR 146.22 and the Area of Review Requirements under 40 CFR 146.6 as they are applied to Class II wells under 40 CFR 146.24.

Further comments from interested parties have led the Agency to believe that there was not sufficient agreement on the need for regulatory amendments to lead to a fruitful dialogue in the context of a regulatory negotiation process. These discussions also indicated; however, that a public process for discussing these two issues would provide useful input into eventual EPA decisions.

The Agency is therefore proposing to form an Advisory Committee whose charge would be to make recommendations to EPA regarding the Class II program. The Committee would examine data and information gathered by the EPA during the Mid-Course Evaluation of the Class II program and in subsequent studies, identify data gaps, if any, and make recommendations for program changes where appropriate.

The organizational meeting for the proposed Advisory Committee will be held on Wednesday, April 17 and Thursday, April 18, 1991 from 9 a.m. to 5 p.m. at the Washington Marriott Hotel, 1221 22nd Street NW., Washington, DC 20037; telephone (202) 872–1500. The purpose of the meeting is to discuss whether in-depth deliberations should proceed, agree on the scope of the issues and topics to be addressed by the Committee and address any other procedural matters that may arise. This meeting is open to the public and any parties interested in these discussions are encouraged to attend. All subsequent Committee meetings will be open to the public. Future meeting dates and locations will be announced in advance in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the establishment of this Advisory Committee and associated administrative matters contact: Chris Kirtz, Director, Regulatory Negotiation Project (PM–223), Regulatory Management Division, U.S. EPA, 401 M Street SW., Washington, DC 29460, telephone (202) 382–7565.

For information pertaining specifically to this announced meeting and regulation issues concerning Class II injection wells contact: Jeffrey B. Smith, Underground Injection Control Branch (WH–550E), U.S. EPA, 401 M Street SW., Washington, DC 20460, telephone (202) 382–586.

Dated: April 3, 1991.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 91–8323 Filed 4–9–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP-30000/20F; FRL 3882-2]

Cadmium Chloride; Termination of Special Review for Pesticide Products Containing Cadmium Chloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Termination of special review.

SUMMARY: In a Federal Register Notice of November 30, 1990 (55 FR 49697), EPA proposed to terminate the Cadmium Chloride Special Review because there were no longer any registered uses of cadmium chloride. EPA solicited public comments for a 30-day period and no comments were received. Accordingly, with this Notice, EPA is announcing that it has terminated the Cadmium Chloride Special Review.

FOR FURTHER INFORMATION CONTACT: By mail Ann Sibold, Special Review Branch, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd floor Crystal Station Building #1, 2800 Jefferson Davis Highway, Arlington, VA. 22202, (703) 308-8025.

SUPPLEMENTARY INFORMATION: By this Notice, EPA is announcing that it has terminated the Cadmium Chloride Special Review.

I. Introduction

Cadmium compounds were registered for fungicidal use on ornamental turf, professional turf, and home lawns. A considerable amount of cadmium use was on golf course tees and greens.

On October 26, 1977 (42 FR 56574), EPA issued a Notice commencing a Special Review of cadmium pesticides pursuant to 40 CFR 154.7(a). The Notice stated that the Special Review was initiated because the risk criteria for carcinogenicity, mutagenicity, teratogenicity, and fetotoxicity had been met or exceeded for all or certain uses of cadmium. This document and others referred to in this Notice are available in the public docket at the address listed in Unit III. of this Notice.

On October 10, 1986, EPA issued a Preliminary Determination to cancel registrations and deny applications for all pesticide products that contain cadmium compounds (51 FR 36524). The proposed action was based on EPA's determination that the use of cadmium fungicides would result in unreasonable adverse effects to applicators, including a carcinogenicity risk concern and a new risk concern for kidney effects. The other risk concerns no longer remained.

In response to the October 10, 1986 Notice, EPA received a public comment stating that its exposure assessment of cadmium chloride use on golf course tees and greens had been based on an incorrect assumption about application method. Commenters stated that cadmium chloride was applied to most golf course tees and greens by cart-drawn boom spray equipment (mini-booms), and not by hand-held spray guns. In view of this information, EPA issued a Data Call-in Notice in July, 1987, requiring an applicator exposure study for mini-boom sprayers.

On August 19, 1987, EPA issued a Notice of Intent to Cancel (NOIC), Final Determination and Conclusion of the Special Review (52 FR 31076). In this Notice, EPA announced its intent to cancel registrations and deny applications for pesticide products containing cadmium for use on golf course fairways and home lawns. At that time, EPA continued registration and use of cadmium chloride on golf course greens and tees, if labels were amended to classify cadmium chloride as a "Restricted Use" pesticide; to restrict the application method to mini-booms only; and to require that protective clothing be worn during mixing, loading, and application. However, EPA noted that once data from the mini-boom Data Call-In were received and reviewed, the carcinogenic and kidney risks would be reassessed for the golf course greens and tees use and that further regulatory action would be taken if the mini-boom study results showed that applicator risk remained unreasonable.

The mini-boom applicator exposure study was submitted in May 1989 (Ref. 1). After reviewing the study, EPA found that although exposure from mini-boom sprayers was less than exposure from hand-held spray guns, the risk to applicators remained unacceptable.

On June 13, 1990, EPA met with representatives of the only registrant of a cadmium chloride product to discuss EPA's review of the mini-boom study, its risk/benefit analysis, and the company's cadmium chloride reregistration activities. A memorandum summarizing this meeting (Ref. 2) is available in the public docket.

On July 9, 1990, EPA received the registrant's formal request for voluntary cancellation of the last remaining cadmium chloride product registration. On August 1, 1990, EPA published in the Federal Register a Notice (55 FR 31227) announcing this request for voluntary cancellation, and specifying the existing stocks provisions. Under such provisions, the registrant would be permitted to sell its product to distributors or release it for shipment until July 31, 1991; distributors or retailers would be permitted to sell or distribute the product to golf courses until December 31, 1991; and use on golf courses would be permitted until the supply of product in the possession of the golf course is exhausted. No comments were received during the 10-day comment period, and on August 11, 1990, the voluntary cancellation became effective.

II. The EPA's Decision Regarding Special Review

In the November 30, 1990 Federal Register (55 FR 49697), EPA announced its intent to terminate the Cadmium Chloride Special Review, stated that the reason for this action was that all registrations for cadmium chloride had been canceled, and initiated a 30-day comment period. EPA has received no comments in response to the November 30, 1990 Notice. Accordingly, with this Notice EPA is announcing that it has terminated the Cadmium Chloride Special Review.

III. Availability of Public Docket

EPA established a public docket for the Cadmium Chloride Special Review. This public docket will include this Notice; any other Notices pertinent to the Cadmium Chloride Special Review and to EPA's decision regarding the termination of the Cadmium Chloride Special Review; documents not considered Confidential Business Information; copies of written comments or other material submitted to EPA in response to the initiation of Special Review; and a current index of materials in the public docket. The public docket is located in Rm. 244, CM # 2, 1921 Jefferson Davis Highway, Arlington, Va., 22202 and can be viewed from 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays.

IV. References

The References in this Federal Register Notice are as follows:

(1) Exposure of Mixer/loader/applicators to Caddy Liquid Cadmium Turf Fungicide Applied to Golf Course Turf by Groundboom Equipment. May 10, 1989. Test conducted by Orius Associates Inc., for the W.A. Cleary Chemical Corporation. Public Docket No. D-12157.

(2) Meeting between W.A. Cleary and EPA on June 13, 1990, to discuss EPA's activities regarding W.A. Cleary's reregistration of cadmium chloride. Public Docket No. D-11866a.

These References are available for review in the public docket, as described in Unit III of this Notice.

Dated: April 1, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91–8433 Filed 4–9–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50721; FRL–3886–4]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Genetically Modified Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the University of Wisconsin-Madison, a notification of intent to conduct small-scale field testing of a genetically modified strain of *Pseudomonas fluorescens* on peas in Wisconsin.

DATES: Comments must be received on or before May 10, 1991.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM-21), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-557-1900.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from the University of Wisconsin-Madison, Wisconsin. The purpose of the proposed testing is to evaluate the efficacy of the genetically modified strain of *Pseudomonas fluorescens* for the control of *Pythium* damping-off of peas and to determine the effect of the organism on the soil bacterial community. The organism has been genetically modified by inserting *lacZY* genes derived from *E. coli* for the purpose of providing a marker for detection of the modified organisms at low population levels in the soil. The proposed field tests would be conducted at the University of Wisconsin Experimental Farm, Arlington, Wisconsin, over a 2-year period. The total area of the proposed test site is less than 1 acre.

Dated: March 28, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–8154 Filed 4–9–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Commission Requests Comment on NECA's Proposed Additional Revisions to the Average Schedules

Released: April 2, 1991.

On December 31, 1990, the National Exchange Carrier Association, Inc. (NECA) filed proposed revisions to the average schedules. On March 22, 1991, NECA filed additional revisions. First, NECA proposed revisions to comply with the five percent limitation on Other Billing and Collection Expenses that applies to cost companies. See National Exchange Carrier Association, Inc. Revisions of Tariff F.C.C. No. 5, Transmittal No. 425, Order, DA 91–116, 6 FCC Rcd 719 (released January 29, 1991). Second, NECA proposes to adjust the average schedules for the loss, to most co-operative telephone companies, of the Federal income tax exemption that was provided by section 501(c)(12) of the Internal Revenue Code. See Internal Revenue Service, National Office Technical Advice Memorandum, Index Numbers 0501.12–02 and 0513.00–00 (March 15, 1991).

On March 27, 1991, NECA amended the revisions that it filed on March 22, 1991 to correct a typographical error and errors that resulted from an incorrect treatment of "patronage capital dividends." The amended revisions that NECA has proposed to its December 31, 1990 filing are contained in the appendix to this Notice. NECA requests that these revisions become effective July 1, 1991.

Copies of NECA's March 22, 1991 filing, March 27, 1991 filing, and the record in this proceeding may be obtained from the Commission's public records duplication contractor, The Downtown Copy Center, suite 140, 1114 21st Street, NW., Washington, DC 20037. (202) 452–1422. The record in this proceeding is also available for public inspection and duplication at room 544, 1919 M St., NW., Washington, DC 20554. Commenting parties should file five (5) copies of their comments and reply comments at room 544, 1919 M Street, NW., Washingotn, DC 20554, and two (2) copies with The Downtown Copy Center. For consideration in this proceeding, all comments and reply comments in this proceeding should be captioned "In the Matter of National Exchange Carrier Association March 22, 1991 and March 27, 1991 Proposed Revisions to the Average Schedule Formula."

Comments on NECA's March 22, 1991 proposed revisions to the average schedules, as amended by NECA's March 27, 1991 filing, should be filed on or before April 18, 1991. Reply comments should be filed on or before April 26, 1991.

For further information, contact Kent R. Nilsson, room 544, 1919 M St., NW., Washington, DC 20554. (202) 632–6363.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Appendix

On March 22, 1991 and March 27, 1991, NECA modified the proposed revisions to the average schedules that it filed on December 31, 1990 for the following settlement functions.

Common Line

Where access lines per exchange are less than 385.554541, the settlement per access line would be: $11.275789 − (0.012825 × access lines per exchange). Where access lines per exchange are greater than or equal to 385.554541, the settlement per access line would be $6.331147.

Common Line Rate of Return Formula

The common line factor would be .569040 + 3.830757 × ROR.

Traffic Sensitive Central Office:

For less than 10,000 access lines, the settlement per minute would be [$.028676 + ($191.300826 / minutes per exchange)][1.32769 − (.000032769)(access lines)]. For 10,000 or more access lines, the settlement per minute would be [$.028676 + ($191.300826 / minutes per exchange)].

Intertoll Switching:

The settlement per trunk would be $25.73.

Line Haul Distance Sensitive:

The settlement would be [($1.034214) − (interstate circuit miles)] + [($.0011455)(traffic sensitive switched minutes)].

Line Haul Non Distance Sensitive:

The settlement per interstate circuit termination would be $38.95.

Traffic Sensitive Rate of Return:

The traffic sensitive factor would be equal to [0.542989 + (4.062501)(ROR)].

CABS and Access Administration:

The CABS and access administration settlement would be $648.86 + [($0.000451)(minutes)].

[FR Doc. 91–8341 Filed 4–9–91; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new commercial television station to operate on Channel 48, Jonesboro, Arkansas.

Applicant, City and State	*File No.*	*MM Docket No.*
A. Banner Broadcasting Corporation; Jonesboro, AR.	BPCT–900703KI	91–63
B. Arkansas Rural Television Company; Jonesboro, AR.	BPCT–900821KF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

FAA, B.
Comparative, A & B.
Ultimate, A & B.

3. If there is any non-standardized issue(s) in this proceeding, the full test of the issue and the applicant(s) to which it applies are set forth in an appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Down Town Copy Center, 1919 M Street NW., Room 246, Washington, DC 20037 Telephoone No. (202) 452–1422.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 91–8415 Filed 4–9–91; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new commercial television station to operate on Channel 50, Albuquerque, New Mexico.

Applicant, City and state	File No.	MM docket No.
A. Mary Moran; Albuquerque, NM.	BPCT–881223KF	91–50
B. Loretta Salazar; Albuquerque, NM.	BPCT–890214KE	

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings as 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

FAA, B.
Comparative, A, B.
Ultimate, A, B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Barbara Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 91–8416 Filed 4–9–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Transpacific Westbound Rate Agreement; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010689–043.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.,
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Liner System
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.

Synopsis: The proposed amendment would modify the Agreement to establish a breach of confidentiality clause.

By Order of the Federal Maritime Commission.

Dated: April 4, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-8359 Filed 4-9-91; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; H.P. Blanchard et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders 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 applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

H.P. Blanchard & Co., 100 West Broadway, 2nd FL, Long Beach, CA 90802, Officers: Walter J. Loughery, Director/President, Kenneth E. Ronen, Director/Exec. Vice President, Vernon L. Johnson, Director/Vice President, Raymond L. Keene, Director/Vice President, James R. Edwards, Vice President

World Trade Systems Inc., 900 World Trade Bldg., 1520 Texas Ave., Houston, TX 77002, Officers: Jose S. Lopez, President, Dorothy M. Lopez, Secretary/Treasurer

Century International Forwarding, Inc., 80 Burley Street, Danvers, MA 01923, Officer: Albert Anthony Cianfrocca, President/Director

Cross Ocean International Inc., 10061 S. Roberts Rd., Palos Hills, IL 60465, Officers: Philip Carvatta, President, Philip John Terese, Chairman, Telma Terese, Secretary/Treasurer

American Lucky Star, 401 Broadway, Suite 310, New York, NW 10013, Officers: Waly Hakim, President, Lama Hakim, Treasurer.

By the Federal Maritime Commission.

Dated: April 5, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-8432 Filed 4-9-91; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; K&M Custom Brokers, et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 1390.
Name: K&M Custom Brokers, Inc.
Address: 40 Parker Road, Suite 200, Elizabeth, NJ 07207.
Date Revoked: February 28, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 1742.
Name: C.T.G., Inc.
Address: 298 Main Street, Woodbridge, NJ 07095.
Date Revoked: February 28, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 2030R.
Name: Alpha Shipping Company, Inc.
Address: 53 Park Place, New York, NY 10007.
Date Revoked: March 5, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 462.
Name: Salentine & Company, Inc.
Address: 555 West Layton Ave., Milwaukee, WI 53207.
Date Revoked: March 13, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 2545.
Name: C. H. Powell Co., Inc.
Address: 170 Broadway, Ste. 1610, New York, NY 10038.
Date Revoked: March 19, 1991.
Reason: Surrendered license voluntarily.

License Number: 1953.
Name: Intercontinental-Powell, Inc.
Address: 1 Poston Rd., Ste. 230, P.O. Box 10847, Charleston, SC 29407.
Date Revoked: March 19, 1991.
Reason: Surrendered license voluntarily.

License Number: 3175.
Name: International Shipping & Marketing, Inc.
Address: 16800 Imperial Valley Dr., Suite 262, Houston, TX 77060.
Date Revoked: March 24, 1991.
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Deputy Director, Bureau of Domestic Regulation.

[FR Doc. 91-8431 Filed 4-9-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 5-6, 1991

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 5-6, 1991.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests further weakening in economic activity. Total nonfarm payroll employment fell sharply further in December and January, reflecting widespread job losses that were especially pronounced in manufacturing and construction; the civilian unemployment rate rose to 6.2 percent in January. Industrial output declined markedly in the fourth quarter, in part because of sizable cutbacks in the production of motor vehicles, and partial data suggest a further drop in January. Consumer spending has remained soft. Advance indicators of business capital spending point to considerable weakness in investment in coming months. Residential construction has declined substantially further in recent months. The nominal U.S. merchandise trade deficit narrowed in November, as the value of imports declined more than that of exports; the average deficit for October and November exceeded that for the third quarter. Increases in consumer prices moderated and producer prices changed little in November and December, largely as a result of a softening in energy prices. The latest data suggest some further deceleration in wages and overall labor costs.

Short-term interest rates have fallen considerably since the Committee meeting on December 18, while rates in longer-term markets are unchanged to down slightly. The Board of Governors approved a reduction in the discount rate from 7 to 6½ percent on December 18 and a further reduction to 6 percent on December 18 and a further reduction to 6 percent on February 1. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies has declined somewhat on balance over the intermeeting period.

Growth of M2 remained sluggish in December and January; expansion of M3 picked up in January from the very slow pace of recent months. For the year 1990, M2 and M3 expanded at rates in the lower portions of the Committee's ranges for the year. Expansion of total domestic nonfinancial debt appears to have been near the midpoint of its monitoring range for the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote a resumption of sustainable growth in output, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 2½ to 6½ percent and 1 to 5 percent, respectively, measured from the fourth quarter of 1990 to the fourth quarter of 1991. The monitoring range for growth of total

[1] Copies of the Record of policy actions of the Committee for the meeting of February 5-6, 1991, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

domestic nonfinancial debt was set at 4½ to 8½ percent for the year. With regard to M3, the Committee anticipated that the ongoing restructuring of thrift depository institutions would continue to depress its growth relative to spending and total credit. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Depending upon progress toward price stability, trends in economic activity, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, slightly greater reserve restraint might or somewhat lesser reserve restraint would be acceptable in th intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of both M2 and M3 over the period from December through March at annual rates of about 3½ to 4 percent.

By order of the Federal Open Market Committee, April 3, 1991.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR. Doc. 91–8405 Filed 4–9–91; 8:45am]

BILLING CODE 6210-01-M

Michael T. and Susan B. Dobel, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 29, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Michael T. and Susan B. Dobel, Omaha, Nebraska; to acquire an additional 6.14 percent of the voting shares of Williamsburg Holding Company, Omaha, Nebraska, for a total of 31.13 percent, and thereby indirectly acquire Security Savings Bank, Williamsburg, Iowa.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Craig Reeves, Clayton, New Mexico; to acquire an additional 16.99 percent for a total of 26.19 percent, and Viola C. Reeves, Clayton, New Mexico, to acquire an additional 3.22 percent for a total of 25.50 percent of the voting shares of Los Hacendados, Inc., Clayton, New Mexico, and thereby indirectly acquire First National Bank in Clayton, Clayton, New Mexico.

Board of Governors of the Federal Reserve System, April 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8401 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

Empire Banc Corp., et al.; Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 29, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Empire Banc Corporation, Traverse City, Michigan; to engage *de novo* through its subsidiary, Empire Federal Savings Bank, Traverse City, Michigan, in acquiring certain deposit liabilities and purchasing certain assets of Great Lakes Bancorp, Ann Arbor, Michigan, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Redwood Empire Bancorp, Santa Rosa, California; to engage *de novo* through its subsidiary, Redwood Empire Datacorp, Santa Rosa, California, in providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases, or access to such services, facilities, or data bases by any technological means pursuant to § 225.25(b)(7) of the Board's RegulationY.

Board of Governors of the Federal Reserve System, April 3, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8272 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

Great Southern Capital Corporation Employee Stock Ownership Trust; 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 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 29, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Great Southern Capital Corporation Employee Stock Ownership Trust, Meridian, Mississippi; to become a bank holding company by acquiring 25 percent of the voting shares of Great Southern Capital Corporation, Quitman, Mississippi, and thereby indirectly acquire Great Southern National Bank, Meridian, Mississippi.

Board of Governors of the Federal Reserve System, April 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8402 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

Norwest Bank Minnesota N.A.; Corporation to do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"). The Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than April 29, 1991.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, DC 20551:

1. Norwest Bank Minnesota N.A., Minneapolis, Minnesota; to establish a corporation to be known as Norwest Bank International, Colorado, Minneapolis, Minnesota. This application may be inspected at the Federal Reserve Bank of Minneapolis.

Board of Governors of the Federal Reserve System, April 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8403 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

Otoe County Bancorporation, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 29, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Otoe County Bancorporation, Inc., Nebraska City, Nebraska; to become a bank holding company by acquiring Otoe County Bank and Trust Company, Nebraska City, Nebraska.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Desert Southwest Community Bancorp, Las Vegas, Nevada; to become a bank holding company by acquiring at least 75 percent of the voting shares of Nevada Community Bank, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, April 3, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8273 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

Synovus Financial Corp.; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 29, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Synovus Financial Corporation, Columbus, Georgia, and TB&C Bancshares, Inc., Columbus, Georgia; to

expand the activities of wholly-owned subsidiary, Synovus Securities, Inc., Columbus, Georgia, to include underwriting and dealing in municipal revenue bonds; to act as agent in the private placement of debt and equity securities, including providing related advisory services; and to buy and sell all types of securities on the order of investors as a "riskless principal," pursuant to § 225.23 of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 4, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-8404 Filed 4-9-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91M-0103]

Digene Diagnostics, Inc.; Premarket Approval of Viratype® Human Papillomavirus DNA Typing Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Digene Diagnostics, Inc., Silver Spring, MD, for premarket approval, under the Medical Device Amendments of 1976, of the Viratype® Human Papillomavirus deoxyribonucleic acid (DNA) Typing Kit. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of March 11, 1991, of the approval of the application.

DATES: Petitions for administrative review by May 10, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On November 17, 1989, Life Technologies, Inc., Gaithersburg, MD 20877, submitted to CDRH an application for premarket approval of the Viratype® Human Papillomavirus DNA Typing Kit. On December 20, 1990, all rights for this premarket approval application were transferred to Digene Diagnostics, Inc., Silver Spring, MD 20904. The Viratype® Human Papillomavirus DNA Typing Kit is a modified dot blot nucleic acid hybridization assay intended for the detection of the following three groupings of human papillomaviruses in cervical specimens: Types 6 and 11 (6/11), types 16 and 18 (16/18), and types 31, 33, and 35 (31/33/35). The use of this test is indicated: (1) To aid in the diagnosis of sexually transmitted HPV infections with HPV types 6, 11, 16, 18, 31, 33, and 35; (2) to distinguish among infections with HPV types 6/11, which are principally associated with benign condylomatous lesions as well as low grade cervical intraepithelial neoplasia (CIN); HPV types 16/18, which are typically associated with mild, moderate, and severe CIN and carcinomas (increasing frequency with severity of disease); and HPV types 31/33/35, which are often found in mild, moderate, and severe dysplasias but less frequently in carcinomas; (3) to characterize ViraPap® HPV positive specimens with respect to HPV type grouping; (4) to serve as an adjunct to the Pap smear in the identification of women at increased risk for cervical intraepithelial neoplasia. The physician should consider the ViraType® test for high risk patients whom he or she selects on the basis of medical history, sexual history, and previous Pap smear results. The ViraType® test is not intended for use as a screening device in the general population. The ViraType® test may be performed on samples shown to be previously positive by the ViraPap® HPV DNA Detection Kit. The ViraType® test may also be performed on cervical specimens and biopsies not previously assayed by ViraPap®. The ViraType® assay is to be used only in conjunction with specimens which have been collected using the ViraPap®/ViraType® Specimen Collection Kit or ViraPap®/ViraType® Specimen Transport Medium.

On November 27, 1990, the Microbiology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On March 11, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 10, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 2, 1991.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91-8409 Filed 4-9-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security

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

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Advisory Council on Social Security.

DATES: The meeting will be open to the public on April 25 and 26, 1991 from 9 a.m. to 7 p.m.; and on April 27, 1991, from 9 a.m. to 5 p.m.

ADDRESSES: Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Lagoyda, Program Analyst, Advisory Council on Social Security, room 638 G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, 202-245-0217.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every four years. The Council examines issues affecting the Social Security retirement, disability, and survivors insurance programs, as well as the Medicare and Medicaid programs, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- The adequacy of the Medicare program to meet the health and long-term care needs of our aged and disabled populations, the impact on Medicaid of the current financing structure for long-term care, and the need for more stable health care, and the need for more stable health care financing for the aged, the disabled, the poor, and the uninsured;
- Major Old-Age, Survivors, and Disability Insurance (OASDI) financing issues, including the long-range financial status of the program, relationship of OASDI income and outgo to budget-deficit reduction efforts under the Balanced Budget and Emergency Deficit Control Act of 1985, and projects buildups in the OASDI trust funds; and
- Broad policy issues in Social Security, such as the role of Social Security in overall U.S. retirement income policy.

The Council is composed of 12 members: G. Lawrence Atkins, Robert M. Ball, Philip Briggs, Lonnie R. Bristow, Theodore Cooper, John T. Dunlop, Karen Ignagni, James R. Jones, Paul O'Neill, A.L. "Pete" Singleton, John J. Sweeney, and Don C. Wegmiller. The chairperson is Deborah Steelman.

The Council is to report to the Secretary and Congress in 1991.

II. Agenda

The Council will discuss issues relating to health care financing policy.

The agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Programs Nos. 13.714 Medical Assistance Program; 13.733 Medicare-Hospital Insurance; 13.774 Medicare-Supplementary Medical Insurance; 13.802, Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.805 Social Security-Survivor's Insurance)

Ann D. LaBelle,

Executive Director, Advisory Council on Social Security.

[FR Doc. 91-8613 Filed 4-9-91; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of May 1991:

Name: Council on Graduate Medical Education.

Time: May 1, 1991, 8:30 a.m.-5 p.m., May 2, 1991, 1 p.m.-3:30 p.m.

Place: Conference Room G, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857. Open for entire meeting.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialities and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: The plenary Council will discuss presentations on (1) the Health Resources and Services Administration Long-Range Plan for Health Professions, (2) Physician Manpower activities of the Association of American Medical Colleges and the American Medical Association, and (3) reports of the Council subcommittees.

Anyone requiring information regarding the subject Council should contact Carol Gleich, Ph.D., Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3626.

Name: Subcommittee on Minority Representation in Medicine of the Council on Graduate Medical Education.

Time: May 1, 1991, 5 p.m.-6 p.m.

Place: Conference Room G, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857. Open for entire meeting.

Purpose: To review and discuss final draft of the section on the underrepresentation of minorities in medicine of the COGME Special Report.

Agenda: The subcommittee will review (1) data and information on trends on indebtedness and specialty choice, and (2) future activities of the subcommittee.

Anyone requiring information regarding the subject Subcommittee should contact Mr. Lanardo E. Moody, Subcommittee Principal Staff Liaison, Division of Medicine, Bureau of Health Professions, room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-6326.

Name: Subcommittee on Medical Education Programs and Financing of the Council on Graduate Medical Education.

Time: May 2, 1991, 8:30 a.m.-11:45 a.m.

Place: Conference Room H, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857, Open for entire meeting.

Purpose: The subcommittee identifies the issues and problems in current methods of financing and support.

Assesses the implications of alternative financing policies on medical education programs, service delivery, cost containment, physician supply & distribution, and shortages and excesses of physicians.

Analyzes existing information and data on current and alternative medical education programs of hospitals, schools of medicine and osteopathy, and accrediting bodies; federal policies regarding medical education programs; and their impact on the supply and distribution of physicians.

Agenda: (1) The Subcommittee will discuss (1) options for providing guidance to the Health Care Financing Administration regarding the financing of Graduate Medical Education, and (2) options for reporting on the financial status of VA Major Teaching Hospitals.

Anyone requiring information regarding the subject Subcommittee should contact Ms. Debbie M. Jackson, Subcommittee Principal Staff Liaison, or F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, Division of Medicine, Bureau of Health Professions, room 4C–25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–6326.

Name: Subcommittee on Physician Manpower of the Council on Graduate Medical Education

Time: May 2, 1991, 8:30 a.m.–11:45 a.m.

Place: Conference Room G, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857, Open for entire meeting.

Purpose: The subcommittee reviews and analyzes currently applicable studies of under and oversupply of physician manpower giving special attention to number and distribution of specialists, primary care physicians and residents. It also is concerned with studies and recommendations regarding the number of undergraduate medical students as well as the need for improving physician manpower data.

Agenda: The Subcommittee will discuss (1) a presentation of the Bureau of Health Profession's physician supply forecasting models, with particular focus on primary care physician manpower and (2) future Subcommittee activities.

Anyone requiring information regarding the subject Subcommittee should contact Jerald M. Katzoff, Subcommittee Principal Staff Liaison, Division of Medicine, Bureau of Health Professions, room 4C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–6326.

Agenda Items are subject to change as priorities dictate.

Dated: April 4, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91–8407 Filed 4–9–91; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Sodium Fluoride

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of sodium fluoride, a white, crystalline, water-soluble powder used in municipal water fluoridation systems, in various dental products and in a variety of industrial applications.

Groups of 80 F344/N rats and B6C3F1 mice of each sex received 0 or 175 ppm sodium fluoride and groups of 50 rats and mice of each sex received 25 or 100 ppm sodium fluoride in deionized drinking water ad libitum for up to 103 weeks.

Under the conditions of these 2-year dosed water studies, there was equivocal evidence of carcinogenic activity* of sodium fluoride in male F344/N rats, based on the occurrence of a small number of osteosarcomas in dosed animals. "Equivocal evidence" is a category for uncertain findings defined as studies that are interpreted as showing a marginal increase of neoplasms that may be related to chemical administration. There was no evidence of carcinogenic activity in female F344/N rats receiving sodium fluoride at concentrations of 25, 100, or 175 ppm (11, 45 or 79 ppm fluoride) in drinking water for 2 years. There was no evidence of carcinogenic activity of sodium fluoride in male or female mice receiving sodium fluoride at concentrations of 25, 100, 175 ppm in drinking water for 2 years.

Dosed rats had lesions typical of fluorosis of the teeth and female rats receiving fluoride had increased osteosclerosis of long bones.

The study scientist for these studies is Dr. John Bucher. Questions or comments about this Technical Report should be directed to Dr. Bucher at P.O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–4532.

Copies of Toxicology and Carcinogenesis Studies of Sodium Fluoride in F344/N Rats and B6C3F1 Mice (Drinking Water Studies) (TR 393) are available without charge from the Chemical Carcinogenesis Branch, MD AO–01, P.O. Box 12233, Research Triangle Park, NC 17709; telephone (919) 541–1371.

Dated: April 3, 1991.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 91–8385 Filed 4–9–91; 8:45 am]

BILLING CODE 4140–01–M

* The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–01–4120–14; WYW–117924]

Proposed Coal Lease by Application; Schedule of Public Hearing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: This Notice announces the scheduled date and place for a public hearing pursuant to 43 CFR 3425.4 to receive comments on an environmental assessment (EA), the proposed sale and the fair market value and maximum economic recovery pertaining to the proposed coal lease application filed by Kerr-McGee Coal Corporation.

DATES: The public hearing will be held on Monday, May 6, 1991, 7 p.m., Rockpile Community Hall, 121 4J Road, Gillette, WY 82716. The public comment period will end on Wednesday, June 5, 1991.

ADDRESSES: The EA document is available upon request from the Bureau of Land Management, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601 between the hours of 7:45 a.m. and 4:30 p.m. Written comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: All comments and any further information should be addressed to: James W. Monroe, District Manager, Casper District Office, Bureau of Land Management (BLM), 1701 East "E" Street, Casper, Wyoming 82601 (307) 261–7600.

SUPPLEMENTARY INFORMATION: Kerr-McGee Coal Corporation has filed a coal lease application for the following subject lands:

Sixth Principal Meridian

T. 44 N., R. 70 W.,
Sec. 33, lots 1–3 incl., 6–11 incl., 14–16 incl.;
Sec. 34, lots 1–16 incl.;
Sec. 35, lots 2–15 incl.

The above lands comprise 1708.62 acres. These lands are adjacent to the existing Jacobs Ranch coal mine in Campbell County, Wyoming operated by Kerr-McGee Coal Corporation. Written comments will be accepted from the date of publication of this Notice in the Federal Register through June 5, 1991, thirty days after the public hearing. Comments may be submitted in writing or expressed verbally at the hearing.

Dated: April 1, 1991.

James W. Monroe,

District Manager.

[FR Doc. 91–8396 Filed 4–9–91; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–01–4111–15; CALA 033164]

California: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease CALA 033164 for lands in Kern County, California, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1986, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rental at the rate of $5.00 per acre and for royalty at the rate of not less than 16⅔% making all the rates lower than that percentage in the royalty schedule in the lease 16⅔% but leaving all the rates higher than that percentage the same as original specified in the royalty schedule. Payment of a $500.00 administrative 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 Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Dated: April 2, 1991.

Fred O'Ferrall,

Chief, Leasable Minerals Section.

[FR Doc. 91–8397 Filed 4–9–91; 8:45 am]

BILLING CODE 4310–GG–M

[WY–010–00–4212–14; WYW–70557, WYW–119043]

Realty Action; Washakie County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; termination of classification, sale of public land in Washakie County, Wyoming.

SUMMARY: The following described lands are classified for lease or sale pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741; U.S.C. 869, 869–4), as amended, by classification decision dated Marach 2, 1961;

Sixth Principal Meridian

T. 46N., R. 92W.,
Sec. 7: Parcels 9A and 10A.
The above land aggregate 46.25 acres.

The lands described have been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713). Pursuant to the authority of section 202(d) of the Federal Land Policy and Management Act (43 U.S.C. 1714), the Recreation and Public Purposes Act classification is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Victor Trickey, Realty Specialist, Bureau of Land Management, Washakie Resource Area, P.O. Box 119, Worland, WY 82401, 307–347–9871.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface estate of the subject land, reserving all the minerals to the United States. The proposed sale will be a direct, negotiated sale to the city of Worland, at not less than the appraised fair market value. Sale of the subject land will follow expiration of the forty-five (45) day periodd for comments provided by publication of this document, but the sale may be delayed until all requirements have been met.

The primary purpose in conveying the subject lands out of public ownership is to meet the public need identified by local governmental entities. The subject land, currently under lease for golf course facilities, will be offered to the city of Worland. The proposed sale is consistent with the Washakie Resource Management Plan and will serve important public objectives. The planning document and environmental assessment covering the proposed sale will be available for review of the Bureau of Land Management, Worland District Office, 101 South 23rd Street, Worland, Wyoming.

Conveyance of the public land will reserve to the United States:

1. A right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. All mineral deposits shall be reserved to the United States, together with the right to prospect for, mine and remove such deposit from the same under applicable law and such regulations to be established by the Secretary of the Interior.

Conveyance will be subject to oil and gas lease WYW–114750. The public land described above shall be segregated from all forms of appropriation under the public land laws, incluidng the mining laws, upon publication of this notice in the Federal Register. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever comes first.

For a period of forty-five (45) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, P.O. Box 119, Worland, Wyoming 82401. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections this proposed realty action will be become final.

Dated: March 29, 1991.

Roger D. Inman,

Area Manager.

[FR Doc. 91–8350 Filed 4–9–91; 8:45 am]

BILLING CODE 4310–22–M

[CO–030–4410–08]

Extension of Comment Period of Draft Resource Management Plan and Environmental Impact Statement for the Gunnison Resource Area (Office of Environmental Affairs Document Control; No. 91–6); Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the comment period on the Draft Resource Management Plan and Environmental Impact Statement for the Gunnison Resource Area.

EFFECTIVE DATE: The comment period is extended to June 15, 1991.

FOR FURTHER INFORMATION CONTACT: Barry Tollefson, Area Manager, Gunnison Resource Area, 216 N. Colorado, Gunnison, Colorado 81230. The telephone number is (303) 641–0471.

SUPPLEMENTARY INFORMATION: This notice amends the comment period on the Draft Resource Management Plan and Environmental Impact Statement for the Gunnison Resource Area published in 56 FR 8359 on Thursday, February 28, 1991, to coincide with the Environmental Protection Agency's due date. The comment period is extended from May 31, 1991 to June 15, 1991.

Dated: March 29, 1991.

Bob Moore,

State Director.

[FR Doc. 91-8388 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-JB-M

[ID-942-01-4730-12]

Idaho: Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., March 13, 1991.

The plat representing the dependent resurvey of portions of the Boise Base line (south boundary, T. 1 N., Rs. 44 and 45 E.) and subdivisional lines, the subdivision of section 5, and the survey of Tract 17, T. 1 S., R. 45 E., Boise Meridian, Idaho, Group No. 762, was accepted, March 8, 1991.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: April 1, 1991.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 91-8387 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-01-4214-10; IDI-3378]

Notice of Termination of Proposed Withdrawal and Reservation of Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice of an application, serial number IDI-3378, for withdrawal and reservation of lands was published as Federal Register Document No. 70-2401 on page 3826 in the issue of February 27, 1970. The applicant's agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulation contained in CFR, subpart 2091, such lands will be at 9 a.m. on May 9, 1991, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

Clark Ranch Dam and Reservior

T. 3 N., R. 41 E.,
- Sec. 10, lots 1, 2, and 3, SE¼SW¼;
- Sec. 11, lots 2, 3, 4, 6, and 7, N½SE¼SE¼;
- Sec. 12, N½SW¼SW¼ and those portions of lots 4 and 5, NE¼SW¼, S½NE¼ lying outside H.E.S. No. 256;
- Sec. 14, lots 6, 7, 8, 9, 10, and 11;
- Sec. 15, lots 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, and 18.

T. 3 N., R. 43 E.,
- Sec. 6, lots 22 and 23;
- Sec. 7, lots 11, 20 and 21;

and all the unsurveyed islands in the Snake River located within the following sections:

T. 3 N., R. 41 E.,
- Secs. 12 and 13.

T. 3 N., R. 42 E.,
- Secs. 4, 5, 7, 8, 9, and 10.

The areas described contain approximately 690.52 surveyed acres and approximately acres.

Lynn Crandall Dam and Reservior

T. 2 N., R. 42 E.,
- Sec. 25, E½NE¼;
- Sec. 36, NW¼NE¼.

T. 3 N., R. 42 E.,
- Sec. 1, lot 1, N½SE¼, SE¼SE¼;
- Sec. 2, S½SW¼;
- Sec. 11, N½NW¼, NW¼NE¼

T. 1 N., R. 43 E.,
- Sec. 3, N½NE¼SW¼, SE¼NE¼SW¼, E½SW¼NE¼SW¼, N½NW¼SW¼;
- Sec. 4, lot 4, SW¼NE¼, S½NW¼;
- Sec. 5, lots 1, 3, 4, SE¼NW¼ and that portion of H.E.S. No. 754 lying within the NW¼;
- Sec. 6, lot 1, SW¼NE¼, and that portion of H.E.S. No. 754 lying within the NE¼;
- Sec. 8, SE¼NE¼, SE¼;
- Sec. 9, NW¼NE¼, S½NE¼NW¼, N½SW¼;
- Sec. 10, lot 5;
- Sec. 12, lots 11 through 19, inclusive, SW¼SW¼;
- Sec. 13, lots 3 through 8, inclusive;
- Sec. 17, N½NE¼, NW¼NW¼.

T. 2 N., R. 43 E.,
- Sec. 17, NW¼SE¼;
- Sec. 19, lot 2
- Sec. 31, S½SW¼, SW¼SE¼;
- Sec. 32, S½SE¼;
- Sec. 35, SE¼NW¼, NW¼SE¼, N½SE¼.

T. 3 N., R. 43 E.,
- Sec. 6, lots 4 and 5;
- Sec. 18, lots 1, 2, and 3, E½NW¼, SE¼SW¼;
- Sec. 29, NW¼SW¼, SE¼SW¼;
- Sec. 31, lot 8;
- Sec. 33, S½SW¼.

T. 1 N., R. 44 E.,
- Sec. 7, lot 5
- Sec. 18, lot 10, E½SW¼SW¼;
- Sec. 19, lot 5, SW¼NE¼, E½NW¼, E½NW¼NW¼, NE¼SE¼;
- Sec. 20, lots 5 through 9, inclusive;
- Sec. 21, NW¼SE¼;
- Sec. 22, E½NW¼;
- Sec. 27, lots 2 and 3;
- Sec. 28, lot 5, S½NW¼, NE¼SW¼, NW¼SE¼, SE¼SE¼;
- Sec. 29 NE¼NE¼;
- Sec. 34, lots 2, 3 and 4 NE¼SE¼;
- Sec. 35, W½SW¼.

T. 1 S., R. 44 E.,
- Sec. 1, lots 1 and 5.

T. 1 S., R. 45 E.,
- Sec. 6, lot 5.

and all the unsurveyed islands in the Snake River located within the following sections:

T. 3 E., R. 42 E.,
- Secs. 10, 13, lot 15.

T. 1 N., R. 43 E.,
- Secs. 2, 3, 4, 11, 12, and 13.

T. 3 N., R., 43 E.,
- Secs. 18, 30, 31, and 32.

T. 1 N., R. 44 E.,
- Secs. 7, 18, 19, 20, 21, 27, 28, 34, and 35.

T. 1 S., R. 44 E.,
- Sec. 1.

T. 1 S., R. 45 E.,
- Sec. 6.

The areas described contain approximately 4300.45 surveyed acres and approximately 250.00 unsurveyed acres.

The total areas described aggregate approximately 4935.97 surveyed acres and approximately 400.00 unsurveyed acres, all in Bonneville County.

Dated: April 2, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-8398 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-01-4214-10; IDI-841]

Notice of Termination of Proposed Withdrawal and Reservation of Lands; Idaho

AGENCY: Notice of an application, serial number IDI-841, for withdrawal and reservation of lands was published as Federal Register Documnt No. 67-1770 on page 2979 in the issue of February 16, 1967. The applicant's agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in CFR, subpart 2091, such lands will be at 9 a.m. on May 9, 1991, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 11 S., R. 16 E.,
- Sec. 19, N½NE¼;
- Sec. 22, NE¼SW¼, SE¼SE¼, NW¼SE¼, N½SW¼SE¼, SE¼SW¼SE¼;
- Sec. 30, SE¼SE¼;
- Sec. 31, NE¼NE¼;
- Sec. 34, E½NE¼, SW¼NW¼SE¼, W½W½SE¼NW¼SE¼, SE¼SE¼;

Sec. 35, E½NW¼, E½E½W½NW¼, S½N½NW¼SW¼SW¼, S½NW¼ SW¼SW¼, SW¼SW¼SW¼, S½S½ NE¼SW¼, E½SE¼SW¼, E½E½ NW¼SE¼, SW¼SE¼.
T. 12 S., R. 16 E.,
Sec. 1, NW¼NW¼SW¼NW¼, S½NW¼ SW¼NW¼, SW¼SW¼NW¼, NW¼SE¼SW¼NW¼, S½SE¼ SW¼NW¼, S½NW¼NE¼SW¼, SW¼NE¼SW¼, W½SE¼NE¼SW¼, SE¼SE¼NE¼NW¼, NW¼SW¼, S½SW¼, W½SW¼SE¼, SE¼SW¼ SE¼, S½NE¼SE¼SE¼.
Sec. 2, W½SE¼NE¼, W½SE¼SW¼ NE¼, SW¼NE¼SW¼NE¼, SE¼SE¼ SW¼NE¼, S½NW¼, N½SW¼, S½NE¼SE¼, SW¼NW¼NE¼SE¼, W½SE¼, SE¼SE¼.
Sec. 3, S½NE¼, E½E½SE¼NW¼, S½SW¼, S½S½NE¼SE¼, N½ NE¼SE¼, SW¼NE¼SE¼, W½SE¼ SE¼.
Sec. 4, SE¼.
Sec. 10, N½NE¼, N½N½S½NE¼, N½N½NE¼NW¼, N½NE¼ NW¼NW¼.
Sec. 11, SE¼NE¼NE¼, SW¼NE¼, W½SE¼NE¼, N½N½NE¼, E½SE¼ NE¼, E½NE¼SW¼, NE¼SW¼SE¼, NW¼SE¼, NW¼SW¼SE¼, E½SW¼ SW¼SE¼, SE¼SE¼, E½SE¼SW¼SE¼.
Sec. 13, NW¼NW¼, E½SW¼NW¼, E½NW¼SW¼NW¼, NE¼NE¼ NW¼SW¼, N½N½SE¼SW¼.
Sec. 14, N½SE¼.
Sec. 24, NW¼NW¼.
T. 11 S., R. 17 E.,
Sec. 19, N½N½NE¼SE¼;
Sec. 20, NE¼SE¼, NE¼NE¼SW¼, NE¼SE¼NW¼SW¼, N½NW¼ NW¼SW¼, NE¼SW¼SW¼, E½ SE¼SE¼SW¼, W½SE¼, E½SE¼SE¼, NW¼SE¼SE¼;
Sec. 24, E½SE¼;
Sec. 25, W½NE¼, W½SE¼, SE¼SE¼;
Sec. 30, lot 1;
Sec. 31, lots 2, 3 and 4;
Sec. 34, E½SW¼NE¼, S½E½NE¼, S½S½SE¼SE¼NW¼, NW¼NW¼, E½W½SW¼NW¼, N½NE¼SW¼, W½W½SW¼NE¼SW¼, E½NW¼ SW¼, W½NE¼NW¼SW¼, N½SW¼ SW¼, N½SW¼SW¼SW¼, W½NW¼ NW¼SE¼;
Sec. 35, SE¼NE¼, NW¼NE¼, E½NW¼, S½S½S½NE¼SW¼, E½SE¼.
T. 12 S., R. 17 E.,
Sec. 1, All.
Sec. 2, E½SE¼;
Sec. 3, E½NE¼, N½SW¼, SW¼SE¼;
Sec. 4, S½NW¼, NW¼SW¼;
Sec. 6, lots 5, 6 and 7, W½SE¼SW¼;
Sec. 7, lots 1, 2, 3, and 4, W½NE¼NW¼, E½SW¼, SE¼;
Sec. 8, E½E½SE¼NE¼;
Sec. 9, E½NE¼NW¼, SE¼SE¼ NE¼NW¼, SW¼SW¼;
Sec. 10, W½W½SE¼NE¼, SW¼NE¼, S½NW¼, SW¼, N½NW¼SE¼, SW¼NW¼SE¼, W½W½SE¼ NW¼SE¼, W½SW¼SE¼;
Sec. 11, E½, S½SE¼NW¼, SE¼SW¼;
Sec. 12, W½NW¼NE¼, NW¼, W½ NE¼SW¼, W½SW¼;
Sec. 14, SW¼NW¼;
Sec. 15, W½NW¼NE¼, N½NW¼.
T. 11 S., R. 18 E.,
Sec. 19, lots 2, 3, and 4, E½SW¼,
Sec. 30, lot 1, NE¼NW¼, SE¼SW¼;
Sec. 33, SE¼SE¼;
Sec. 34, S½SW¼.
T. 12 S., R. 18 E.,
Sec. 4, NE¼NE¼, SW¼NE¼, W½NW¼, SE¼NW¼;
Sec. 5, SE¼NE¼, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 6, E½SW¼SE¼.
T. 12 S., R. 19 E.,
Sec. 6, lot 6.

The areas described aggregate approximately 6803.00 acres in Twin Falls and Cassia Counties.

Dated: April 2, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-8399 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-01-4214-10; IDI-16383]

Notice of Termination of Proposed Withdrawal and Reservation of Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice of an application, serial number IDI-16383, for withdrawal and reservation of lands was published as Federal Register No. 46-102 on page 28754 in the issue of May 28, 1981. The applicant's agency has cancelled its application insofar as it involves the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, subpart 2091, such lands will at 9 a.m., on May 9, 1991, be relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 11 S., R. 16 E.,
Sec. 5, SW¼SE¼SE¼;
Sec. 8, E½NE¼;
Sec. 22, SW¼SW¼SE¼;
Sec. 35, (S½N½NE¼/SW¼SW¼, S½NE¼SW¼SW¼, and SE¼SW¼ SW¼ except the east 50' thereof); NW¼SE¼SW¼, N½SW¼SE¼SW¼, SE¼SW¼SE¼SW¼;
T. 12 S., R. 16 E.,
Sec. 14, S½NE¼;
Sec. 24, NE¼NW¼, S½NW¼.
T. 11 S., R. 17 E.,
Sec. 33, S½NE¼Se¼SE¼, SE¼SE¼SE¼, E½SW¼SE¼SE¼.
T. 12 W., R. 17 E.,
Sec. 4, S½NE¼;
Sec. 7, W½SE¼NW¼;
Sec. 11, NE¼SW¼, S½SE¼NW¼.
T. 12 S., R. 18 E.,
Sec. 1, N½SE¼;
Sec. 4, SE¼NE¼;
Sec. 6, lot 7.

The area described aggregates 661.00 acres in Twin Falls County.

Dated: April 2, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-8400 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

Timucuan Ecological and Historic Preserve; Intent To Prepare an Environmental Impact Statement

AGENCY: National Park Service,Timucuan Ecological and Historic Preserve, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service (NPS),Timucuan Ecological and Historic Preserve, is preparing an environmental impact statement to assess the impacts of alternative management concepts for the preserve. A range of alternatives will be formulated to evaluate distinct approaches to management concerns including resource protection, visitor use, development, access, operations, and land protection. As a conceptual framework for formulating these alternatives, the preserve's purposes, significant resources, major interpretive themes, and the NPS's management objectives will first be identified.

Persons wishing to provide input to the scoping process for the plan and environmental impact statement should address such comments to the Superintendent,Timucuan Ecological and Historic Preserve, 12713 Fort Caroline Road, Jacksonville, Florida 32225. Comments should be received no later than 60 days from the publication date of this notice. For further information contact the Superintendent,Timucuan Ecological and Historic Preserve at the above address or at telephone (904) 641-7155.

The responsible official is Robert M. Baker, Regional Director, Southeast Regional Office, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303. The draft plan and environmental statement are expected to be completed and available for public review by summer 1992. The final plan, environmental statement and Record of Decision are expected to be completed approximately 1 year later.

Dated: March 25, 1991.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 91-8414 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-84-M

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 10), that a meeting at the Cape Cod National Seashore Advisory Commission will be held on Friday, April 26, 1991.

The Commission was reestablished pursuant to Public Law 99-349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at Headquarters, Marconi Station, South Wellfleet, Massachusetts, at 10 a.m. for a two-hour field trip to tour the Tri-Town Septage Treatment Facility, Orleans, and the Salt Pond House, Eastham. This is open to the public, however, no transportation will be provided them. The public may follow the vehicles transporting the Commission and listen to discussions at Orleans and Eastham.

The regular business meeting will convene at Park Headquarters, Marconi Station, South Wellfleet, Massachusetts, at 1 p.m. for the following reasons:

1. Adoption of Agenda;
2. Approval of Minutes or Previous Meeting;
3. Old Business;
4. New Business;
5. Reports of Officers;
6. Superintendent's Report;
7. Recommendation Concerning Relocation of Cape Cod (Highland) Light;
8. Presentation of Natural Resources Action Plan;
9. Communication/public comment;
10. Agenda for next meeting;
11. Date for next meeting; and
12. Adjournment.

The business meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Cape Cod National Seashore, South Wellfleet, MA, 02663.

Dated: March 26, 1991.

Gerald D. Patten,

Regional Director.

[FR Doc. 91-8413 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-84-M

Delaware Water Gap National Recreation Area; Meeting

AGENCY: National Park Service; Delaware Water Gap National Recreation Area Citizens Advisory Commission, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the dates of the next two meetings of the Delaware Water Gap National Recreation Area Citizens Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act.

Date: May 7, 1991.
Time: 7 p.m.
Location: Wayne Dumont, Jr. Administration Building, Rt. 519, Belvidere, New Jersey 07823.

Date: July 13, 1991.
Time: 9 a.m.
Location: Monroe County Court House, Commissioners Meeting Room, 7th and Monroe Streets, Stroudsburg, PA 18360.

Agenda: The agendas will be devoted to committee reports, Superintendent's report, old business, new business, correspondence, identification of topics of concern. An opportunity for public comment to the Commission will be provided.

FOR FURTHER INFORMATION, CONTACT: Richard G. Ring, Superintendent; Delaware Water Gap National Recreation Area Bushkill, PA 18324; 717-588-2435.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100-573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 91-8412 Filed 4-9-91; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-324]

Certain Acid-Washed Denim Garments and Accessories, Including Jeans, Jackets, Bags and Skirts; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Kent R. Stevens, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Deborah J. Kline, Esq. and Kent R. Stevens, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: April 2, 1991.

Respectfully submitted,

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 91-8440 Filed 4-9-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-307, and Nos. 731-TA-498 through 511 (Preliminary)]

Ball Bearings, Mounted or Unmounted, and Parts Thereof, From Argentina, Austria, Brazil, Canada, Hong Kong, Hungary, Mexico, the People's Republic of China, Poland, the Republic of Korea, Spain, Taiwan, Turkey, and Yugoslavia

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Turkey of ball

[1] The record is defined in § 207.2(h) of the Commission's rules of practice and procedure (19 CFR 207.2(h)).

[2] Commissioner Newquist dissenting.

bearings, mounted or unmounted, and parts thereof,[3] provided for in subheadings 6909.19.50, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, and 8708.99.50 of the Harmonized Tariff Schedule of the United States (previously under items 535.27, 536.15, 680.30, 680.31, 680.33, 680.34, 680.37, 680.38, 680.39, 680.41, 681.04, 681.10, 681.36, 692.32, and 692.33 of the former Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Turkey.

Further, the Commission determines,[4] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Austria, Brazil, Canada, Hong Kong, Hungary, Mexico, the People's Republic of China, Poland, the Republic of Korea, Spain, Taiwan, Turkey, and Yugoslavia of ball bearings, mounted or unmounted, and parts thereof, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 13, 1991, a petition was filed with the Commission and the Department of Commerce by the Torrington Company, Torrington, CT, alleging that an industry in the United States is materially injured by reason of subsidized imports of ball bearings, mounted or unmounted, and parts thereof, from Turkey, and by reason of LTFV imports of such merchandise from Argentina, Austria, Brazil, Canada, Hong Kong, Hungary, Mexico, the People's Republic of China, Poland, the Republic of Korea, Spain, Taiwan, Turkey, and Yugoslavia. Accordingly, effective February 13, 1991, the Commission instituted preliminary countervailing duty investigation No. 701–TA–307 (Preliminary) and preliminary antidumping investigations Nos. 731–TA–498 through 511 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 22, 1991 (56 FR 7398). The conference was held in Washington, DC, on March 6, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 1, 1991. The views of the Commission are contained in USITC Publication 2374 (April 1991) entitled "Ball Bearings, Mounted or Unmounted, and Parts Thereof, from Argentina, Austria, Brazil, Canada, Hong Kong, Hungary, Mexico, the People's Republic of China, Poland, the Republic of Korea, Spain, Taiwan, Turkey, and Yugoslavia: Determinations of the Commission in Investigation No. 701–TA–307 and Nos. 731–TA–498 through 511 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: April 1, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–8439 Filed 4–9–91; 8:45 am]

BILLING CODE 7020–02–M

[3] The products covered in these investigations include all ground antifriction bearings and parts thereof, finished or unfinished, which employ balls as the rolling element, whether or not housed or combined. Imports of these products are classified under the following categories: Antifriction balls and other parts of ball bearings, ball bearings with integral shafts, other ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. Wheel hub units which employ balls as the rolling element are included in these investigations. Finished but unground or semiground balls are not included in the scope of these investigations. Unfinished parts (inner race, outer race, balls, etc.) are included in these investigations if they have been heat treated, or heat treatment is not required to be performed on the part. Unfinished parts which will be subject to heat treatment after importation are not included in these investigations.

[4] Commissioner Newquist dissenting.

[Investigations Nos. 701–TA–302 (Final) and 731–TA–454 (Final)]

Fresh and Chilled Atlantic Salmon From Norway; Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Norway of fresh and chilled Atlantic salmon,[3] provided for in subheading 0302.12.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Norway and sold in the United States at less than fair value (LTFV).

Background

The Commission instituted the countervailing duty investigation effective June 26, 1990, following a preliminary determination by the Department of Commerce that imports the fresh and chilled Atlantic salmon from Norway were being subsidized within the meaning of section 703(a) of the act (19 U.S.C. 1671b(a)). The Commission instituted the antidumping investigation effective October 1, 1990, following a preliminary determination by the Department of Commerce that the subject imports were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing notices in the Federal Register on August 1, October 31, November 21, and December 27, 1990 (55 FR 31246, 45867, 48701, and 53203, respectively). The hearing was held in Washington, DC, on February 26, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determninations in these investigations to the Secretary of Commerce on April 1, 1991. The views of the Commission are contained in USITC Publication 2371 (April 1991), entitled "Fresh and Chilled Atlantic Salmon from Norway: Determinations of the Commission in Investigations Nos. 701–TA–302 (Final) and 731–TA–454 (Final) under the Tariff

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Acting Chairman Brunsdale dissenting.

[3] Atlantic salmon is the species *Salmo salar*. The product "fresh and chilled Atlantic salmon" refers to fresh whole or nearly whole Atlantic salmon, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on, and packed in fresh-water ice ("chilled"). Excluded are fresh Atlantic salmon that has been cut into fillets, steaks, and other cuts; Atlantic salmon that is freozen, canned, smoked, or otherwise processed; and other species of fish, including other species of salmon.

Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: April 2, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-8449 Filed 4-9-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-323]

Certain Monoclonal Antibodies Used for Therapeutically Treating Humans Having Gram Negative Bacterial Infections; Commission Decision To Review and Reverse an Initial Determination Suspending the Above-Captioned Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and reverse the initial determination (ID) issued by the presiding administrative law judge (ALJ) on March 1, 1991, suspending the above-captioned investigation.

ADDRESSES: Copies of the ID, the Commission's order, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On December 20, 1990, Xoma Corp. of Berkeley, California filed a complaint with the Commission alleging violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain monoclonal antibodies covered by claims 6 and 7 of U.S. Patent No., 4,918,163 owned by Xoma. Such monoclonal antibodies are used to treat patients having gram negative bacterial infections. The Commission instituted an investigation of Xoma's complaint on January 30, 1991. 56 FR 3484-85. The Commission's notice of institution named Centocor, Inc. and Centocor Partners II, L.P., both of Malvern, Pennsylvania, and Centocor B.V. of Leiden, The Netherlands (collectively, Centocor) as respondents.

On February 15, 1991, Centocor moved to suspend the investigation until the U.S. District Court for the Northern District of California issued its final judgment in concurrent litigation between Xoma and Centocor, *Xoma Corp.* v. *Centocor, Inc.*, Civil Action No. C 90 1129 (RHS). The district court litigation concerns patent issues that are also raised in the Commission's investigations. Xoma and the Commission's Office of Unfair Import Investigations (OUII) opposed Centocor's motion. On March 1, 1991, the ALJ granted Xoma's motion and issued an ID (Order No. 2) suspending the investigation until the district court issues a final judgment in the concurrent litigation. On March 6, 1991, Xoma filed a petition for review of the ID. OUII filed a timely petition for review on March 11, 1991. Centocor responded to both petitions on March 13, 1991.

Authority: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(h), 210.54(b), and 210.56(c) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53(h), 210.54(b), 210.56(c)).

By order of the Commission.

Issued: April 3, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-8450 Filed 4-9-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-302]

Certain Self-Inflating Mattresses; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, T. Spence Chubb, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Deborah J. Kline, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: April 2, 1991.

Respectfully submitted,

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 91-8438 Filed 4-9-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-131-16 and 332-309]

Probable Economic Effect on U.S. Industries and Consumers of a Free-Trade Agreement Between the United States and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and incorporation of investigation No. 332-307 into the new investigation.

SUMMARY: Following receipt of a request on April 3, 1991, from the U.S. Trade Representative (USTR), the Commission instituted investigation No. TA-131-16 and 332-309 under section 131 (b) and (c) of the Trade Act of 1974 (19 U.S.C. 2151 (b) and (c)) and section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide certain advice to the President with respect to the probable economic effect of negotiating a North American Free Trade Agreement with Mexico and Canada and to provide certain other information with respect thereto. The USTR indicated that it plans to begin such negotiations in June.

More specifically, the USTR asked the Commission:

(1) Pursuant to section 131(b) of the Trade Act of 1974, to advise the President, with respect to each item in the Harmonized Tariff Schedule of the United States, as to the probable economic effect of providing duty-free treatment for imports of products of Mexico on industries in the United States producing like or directly competitive articles and on consumers;

(2) Pursuant to section 131(c) of the Trade Act, to advise the President as to the probable economic effect on industries in the United States producing like or directly competitive articles and on consumers if U.S. nontariff measures were not applied to imports from Mexico; and

(3) Under authority delegated by the President, to provide, pursuant to section 332(g) of the Tariff Act of 1930;

(a) An identification of any products for which the removal of U.S. duties or nontariff measures on imports from Mexico may significantly affect U.S. imports from Canada; and

(b) A summary, by product sector, of the probable economic effect on U.S. exports to Mexico of the implementation of a North American Free Trade Agreement.

The Commission will seek to provide the advice and information under (1), (2), and (3)(a) above by June 14, 1991, and provide the additional information under (3)(b) above by August 1, 1991.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: James Lukes (202–252–1426), or Deborah McNay (202–252–1452), Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For information on the legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel (202–252–1091). The media should contact Lisbeth Godley, Acting Director, Office of Public Affairs (202–252–1819). For information on a product basis, contact the appropriate member of the Commission's Office of Industries as listed in the initial notice of investigation published in the **Federal Register** of February 13, 1991 (56 FR 5841).

BACKGROUND: In anticipation of receiving a request for section 131 advice and of being asked to furnish such advice in June, the Commission on its own motion on February 5, 1991, instituted investigation No. 332–307, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), in order that it might begin the process of gathering the information necessary to provide the President with the advice required under section 131. In the notice announcing the investigation, the Commission indicated that it intended to convert the section 332(b) investigation into a section 131 investigation when it received the request for section 131 advice. The section 332(b) investigation notice and a subsequent amendment thereof gave notice of a schedule of public hearings in Phoenix, Arizona, Chicago, Illinois, and Washington, DC, on this matter and set forth a procedure for using submissions received in the course of the section 332(b) investigation to be used in the section 131 investigation. These public hearings are being held as part of this new investigation. Notice of the investigation and public hearings was published in the **Federal Register** of February 13, 1991 (56 FR 5841), and notice of the times and places of the public hearings was published in the **Federal Register** of March 13, 1991 (56 FR 10572).

BRIEFS AND OTHER WRITTEN SUBMISSIONS: As provided for in the February 13, 1991, notice all posthearing briefs and other written submissions that relate to the Commission's section 131 advice should be submitted to the Commission at the earliest practical date, but in no case later than the close of business April 19, 1991. Written submissions and briefs that relate to the information that the Commission is to provide pursuant to section 332(g) should be submitted not later than the close of business May 31, 1991. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Commercial or financial information contained in such submissions and briefs that a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: April 5, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–8503 Filed 4–9–91; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Dow Corning Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 1, 1991, a proposed Consent Decree in *United States* v. *Dow Corning Corporation* was lodged with the United States District Court for the Western District of Kentucky. The complaint in this action seeks recovery of costs under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499, 42 U.S.C. 9607(a). This action concerns the Howe Valley Landfill Site in Hardin County, Kentucky.

Under the proposed Consent Decree, defendant Dow Corning Corporation will pay $58,078.37 to reimburse the Superfund for costs incurred by the United States in responding to the presence of hazardous substances at the Howe Valley Superfund Site. Dow Corning will also perform EPA's selected remedy, namely, excavation of contaminated soil and either off-site disposal or on-site treatment by aeration. Dow further agreed to reimburse EPA for its future response costs incurred in connection with the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Dow Corning Corporation* (Howe Valley Landfill Site), D.J. Ref. 90–11–3–671.

The proposed Consent Decree may be examined at any of the following offices: (1) The Office of the United States Attorney for the Western District of Kentucky, Bank of Louisville Building, 510 West Broadway, 10th Floor, Louisville, Kentucky; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia; and (3) the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (telephone (202) 347–2072). Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., P.O. Box 1097, Washington, DC 20004. Please enclose a check of $57.50 ($.25 per page reproduction charge) payable to "Consent Decree Library."

George Van Cleve,

Acting Assistant Attorney General, Environmental & Natural Resources Division.

[FR Doc. 91–8399 Filed 4–9–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Wick Construction Company, Inc., et al.

In accordance with Departmental policy at 28 CFR 50.7, notice is hereby given that on March 28, 1991, a proposed consent decree in *United States* v. *Wick Construction Company, Inc. et al.*, Civil Action No. C89–1146, was lodged with the United States District Court for the Western District of Washington. The complaint, as amended, alleged violations by defendants Wick Construction Company, Inc., the Port of Seattle, Ballard Construction Company, Gordon Brown, Inc. and Toro Construction, Inc. of section 112 of the Clean Air Act, 42 U.S.C. 7412, and various work practice standards in the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, at 40 CFR part 61, subpart M. The complaint sought injunctive relief and civil penalties for past violations. The proposed consent decree imposes a total civil penalty of $80,000 as well as certain injunctive relief.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wick Construction Company, Inc. et al.*, Department of Justice reference number 90-5-2-1-1305.

The proposed consent decree may be examined at the office of the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction costs) payable to "Consent Decree Library." When requesting a copy, please refer to *United States* v. *Wick Construction Company, Inc. et al.*, Department of Justice 90-5-2-1-1305.

George Van Cleve,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-8390 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Final Judgment, Stipulation, and Competitive Impact Statement; United States v. T. Delores Krauss

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement has been filed with the United States District Court for the Eastern District of Missouri in *United States* v. *T. Delores Krauss*, Civil No. S90-95C.

The Complaint alleges that The Multi-List Service of Cape Girardeau, Missouri, Inc. ("Cape MLS"), nine real estate firms and seventeen individuals employed in the real estate business conspired in violation of section 1 of the Sherman Act (15 U.S.C. 1) to restrain competition in the provision of residential real estate services in Cape Girardeau County and the northern half of Scott County, Missouri, and the area adjacent thereto in southern Illinois.

The Complaint alleges that the defendants and others excluded from membership in the Cape MLS, and real estate firm that offered discount brokerage services in the Cape Girardeau area, agreed among themselves not to provide certain discount real estate services or engage in other potentially competitive conduct, and imposed unreasonable restrictions on membership in the Cape MLS.

The Cape MLS is operated and controlled by the defendant and coconspirator real estate firms. The Cape MLS operates a computerized listing service and a lock box service, and its members use these services to provide valuable and timely information to prospective home sellers and buyers in the Cape Girardeau area.

All defendants except T. Delores Krauss stipulated to the entry or a Final Judgment which was entered on December 11, 1990, by Judge Stephen Limbaugh. The proposed Final Judgment herein would enjoin the remaining defendant T. Delores Krauss from continuing or resuming the conspiracy alleged in the Complaint.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the Federal Register and filed with the court. Comments should be directed to Kent Brown, Chief, Chicago Office, Antitrust Division, U.S. Department of Justice, suite 3820, Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois 60604 (312/353-7530).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

Stipulation

[Civil Action No. S90-95C, Filed 3/27/91]

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court.

3. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

James F. Rill,

Assistant Attorney General.

Judy Whalley,

John W. Clark,

Kent Brown,

Attorneys, Antitrust Division, U.S. Department of Justice.

James E. Gross,

Attorney, Antitrust Division, U.S. Department of Justice, room 3820 Kluczynski Fed. Bldg., 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-7530.

For the Defendant T. Delores Krauss:

Kenneth C. McManaman,

O'Loughlin, O'Loughlin & McManaman, 1736 North Kingshighway, Cape Girardeau, Missouri 63701.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on July 18, 1990 and plaintiff and defendant T. Delores Krauss having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And whereas the defendant has agreed to be bound by the provisions of the Final Judgment pending its approval by the Court;

Now, *therefore*, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged and decreed* as follows:

I

This Court has jurisdiction of the subject matter of this action and of the party consenting hereto. The complaint states a claim upon which relief may be granted against the defendant under section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) *Multiple listing service* or *MLS* shall mean any plan or program to which members of the plan or program submit real property listings for common circulation among members.

(B) *Person* shall mean any individual, partnership, firm, association, corporation or other business or legal entity.

III

Defendant is enjoined and restrained from directly or indirectly:

(A) Associating, affiliating or combining with, or becoming a member or continuing as a member in, any MLS that has any rule, bylaw, regulation, policy or decision that does not comply fully with the limitations on rules, bylaws, regulations, policies and decisions set forth in section V(B) of the Final Judgment dated December 11, 1990 (CV No. S90-95C);

(B) Participating in any combination, conspiracy, agreement or understanding among two or more independent real estate agents fixing, establishing or maintaining;

(1) Any fees, commissions, or other prices to be charged for any real estate service, provided that agents representing parties to a single transaction may agree on the division of fees or commissions to be paid by the parties to that transaction;

(2) The nature, type, or amount of services to be offered or performed, or not to be offered or performed, by any real estate agent;

(3) Any terms or other conditions on which any real estate agent will deal or refuse to deal with any other estate agent or its customers;

(4) Any boycott or refusal to deal with any real estate agent.

IV

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege or any order issued under Section IV(E), from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant at her principal office, be permitted:

(1) Access during office hours to inspect and copy all books, ledgers, accounts, correspondence and other records and documents in the possession or under the control of the defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to the defendant at her principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section IV shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as othewise required by law.

(D) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedures, and defendant marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

(E) Within ten (10) days after receiving any request under sections IV(A) or IV(B), the defendant may apply to this Court for an order to quash or limit the scope of the request, and after providing the plaintiff with an opportunity to respond to such application, this Court shall enter such order or directions as may be necessary or appropriate for carrying out and ensuring compliance with this Final Judgment.

This final Judgment shall remain in effect until 10 years from the date of entry.

VI

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

VII

Entry of this Final Judgment is in the pubic interest.

Entered: _____

United States District Court Judge.

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with consent of defendant T. Delores Krauss in this civil antitrust proceeding.

I. Nature and Purpose of the Proceedings

On July 16, 1990 the United States filed a civil antitrust complaint under section 4 of the Sherman Act, as amended, 15 U.S.C. 4, seeking to enjoin twenty-seven defendants, including T. Delores Krauss, defendant herein, from engaging in an alleged combination and conspiracy to suppress competition in the supply of real estate brokerage services in Cape Girardeau County and the north half of Scott County, Missouri, and the area adjacent thereto in southern Illinois (hereinafter "Cape Girardeau area"), becuase the combination and conspiracy is in unreasonable restraint of interstate trade and commerce, in violation of section 1 of the Sherman (15 U.S.C. 1). A final judgment settling the case as to all defendants except T. Delores Krauss was entered on December 11, 1990 by Judge Stephen Limbaugh.

The complaint (still pending only as to T. Delores Krauss) alleges that the defendants and their co/conspirators agreed:

(1) To deny the benefits of membership in the Multi-List Service of Cape Girardeau, Missouri, Inc. ("Cape MLS") to a real estate firm that offered discount brokerage services in the Cape Girardeau area;

(2) To refrain from providing certain discount brokerage services to prospective home sellers in the Cape Girardeau area;

(3) To impose unreasonable restrictions on membership in the Cape MLS; and

(4) To permit Cape MLS members to deny new membership applications for any reason they chose.

The complaint alleges that the effect of the conspiracy has been to restrain competition in the supply of residential real estate brokerage services in the Cape Girardeau area. The complaint request that the defendants be enjoined from adopting or enforcing any rule or policy that would unreasonably restrain admission into the Cape MLS or any other multiple listing service or unreasonably restrict the competitive conduct of the members of the Cape MLS or any other multiple listing service. It also requests that the defendants be enjoined from participating in any combination or conspiracy to fix fees for real estate brokerage services, to limit the brokerage services to be offered or performed by any real estate agent, to

specify terms or conditions under which any real estate agent will refuse to deal with any other real estate agent or its customers or to boycott or refuse to deal with any real estate agent.

The United States and T. Delores Krauss have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, unless the United States withdraws its consent. Entry of the proposed Final Judgment will terminate the action as to the sole-remaining defendant, T. Delores Krauss, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed judgment and to punish violations of the proposed Judgment.

II. Events Giving Rise to the Alleged Violation

1. The Defendant T. Delores Krauss

T. Delores Krauss provides real estate brokerage services in the Cape Girardeau area. She currently is employed as an agent for Coldwell Banker Blanchard Associates ("Coldwell"). Before she began working for Coldwell, Krauss operated her own real estate brokerage business in the Cape Girardeau area. Her company, Time Realty Inc., ceased doing business in the late 1980's. As a real estate broker in the Cape Girardeau area, Krauss has actively participated in the management of the Cape MLS. She is a former officer of the Cape MLS, and she has attended and cast votes at meetings of the Cape MLS Board of directors. She has complied with the bylaws and other rules promulgated by the Cape MLS board of directors, and she uses the Cape MLS services as an aid in providing residential real estate brokerage services.

2. The Cape Girardeau Real Estate Brokerage Business

Cape Girardeau real estate firms and their agents, including the individual and broker defendants in this action, provide brokerage services to facilitate and expedite real estate sales transactions, including residential real estate transactions. These services include publishing information about properties that are being offered for sale; attempting to locate potential buyers; providing suggestions to owners for improving the value and salability of their properties; providing sellers with relocation information and referring them to real estate firms in other geographic areas; locating potential properties for prospective buyers and arranging for prospective buyers to inspect properties; providing prospective buyers with pertinent information about a community such as relative property values, most recent selling prices, schools, parks and recreation, facilities, cultural events, fire and police protection, restaurants, shopping, mass transportation, property taxes and real estate practices; apprising potential buyers of possible financing alternatives; assisting in the formation and negotiation of offers, counter offers, and acceptances; and helping to schedule and prepare for closings of real estate transactions.

Real estate firms and their agents charge fees or commissions for their brokerage services, which are generally paid by sellers at the closings of real estate transactions. Commissions are usually split between real estate firms and agents that enter into agreements with sellers to advertise properties and search for potential buyers ("listing agents") and real estate firms and agents that find the ultimate buyers ("selling agents").

Real estate firms and their agents compete with one another to become listing agents and selling agents. The competition allows property owners to attempt to contract with listing agents that will suppy the desired range of brokerage services at the lowest possible fee and for prospective buyers to enlist the assistance of selling agents that are most responsive to their needs.

Qualifications and standards of conduct for individuals who provide or desire to provide real estate brokerage services in the Cape Girardeau area are specified by the state of Missouri (for application in the Missouri portion of the Cape Girardeau area) and Illinois (for application in the Illinois portion of the area). State laws prohibit unlicensed individuals from providing real estate brokerage services. State real estate commissions administer the licensing process and are responsible for ensuring that applicants to whom licenses are granted have fulfilled various specified character, age, education, and experience criteria. The state real estate commissions are also responsible for enforcing rules that regulate the conduct of individuals who are licensed to provide real estate brokerage services.

The complaint alleges that residential real estate brokerage services constitute a relevant product market. Because of state licensing requirements and for other reasons, real estate firms generally are the only firms capable of offering a full range of residential real estate brokerage services. Home owners and prospective buyers could not obtain comparable substitute brokerage services from other firms in the event of a small but significant nontransitorv increase in the fees charged for residential real estate brokerage services.

The complaint alleges that the Cape Girardeau area constitutes a relevant geographic market for the provision of residential real estate brokerage services. Home sellers and buyers in the area use the brokerage services of real estate firms located there. Real estate firms located outside the Cape Girardeau area do not have the time or sufficient knowledge about the Cape Girardeau area to provide competitive residential real estate brokerage services in the area. Home sellers and buyers in the area would not seek brokerage services from real estate firms located outside the area if the firms in the area implemented a small but significant nontransitory increase in the fees charged for their brokerage services.

3. The Cape MLS

The Cape MLS is a not-for-profit corporation located in Cape Girardeau, Missouri. It is operated by real estate firms and individuals that provide brokerage services in Cape Girardeau County or the north half of Scott County, Missouri, including the other defendants in this action.

The Cape MLS operates a computerized listing service through which its members can quickly and efficiently exchange information about real estate properties in the Cape Girardeau area for which they are seeking buyers. Through the listing service, a Cape MLS member can convey to other members substantial information about the properties that are being offered for sale, including photographs, asking prices, room descriptions and sizes. Every two months, the Cape MLS compiles and distributes to its members a book providing information about each property currently listed with its service. In addition, the Cape MLS semi-annually prepares for its members books providing information about each property that has been listed in its service and sold within the prior six months.

The Cape MLS also provides lockboxes that its members can use to store keys to properties that are being offered for sale. The lockboxes are kept near the entrance of the property and can be opened with master keys issued only to agents of the Cape MLS members. The lockboxes allow Cape MLS members to show properties to prospective buyers without arranging appointments with property owners.

Only Cape MLS members and their employee are entitled to use Cape MLS services. Home sellers and buyers in the Cape Girardeau area have received considerable benefits from these services.

A prospective home seller wants to obtain maximum exposure of his or her property as quickly as possible. This helps to improve the prospect for a rapid sale at a good price. In the Cape Girardeau area, this goal is best satisfied by listing property in the Cape MLS's listing service. No other mechanism exists for quickly conveying comparable information to the largest possible pool of prospective buyers at comparable costs. Many home owners in the Cape Girardeau area will not contract for brokerage services with a real estate firm that is not a Cape MLS member.

Prospective home buyers want a real estate firm to identify properties in which they may be interested and arrange for inspections. A real estate firm that quickly identifies a large number of potentially acceptable properties for a prospective buyer to inspect will significantly increase the prospects for arranging a sale.

Cape MLS members have a significant competitive advantage because they can use the listing service as a screening tool to quickly select potential homes for inspection by prospective buyers. Members can also obtain from the Cape MLS information to advise prospective home sellers and buyers on property values, and can use the Cape MLS's lockbox service to permit inspections of properties at the most convenient times for prospective buyers.

Because of the importance to prospective home sellers and buyers of the services provided by the Cape MLS, real estate firms that are denied access to those services are at a significant competitive disadvantage relative to Cape MLS members. Nonmember real estate firms either could not provide, or would need to spend significantly more time and money to provide, prospective home sellers and buyers with services comparable to those offered by the Cape MLS Members.

Cape MLS members dominate the market for residential real estate brokerage services in the Cape Girardeau area. Cape MLS members employ almost all of the real estate agents in the Cape Girardeau area that receive their principal income from commissions earned on residential real estate sales transactions. Cape MLS members are the listing agents or selling agents in the vast majority of residential real estate transactions in the area, and most residential properties offered for sale in the area are listed in the Cape MLS's listing service.

4. Description of the Alleged Violation

The United States' complaint in this case alleges that the defendants and co-conspirators engaged in a conspiracy that unreasonably restrained competition in the provision of residential real estate brokerage services in the Cape Girardeau area by enacting and enforcing certain Cape MLS bylaws and by excluding from membership in the Cape MLS a real estate firm that offered discount brokerage services to prospective home sellers.

The complaint alleges that the defendants and co-conspirators adopted and enforced various bylaws for the Cape MLS which established unreasonable conditions and procedures for obtaining membership in the Cape MLS and which in practice unreasonably restricted the conduct of Cape MLS members and their employees. These bylaws imposed conditions on applicants for membership in the Cape MLS that were more restrictive than the criteria specified by the state real estate commissions for obtaining a license to provide real estate brokerage services. The bylaws also prohibited Cape MLS members from engaging in conduct that was not unlawful or prohibited by the state real estate commissions. The complaint specifically refers to Cape MLS bylaws 3.01, 3.02, 3.03 and 3.04, and unnumbered bylaws 1, 2 and 3, which were passed at a special Cape MLS board meeting on March 9, 1988.

Bylaw 3.01 required applicants for membership into the Cape MLS to remain in business in Missouri for one year before filing their applications. Bylaw 3.02 required membership applicants to pay a fee ($2500) that significantly exceeded the costs of processing their applications and admitting them to membership. Bylaw 3.03 required membership applicants to submit with their applications fifteen qualifying properties to be listed with the Cape MLS's listing service. Bylaw 3.04 required membership applicants to receive a favorable vote on their applications from a majority of the current Cape MLS members, and allowed current members to vote against applications for any reason they chose.

Unnumbered bylaw 3 prohibited Cape MLS members from offering discount brokerage services in which property listed with the Cape MLS's listing service could be shown to a prospective buyer without having a real estate agent present. Unnumbered bylaws 1 and 2 prohibited Cape MLS members from engaging in other, unspecified but lawful and potentially competitive conduct.

On March 9, 1988, the defendants and co-conspirators excluded from membership in the Cape MLS a real estate firm in Cape Girardeau area that offered discount brokerage services to prospective home sellers. The complaint alleges that there was no legitimate reason for the exclusion, which was accomplished by a vote taken pursuant to Cape MLS bylaw 3.04. Rather, the purpose of this exclusion was to retaliate against and minimize competition from the firm that offered discount services. At the same time, the defendants and co-conspirators adopted the three unnumbered bylaws discussed above.

III Explanation of the Proposed Final Judgment

The purpose of the proposed Final Judgment is to enjoin T. Delores Krauss from continuing or resuming the alleged conspiracy. In this connection, section III (A) of the Final Judgment enjoins defendant Krauss from affiliating with or becoming or continuing as a member in any multiple listing service that has any rule, bylaw, regulation, policy or decision comparable in competitive effect to the Cape MLS Bylaws described in the Complaint. This provision will enjoin Krauss from participating in any arrangement in which membership or participation in a multiple listing service might be terminated or withheld for anticompetitive reasons. As such, section III (A) will prohibit Krauss from engaging in the conduct that prompted the filing of the complaint in this case. Moreover, section III (B) enjoins defendant Krauss from participating in any conspiracy to fix, establish or maintain: (1) fees for real estate brokerage services; (2) the brokerage services to be offered or performed or not to be offered or performed by any real estate agent; (3) any terms or conditions on which any real estate agent will deal or refuse to deal with any other real estate agent or its customers or (4) any boycott or refusal to deal with any real estate agent.

IV Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the

proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendant.

V Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The Act provides a period of at least 60 days preceeding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: Kent Brown, Chief, Midwest Office, Antitrust Division, United States Department of Justice, Suite 3820 Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois 60604.

Under section VI of the proposed Judgment the Court will retain jurisdiction over this matter for the purpose of enabling any of the parties to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of the Judgment, or for the punishment of any violations of the Judgment.

VI Alternatives to the Proposed Final Judgment

The proposed Final Judgment provides all the relief as to T. Delores Krauss necessary to cure the violations alleged in the complaint. The Judgment enjoins T. Delores Krauss from continuing or resuming operation of the alleged consipiracy. Entry of the Judgment will prevent defendant Krauss from using the Cape MLS or any other multiple listing service as a vehicle to restrain competition in the supply of residential real estate brokerage services.

Because the Judgment provides all of the relief against the defendant that may be necessary to address the alleged violations, a trial would no longer serve any purpose, and it was unnecessary for the United States to consider any alternatives to the Judgment.

VII Determinative Documents

No documents were determinative in formulating the proposed Judgment, and the United States therefore has not attached any such documents to the Judgment.

Respectfully submitted,

James E. Gross,

Attorney, Antitrust Division, U.S. Department of Justice, room 3820 Kluczynski Federal Bldg., 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-7530.

[FR Doc. 91-8394 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Advanced Television Test Center, Inc. and Cable Television Laboratories, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Advanced Television Test Center, Inc. ("Test Center") and Cable Television Laboratories, Inc. ("CableLabs") on February 20, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change to the membership of CableLabs. The additional notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On October 2, 1989, Test Center and CableLabs filed their original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 8, 1989 (54 FR 46997).

Pursuant to section 6(b) of the Act, the identity of the additional member of CableLabs and the general areas of activity are given below.

The identity of the additional member is: Scripps Howard Cable Co., 1100 Central Trust Tower, P.O. Box 5380, Cincinnati, Ohio 45201.

The area of activity remains the coordination of testing efforts to facilitate the development of data that the FCC and its Advisory Committee on Advanced Television Service, as well as the Advanced Television Systems Committee, will require and utilize to determine appropriate actions with regard to the introduction of advanced television service in the United States. The parties may also undertake additional ATV tests not required by the Advisory Committee on Advanced Television Service.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-8391 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Cable Television Laboratories, Inc. and General Instrument Corp.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *eg seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") and General Instrument Corporation through its Jerrold Communications Division ("GI") on February 20, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of CableLabs. The additional notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On September 20, 1990, CableLabs and GI filed their original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 1, 1990 (55 FR 46111).

Pursuant to section 6(b) of the Act, the identity of the additional member of CableLabs and the general areas of activity are given below.

The identity of the additional member is: Scripps Howard Cable Co., 1100 Central Trust Tower, P.O. Box 5380, Cincinnati, Ohio 45201.

The area of activity remains the cooperation in the conduct of National Television System Committee (NTSC) visual degradation tests to evaluate the subjective effects of typical impairments and other conditions on NTSC television pictures generated in cable television systems.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-8392 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Cable Television Laboratories, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") on February 20, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of CableLabs. The additional notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On August 8, 1988, CableLabs filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) on September 7, 1988 (53 FR 34593). On November 7, 1988, February 3, 1989 and October 12, 1989, CableLabs filed additional written notifications. The Department published notices in response to the additional notifications on December 16, 1988 (58 FR 50590), March 1, 1989 (54 FR 8608), and December 15, 1989 (54 FR 51510).

As of January 1, 1991, the following has become a member of CableLabs: Scripps Howard Cable Co., 1100 Central Trust Tower, P.O. Box 5380, Cincinnati, Ohio 45201.

No other changes have been made in either the membership or planned activity of CableLabs. The membership remains open.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-8393 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

National Coalition of State Juvenile Justice Advisory Groups; Meeting

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: The National Coalition of State Juvenile Justice Advisory Groups will hold its annual conference from April 20 through April 24, 1991, at the Sheraton Washington Hotel, Woodley Place at Connecticut Avenue NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Robert J. Baughman, Executive Director, National Coalition of State Juvenile Justice Advisory Groups, Suite 414, 1211 Connecticut Avenue NW., Washington, DC 20008. Phone (202) 467-0864.

SUPPLEMENTARY INFORMATION: The National Coalition of State Juvenile Justice Advisory Groups chartered by the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), under the authority of sections 241(f) and 247(c) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the provisions of the Federal Advisory Committee Act, and 41 CFR 101-6.1005(a) is holding its annual conference. The title of this conference is "Juvenile Justice: What Works." The goal will be to examine key elements of the Juvenile Justice and Delinquency Prevention Act and to develop a consensus among States as to how future activities under the Act should be undertaken. Major activities will include:

—An overview of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended;
—An examination of what it means to be a waiver State and a revision of the seven standards of how a State achieves waiver State status;
—An examination of the two phases States must go through in dealing with minority overrepresentation;
—An examination of the requirements which must be met under the Act and curent OJJDP regulations in regard to Native American passthrough; and
—An examination of compliance issues in regard to the mandates of the Act.

Individuals and organizations interested in these issues are invited to attend. Business sessions will be open to the public.

Robert W. Sweet, Jr.,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 91-8346 Filed 4-9-91; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance, Abe Schrader Corp. et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 22, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 22, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 1st day of April, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Abe Schrader Corp. (Wkrs)	Secaucus, NJ	04/01/91	03/21/91	25,611	Apparel.
Abe Schrader Corp. (Wrkrs)	New York,NY	04/01/91	03/21/91	25,612	Apparel.
Alliance Rubber Co. (Wkrs)	Alliance, OH	04/01/91	03/19/91	25,613	Rubber Bands.
Bayly Corp. (Headquarters) (Wkrs)	Denver, CO	04/01/91	03/19/91	25,614	Apparel.
Bridgestone Firestone Tire & Rubber (URW)	Decatur, IL	04/01/91	03/20/91	25,615	Tires.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Carolina Glove Co. (Wkrs)	Conover, NC	04/01/91	03/22/91	25,616	Gloves.
Cars & Concepts Inc. (UAW)	Brighton, MI	04/01/91	03/21/91	25,617	Auto Vinyl Tops.
Country Miss, Inc. (ILGWU)	Easton, PA	04/01/91	03/21/91	25,618	Apparel.
Country Miss, Inc. (ILGWU)	Walterboro, SC	04/01/91	03/21/91	25,619	Apparel.
Elkem Metals Co. (USWA)	Ashtabula, OH	04/01/91	02/01/91	25,620	Steel.
Emmetech (Wkrs)	Warren, MI	04/01/91	03/18/91	25,621	Auto Parts.
Freeport Brick Co. (ABGW)	Freeport, PA	04/01/91	02/21/91	25,622	Brick.
General Cable Telecommunications (IBEW)	N. Brunswick, NJ	04/01/91	03/21/91	25,623	Cable.
H.O. Trerice Co. (UAW)	Oak Park, MI	04/01/91	03/21/91	25,624	Temperature & Pressure Instru.
Hoyt-Worthen Tanning Corp. (LWIU)	Haverhill, MA	04/01/91	03/21/91	25,625	Leather.
Jakel Inc., Palestine Div. (Wkrs)	Highland, IL	04/01/91	03/20/91	25,626	Electrical Motors.
Jonbil, Inc. (Company)	Danville, VA	04/01/91	03/20/91	25,627	Jeans
Macalloy Corp. (USWA)	Charleston, SC	04/01/91	03/12/91	25,628	Electric Furnances.
Mitel Inc. (Wkrs)	Ogdensburg, NY	04/01/91	03/08/91	25,629	Telecommunication Equip.
New Jersey Tanning, Co. (LTWU)	Newark, NJ	04/01/91	03/11/91	25,630	Leather.
Parker Hannifin Corp. (URW)	Marion, OH	04/01/91	02/20/91	25,631	Steel Hose.
Pennsylvania Shipbuilding Co. (Wkrs)	Chester, PA	04/01/91	03/17/91	25,632	Ships.
S&M Mfg (Serbin) (Wkrs)	Fayetteville, TN	04/01/91	03/04/91	25,633	Sportswear.
Teledyne Geotech (Wkrs)	Garland, TX	04/01/91	03/16/91	25,634	Terminals.
Tric Trac (Wkrs)	New York, NY	04/01/91	03/08/91	25,635	Clothing.
US Ceramic Tile Co. (Wkrs)	Houston, MS	04/01/91	03/06/91	25,636	Tile.

[FR Doc. 91-8383 Filed 4-9-91; 8:45 am]
BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program: Extended Benefits; New Extended Benefit Period in the State of Vermont

This notice announces the beginning of a new Extended Benefit Period in the State of Vermont, effective on March 17, 1991, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by part 615 of title 20 of the Code of Federal Regulations (20 CFR part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit period) for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the 13-week period ending on March 2, 1991, equals or exceeds 5 percent and is 20 percent higher than the corresponding 13 week period in the prior two years, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on March 17, 1991. This period will continue for no less than 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(c)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period. 20 CFR 615.13(c)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Dated: April 2, 1991.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 91-8384 Filed 4-9-91; 8:45 am]
BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Application No. D-8332, et al.]

Proposed Exemptions; Austin Industries, Inc., Retirement Plan for Hourly Employees; et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the notice of proposed exemption, within 45 days from the date of publication of this **Federal Register** notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N–5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each notice of proposed exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Austin Industries, Inc. Retirement Plan for Hourly Employees (the Plan) Located in Dallas, Texas

[Application No. D–8332]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: 1) the proposed purchase by the Plan of shares of common stock (the Stock) of Austin Industries, Inc. (Austin) from Austin's treasury, provided that the Plan pays no more than the lesser of $7.50 per share or the fair market value of the Stock on the date of the acquisition; 2) the Plan's holding of the Stock; and 3) the acquisition and holding by the Plan of an irrevocable put option (the Put Option) which permits the Plan to sell the Stock to Austin at a price which is the higher of $7.50 per share or the appraised fair market value of the Stock at the time of the exercise of the Put Option.

Summary of Facts and Representations

1. Austin, the Plan sponsor, is primarily involved in the construction and industrial maintenance trades. Equity interests in Austin are not publicly traded. As of December 31, 1989, approximately 55.7% of Austin Stock was held by Austin's Employee Stock Ownership Trust (the ESOP). The balance of the outstanding Stock is privately held.

2. The Plan is a defined benefit pension plan. As of January 1, 1990, the Plan had assets with a total market value of $6,248,023. The Plan had 3,430 participants as of that date.

3. The Plan proposes to acquire shares of Stock in Austin from Austin's treasury. The applicant represents that the Plan's investment in the stock will be limited to no more than 10% of the Plan's assets, determined immediately after the sale. No assets of the Plan are currently invested in any loans to, property leased to, or securities issued by Austin or any of its affiliates. No commission will be charged with respect to the sale.

4. In connection with the Plan's acquisition of the Stock, the Plan will also obtain a Put Option from Austin. The Put Option, which will be exercisable by the Plan's independent fiduciary (see reps. 9 and 10, below), will permit the Plan to require Austin to purchase from the Plan all or any portion of the Stock sold to the Plan. The purchase price to Austin of such Stock sold pursuant to the Put Option would be the greater of the price at which the Plan acquires the Stock from Austin, or the current fair market value of the Stock as determined by independent appraisal. The Put Option Agreement also provides that if the Plan proposes to sell any or all shares of the Stock to a party other than Austin, Austin will have a right of first refusal to repurchase those shares from the Plan. The purchase price per share for any shares of the Stock that are repurchased pursuant to the right of first refusal will be the greater of: (1) the price offered to the Plan by the third party for the Stock; or (2) the current appraised fair market value of the Stock.

5. The applicant represents that the Plan will invest no more than 10% of its assets in the Stock. The applicant further represents that the Stock purchased by the Plan will meet the requirements of section 407(f)(1)(A) of the Act because the purchase will represent approximately 1.1% of Austin's common Stock that is issued and outstanding as of the date of the Plan's purchase of the Stock. However, the applicant represents that the Stock will not satisfy section 407(f)(1)(B) which requires that at least 50% of the aggregate amount of the Stock which is issued and outstanding be held by persons independent of the issuer, because the ESOP holds approximately 55.7% of the Stock. Accordingly, the statutory exemption contained in Act section 408(e) will not apply to the acquisition of the Stock by the Plan, and therefore the applicant has requested the relief proposed herein.

6. The Citizens and Southern Trust Company (Georgia), N.A. (C&S) will act as the Plan's independent fiduciary for the purposes of approving this transaction. Austin has no corporate lending or banking relationships with C&S and owns no interest in C&S. C&S is a wholly-owned subsidiary of The Citizens and Southern Corporation, a

banking institution founded in 1887. C&S currently serves more than 7,000 clients in 37 states and various foreign countries and is responsible for assets of nearly 38 billion dollars. C&S specializes in fiduciary services including recordkeeping, portfolio evaluation, retirement trust administration, asset custody and investment management.

7. C&S represents that it retained Houlihan, Lokey, Howard & Zukin, Inc. (HLHZ), an independent appraisal firm, to appraise the fair market value of the Stock. HLHZ has been in operation for 20 years and has significant expertise in providing opinions regarding financial and securities valuation. In 1988, HLHZ rendered fairness, solvency and other financial opinions in over 500 transactions totaling 60 billion dollars. HLHZ has rendered an opinion that as of April 30, 1990, the Stock had a fair market value of $7.50 per share. HLHZ represents that it developed this value for the Stock primarily on the basis of capitalization of earnings and cash flow approaches. HLHZ considered the incoming and cash-generating capability of Austin. HLHZ reviewed its prior analyses of the Stock as of the past four years, and discussed with Austin management all changes since its most recent prior analysis. HLHZ reviewed financial data bearing upon recent and proposed operations, and considered the economic environment in which Austin operates its business. HLHZ also compared Austin to eight similar publicly-traded companies in making its evaluation. HLHZ will prepare a similar appraisal as of the date of the sale. Neither HLHZ nor any of its principals own any interest in Austin, and Austin owns no interest in HLHZ.

8. C&S represents that it has independently reviewed HLHZ's April 30, 1990 valuation of the Stock, as well as the annual valuations performed by HLHZ for the years 1987, 1988 and 1989. In addition C&S independently reviewed Austin's audited financial statements for 1987, 1988 and 1989 and unaudited financial statements for the three month period ending March 31, 1990. C&S interviewed officers at Austin and considered the purchase of the Stock in the context of the investment goals of the Plan. C&S, as a result of this review and relying upon the opinion of HLHZ, has determined: (1) that it is appropriate for the Plan to purchase the Stock from Austin; (2) that such purchase is fair as it relates to the Plan's participants and is in their best interests; and (3) that the Plan is paying no more than adequate consideration for the Stock.

9. Ameritrust Texas N.A. (Ameritrust) will serve as the Plan's independent fiduciary in an on-going monitoring role, commencing immediately after the acquisition of the Stock by the Plan. Ameritrust has operations in 10 Texas markets, 700 employees, total assets of 17 billion dollars and annual revenue totaling 60 million dollars. In the employee benefits area, Ameritrust has over 2,200 accounts and 3.9 billion dollars in assets throughout Texas. Ameritrust has extensive experience in the analysis and valuation of privately-held securities similar to the Stock. Austin has no lending or banking relationships with Ameritrust, and neither Austin nor its principal shareholders owns any interest in Ameritrust, either directly or indirectly. Ameritrust does not own any stock of Austin, and the two corporations do not have any common directors.

10. Ameritrust will have the authority and the responsibility to monitor the Plan's continued holding of the Stock and will make all decisions regarding the continued holding or disposition of the Stock. Ameritrust will exercise the voting and other privileges applicable to shareholders of Austin and will exercise the Plan's rights pursuant to the Put Option Agreement as it deems appropriate. In this regard, Ameritrust will monitor Austin's financial status at regular intervals to make certain that Austin has sufficient cash and cash equivalents to honor its obligations pursuant to the Put Option Agreement.

11. Austin represents that it would have no difficulty in honoring its commitment under the Put Option to repurchase the Stock from the Plan, either now or in the foreseeable future. As of July 31, 1990, Austin's balance sheet shows in excess of $36.8 million in a combination of cash, cash equivalents, and investments in short-term marketable securities which can readily be converted into cash. The total value of the sale of the Stock to the Plan, based upon 10 percent of the Plan's total market value as of July 31, 1990 will be roughly $619,000, or only 1.7% of the $36.8 million total of liquid assets described above. Austin also anticipates that it will continue to have the necessary economic resources to enable it to meet its obligations under the Put Option. This view is based upon Austin's present strong financial health, the current rebounding of the Texas construction market, and Austin's recent taking of numerous large construction contracts. Austin further represents that it is not a party to, and shall not enter into any agreement that restricts its ability to repurchase or redeem the Stock pursuant to the Put Option Agreement.

12. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (1) the stock will represent no more than 10% of the Plan's assets at the time of the acquisition; (2) the purchase price for the Stock will be determined by an evalaution performed by HLHZ, a qualified independent expert in the valuation of securities; (3) the Plan has recevied an additional safeguard in the form of an irrevocable Put Option which will enable the Plan, upon the independent fiduciary's decision, to sell the Units back to Austin at a price which is the greater of the Plan's acquisition price of the Stock or the Stock's current fair market value; (4) C&S, an independent fiduciary for the Plan, has determined that the transactions are appropriate for the Plan and in the best interest of the Plan's participants and beneficiaries; and (5) Ameritrust will act as independent fiduciary for the Plan for the purpose of monitoring the holding of the Stock, and will determine, among other things, whether to exercise the Put Option.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

PJH Investment Company Profit Sharing Plan (the Plan) Located in St. Louis, Missouri

[Application No. D–8428]

Proposed Exemption

The Department is considering granting an exemption under section 4975(c)(2) of the Code in accordance with the procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan of undeveloped real property (the Property) to the PJH Investment Company (the Partnership), a disqualified person with respect to the Plan, provided that the purchase price paid to the Plan is no less than the fair market value of the Property at the time of the transactions.[1]

[1] Because the three participants of the Plan are the partners of the Partnership and the Partnership has no employees, there is no jurisdiction under title I of the Act pursuant to 29 CFR § 2510.3–3b(b) and § 2510.3(c)(2). However, the Plan is under the jurisdiction of title II of the Act pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan, and as of December 31, 1989, Plan assets totaled $2,553,352. The Plan has three participants: Paul Lorenzini; Robert Hosenfelt and Jon Carlson. The three participants also serve as trustees for the Plan. Lorenzini, Hosenfelt and Carlson are also the three and only partners of the Partnership. The Partnership is located in St. Louis, Missouri and is a Missouri General Partnership.

2. Lorenzini, Hosenfelt and Carlson were originally employees of Packing Consultants, Inc. (PCI) and participants in PCI's two plans: the Packaging Consultants, Inc. Profit Sharing Plan and the Packaging Consultants, Inc. Money Purchase Pension Plan (the Predecessor Plans). The Property was purchased on February 29, 1980 by the PCI Money Purchase Pension Plan from Meglio Investment Company, an unrelated third party. The purchase price including closing costs was $200,734.

On July 31, 1983, PCI was acquired by the U.S. subsidiary of Brunzl, PLC, a publicly traded British Company. Nearly all employees of PCI took lump sum distributions except Lorenzini, Hosenfelt and Carlson. As a result, the Plan was established on January 1, 1989, as a successor plan to the Predecessor Plans. On October 5, 1989, the Plan received a transfer of assets from the Predecessor Plans, and the Property was included in this transfer.

3. In June of 1988, an independent qualified real estate appraiser, I.J. Hunstein, M.A.I., calculated that the Property had a fair market value of $480,000. The Property's value constitutes approximately 18.8% of the Plan assets. Due to the age of the last appraisal, the appraisal of the Property was updated by I.J. Hunstein on November 13, 1990, and the fair market value of the Property remains $480,000. The Plan's acquisition and holding costs of owning the Property since 1980 total approximately $55,000. The price of $480,000 which the Plan would receive in the sale exceeds these costs including the original purchase price. The sale will be for cash, and the Plan will not pay any real estate fees or commissions.

4. The applicants represent that the proceeds of this sale will enhance the Plan's liquidity, and the additional liquidity is necessary because Mr. Hosenfelt will soon retire. The applicants state that the Property has been and continues to be a non-income producing asset and development of the Property into an income producing asset is not feasible financially for the Plan. As a result, the applicants represent that the sale of the Property is in the best interest of the Plan.

5. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) the sale will be a one-time transaction for cash; (b) the Property has been appraised by an independent and qualified real estate appraiser; (c) the Plan will not be required to pay any real estate fees or commissions associated with the proposed sale; (d) the Plan will be able to divest itself of an asset which produces no income; and (e) the Plan will receive from the Partnership a cash amount which is at least equal to the fair market value of the Property.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

Utica Cutlery Company Pension Plan for Bargaining Unit Employees (the BU Plan) and Utica Cutlery Company Pension Plan for Non-Bargaining Unit Employees (the NBU Plan; Together the Plans) Located in Utica, New York

[Application Nos. D–8466 and D–8467]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the proposed lending of $30,000 (the Loan) by the NBU Plan to the BU Plan, and the immediate repayment of the Loan by the BU Plan to the NBU Plan, provided that both Plans remain in the same financial position after the consummation of the transactions as they were in prior to their engaging in the transactions.

Summary of Facts and Representations

1. The Plans are both defined benefit plans sponsored by Utica Cutlery Company (Utica Cutlery). The BU Plan has approximately 219 participants and the NBU Plan has approximately 77 participants. Both Plans are custodial type plans with Aetna Life Insurance Company (Aetna) being the insurance carrier and the custodian of both Plans. The applicant represents that the Plans are not parties in interest with respect to each other.

2. Each of the two Plans is currently funded by two Aetna contracts, GA 1284 and LT–10124. The BU Plan has $357,000.58 in Contract GA 1284 and $1,517,820.15 in Contract LT–10124, for a total of $1,874,820.73 in assets. The NBU Plan has $148,482.75 in Contract GA 1284 and $346,539.43 in Contract LT–10124, for a total of $495,022.18 in assets.

3. Because of the experience of the NBU Plan, there is an overfunded amount of $70,000 under Contract GA 1284 to meet pre-1974 retiree benefits. If funds are transferred within the NBU Plan from Contract GA 1284 to Contract LT–10124 in the amount of the $70,000 excess, the NBU Plan as whole would experience a loss in total value due to a required Aetna market value adjustment. The applicant represents that this is required under Aetna's contract with Utica Cutlery.

4. Aetna has also informed Utica Cutlery that at the present time, Contract GA 1284 for the BU Plan has a deficit of $30,000 for meeting the retirement benefits of its pre-1974 retirees. In order to avoid the market value adjustment required under the transfer of funds between contracts within the same plan, Utica Cutlery is requesting that a $30,000 Loan be made from the NBU Plan to the BU Plan under the GA 1284 Contract with Aetna. This Loan between the Plans would result in an excess of $30,000 under the NBU Plan being loaned to the deficient BU Plan within the Contract GA 1284, thus avoiding a market value adjustment. The market value adjustment for a withdrawal of $30,000 as of March 7, 1991 would be $4,727.52, or a market value loss of 15.76% of the amount involved in the transfer. If funds were transferred from one contract to the other instead of by means of the proposed transaction, Aetna would transfer $30,000 less the $4,727.52 market value adjustment. A transfer of funds within the same contract does not result in a market value adjustment by Aetna.

5. The second step of the proposal by Utica Cutlery is to transfer $30,000 from the BU Plan under Contract LT–10124 to the NBU Plan as repayment of the Loan. Upon completion of the transaction, i.e., the Loan and the subsequent transfer, both Plans would still retain the same total market values as before the transaction. The exchange of funds between both Plans under their respective contracts would result in no market value adjustment and no change in total assets. Thus, the applicant represents that all participants in both Plans would lose nothing by the consummation of the transaction.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (1) the transaction will be a one-time

transaction which requires no monitoring; (2) after the consummation of the transaction, each Plan will have the same dollar value of total assets as it had before the transaction was entered into; and (3) the transaction will prevent a market value adjustment by Aetna of $4,727.52, and thus will save a loss of that money by the Plans.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions to the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 5th day of April, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91–8451 filed 4–9–91; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91–32]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Space Physics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Space Physics Subcommittee.

DATES: May 1, 1991, 8:30 a.m. to 5:30 p.m.; May 2, 1991, 8:30 a.m. to 5:30 p.m.; and May 3, 1991, 8:30 a.m. to 3 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 600 Independence Avenue SW., Room 226A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Tom W. Perry, Code SS, National Aeronautics and Space Administration, DC 20546 (202/453–1544).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Space Physics Subcommittee provides advice to the Space Physics Division and to the SSAAC on operation of the Space Physics Program and on formulation and implementation of the Space Physics research strategy. The Subcommittee will meet to discuss divisional overviews, supporting research and technology (SR&T), Woods Hole workshop planning strategy, reports from the Management Operations Working Groups (MOWG's), status of flight missions, and future missions. The Subcommittee is chaired by Dr. George Siscoe and is composed of 28 members. The meeting will be open to the public up to the capacity of the room (approximately 50 persons including Subcommittee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Wednesday, May 1

8:30 a.m.—Opening Remarks, Agenda Review.
8:45 a.m.—Space Physics Division Overviews.
11 a.m.—SR&T Program Review.
1 p.m.—Suborbital Data Report.
1:30 p.m.—International Solar Terrestrial Program Science Plan.
2 p.m.—Woods Hole Workshop Preparation.
4:15 p.m.—Subcommittee Discussion.
5:30 p.m.—Adjourn.

Thursday, May 2

8:30 a.m.—Subcommittee Business.
8:45 a.m.—MOWG's Reports.
11 a.m.—Subcommittee Discussion.
1 p.m.—Discussion of Ulysses Results.
1:30 p.m.—Status of Flight Missions.
2:15 p.m.—Assessment of Solar Probe.
3:15 p.m.—Space Physics Division Questionnaire.
4:15 p.m.—Discussion and Writing Assignments.
5:30 p.m.—Adjourn.

Friday, May 3

8:30 a.m.—Writing Groups.
1 p.m.—Critique of Reports from Writing Groups.
3 p.m.—Adjourn.

Dated: April 4, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–8441 Filed 4–9–91; 8:45 am]

BILLING CODE 7510-01-M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5

U.S.C. appendix), of a meeting of the President's Drug Advisory Council.

DATE AND TIME: April 24, 1991 from 9 a.m. to 12 p.m., and from 1:15 p.m. to 3:30 p.m.

PLACE: Old Executive Office Building (OEOB), Washington, DC 20500. The morning session will be held in room 180; the afternoon session will be held in room 450.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Cooney, Staff Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20503, (202) 466–3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dessemination, explanation and promotion of national drug policy.

At the morning session of the meeting on April 24, the Council will conduct pending general business. The Council will receive updates and reports from some of its committees, including the Drug-Free Workplace Committee and the National Coalition Committee. The afternoon session, beginning at 1:15 p.m., will consist of a panel discussion on drugs in the workplace, entitled "Effective Drug-Free Workplace Policies: The Road They've Travelled and the Challenges Ahead." Panelists will include Joseph M. Cannella, M.D., The Corporate Medical Director for the Mobil Corporation; J. Patrick Sanders, Vice-President of the Commonwealth Edison Company; and Charles F. Nielson, Vice-President for Human Resources of Texas Instruments, Inc. The Panel moderator will be Frank J. Tasco, Chairman of the Drug-Free Workplace Committee of the Council and Chairman of Marsh & McLennan Companies. The discussion will include questions from the audience.

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466–3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and social security number over the telephone, in order to facilitate clearance into the Old Executive Office Building.

John Walters,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 91–8345 Filed 4–9–91; 8:45 am]

BILLING CODE 3180–02–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–456, STN 50–457, STN 50–454 and STN 50–455]

Commonwealth Edison Co.; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has received a request from Commonwealth Edison Company (CECo, the licensee) to withdraw CECo's application for a proposed amendment to Facility Operating License Nos. NPF–72, NPF–77, NPF–37 and NPF–66, issued to the licensee for operation of the Braidwood Station, Unit Nos. 1 and 2, and Byron Station, Unit Nos. 1 and 2, respectively, located in Will County and Ogle County, Illinois, respectively. Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing was published in the Federal Register on August 26, 1987 (54 FR 32196).

The proposed amendment would change Technical Specifications (TSs) 3.8.1.1 and 4.8.1.1.2 to minimize diesel generator wear and mechanical stress, by clarifying how the gradual loading of the diesel engine is applied. Also, the change would clarify that all surveillance tests may be proceeded by warm-up procedures and, with the exception of the one performed once per 184 days, may also include gradual loading as recommended by the manufacturer. The change would also remove some interim notes in TSs 3.8.1.1 and 4.8.1.1.2 for Byron Station.

By letter dated June 22, 1990, the licensee withdrew the application for the proposed amendments. The Commission has considered the licensee's request and has determined that permission to withdraw the July 28, 1987, application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated July 28, 1987, as amended August 10, 1987, and (2) the staff's letter dated March 27, 1991.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at: For Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481; for Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010.

Dated at Rockville, MD, this 27th day of March, 1991.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–8424 Filed 4–9–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al., Millstone Nuclear Power Station, Unit No. 2; Withdrawal of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has received a request by Northeast Nuclear Energy Company (the licensee) for withdrawal of a proposed amendment to Facility Operating License No. DPR–65, issued to the licensee for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut. Notice of Consideration of Issuance of this amendment was published in Federal Register on July 25, 1990 (55 FR 30303).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to change the definition of Core Alteration to clarify the scope of the movement or manipulation of a component during core alteration. Subsequently the licensee, by letter dated March 15, 1991, requested withdrawal of the amendment request. Thus the amendment is considered withdrawn.

For further details with respect to this action, see (1) the application for amendment dated April 10, 1990, revised June 26, 1990, and (2) the request for withdrawal dated March 15, 1991.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, MD, this 4th day of April 1991.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–8425 Filed 4–9–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Performance Management and Recognition System Review Committee; Meeting

The Office of Personnel Management announces the following meeting:

Name: Performance Management and Recognition System Review Committee.

Dates and Time: April 24, 1991, 2 p.m. to 5 p.m.

Place: Executive Conference Room, room 5A06A, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

Type of Meeting: Open.

Point of Contact: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

Purpose of Meeting: To review the Performance Management and Recognition System and make recommendations for a fair and effective performance management system for Federal managers.

Agenda: April 24, 1991—Introduction; committee organization; committee administration; comments and observations; public input; closing.

SUPPLEMENTARY INFORMATION: The committee welcomes written data, views, or comments concerning systems for managing and recognizing the performance of Federal managers. All such submissions received by close of business April 17, 1991, will be provided to the committee members and included in the record of the April 24, 1991, meeting.

If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at the April 24, 1991, meeting should submit a written request to be heard by close of business April 17, 1991. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intend presentation, and an estimate of the amount of time needed.

All communications regarding this committee should be addressed to the Point of Contact named above.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–8420 Filed 4–9–91; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29044; File No. SR–Amex–90–26]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Partially Approving a Proposed Rule Change Relating to the Pilot Program for Position Limit Exemptions for Hedged Equity Option Positions

On November 28, 1990, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC") or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] a proposed rule change to approve on a permanent basis the Exchange's position limit exemption for hedged equity options positions.

The proposed rule change was noticed in Securities Exchange Act Release No. 28692 (December 12, 1990), 55 FR 52114.[3] No comments were received on the proposed rule change.

In May 1988, the Commission approved a two-year pilot program by the Amex that provides a limited exemption from applicable equity option position limits.[4] Position limits for equity options are determined in accordance with a three-tiered system (i.e., 3,000, 5,500 or 8,000 contracts) based on the number of shares of the underlying security outstanding and/or the underlying security's trading volume.[5] The Amex's pilot program provides an exemption from applicable equity option position limits for accounts which have established one of the four commonly used hedged positions on a limited one-for-one basis, i.e., long stock and short call, long stock and long put, short stock and long call, and short stock and short put. The maximum position established pursuant to the exemption, however, may not exceed twice the present position limit. The exemption also provides that exercise limits still correspond to position limits, such that investors are allowed to exercise, during any five consecutive business days, the number of option contracts set forth as the position limit, as well as those contracts purchased pursuant to the position limit exemption.[6]

During the period that the program has been in operation, the Exchange has monitored various aspects of the program including: (1) The types of investors using the exemption; (2) the size of the options positions held pursuant to the exemption; and (3) any customer complaints or disciplinary actions pertaining to the exemption. As anticipated when the initial pilot program was approved, the hedge exemption has been utilized by institutional investors and market professionals who have found the hedge exemption very useful in offsetting the risk attendant to their stock positions. Moreover, during the period that the program has been in operation, the Exchange represents that it has not experienced any significant problems with the implementation of the pilot.

The Commission finds that the portion of the proposed rule change that would extend the pilot program until September 30, 1991, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) thereunder.[7] Specifically, the Commission concludes, as it did when approving the commencement of the pilot, that the Amex proposal to provide for increased position and exercise limits for equity options in circumstances where those excess positions are fully hedged with offsetting stock positions will help to provide greater depth and liquidity to the market and allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.[8]

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[9] that the portion of the proposed rule change (SR–Amex–90–26) that extends the pilot program until September 30, 1991, be, and hereby is, approved.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] The Amex amended its proposal on March 19, 1991, to extend the pilot program until September 30, 1991, in order to permit the Exchange to review its intra-day monitoring procedures. See letter from Ellen Kander, Senior Attorney, Amex, to Thomas Gira, Branch Chief, Division of Market Regulation, dated March 19, 1991. Previously, the Commission approved an earlier Amex amendment to its proposal to extend the pilot until March 31, 1991. See letter from Ellen Kander, Senior Attorney, Amex, to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation, dated January 23, 1991, and Securities Exchange Act Release No. 28827 (January 28, 1991), 56 FR 4313.

[4] See Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201.

[5] See Amex Rule 904, Commentary .09.

[6] See Amex Rule 90b.

[7] 15 U.S.C. 78f(6)(5) (1982).

[8] See supra note 4.

[9] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: April 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8426 Filed 4-9-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29043; International Series Release No. 253; File No. SR-CBOE-91-09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Listing Reduced Value Index Options on the FT-SE Eurotrack 200 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 11, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to chapter XXIV of the Exchange's Rules, the CBOE proposes to list the trade cash-settled, European-style index options on a reduced value Financial Times-Stock Exchange Eurotrack 200 Index ("Eurotrack 200" or "Index"). Each reduced value Index point will be valued at one U.S. dollar.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[10] 17 CFR 240.30-3(a)(12) (1989).

(A) Self-Regulatory Organization's Statement of the Purpose of, the Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to allow the CBOE to list for trading cash-settled, European-style options (exercisable only on the last business day prior to the option's expiration) based on the Index. The Eurotrack 200 is a capitalization-weighted stock index based on the prices of 200 stocks from 12 European countries traded on the International Stock Exchange of the United Kingdom ("U.K.") and the Republic of Ireland ("ISE"),[1] an investment exchange recognized by the Securities and Investment Board ("SIB") of the U.K. All of the Index's component stocks are traded on the ISE by means of either the ISE's Stock Exchange Automated Quotation System ("SEAQ") or SEAQ International, electronic information and communications systems which provide competing market maker prices for securities traded over the system. The stocks in the Index from the United Kingdom and the Republic of Ireland are traded over SEAQ and the stocks from the other European countries are traded over SEAQ International. SEAQ's and SEAQ International's quotations of the stocks traded on the ISE are available to all exchanges listing those stocks. The system is solely that of the ISE and its dealers and does not reflect markets from the other exchanges.

Index design. The Eurotrack 200 is designed and operated by the ISE. The Index is intended to provide a broad measure of the performance of the European stock market as a whole, as well as correlate with existing European indexes.

Index construction and calculation. The Eurotrack 200 Index is derived from the Eurotrack 100 Index and the FT-SE 100 Index. The Eurotrack 100 is a capitalization weighted index based on 100 stocks from 11 European countries other than the U.K.[2] The FT-SE 100 is an internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized British stocks traded on the ISE.[3] Both the Eurotrack 100 and FT-SE 100 Indexes have qualification standards that companies must meet in order to be included in each index. These standards are described in the Exchange's proposals to trade options on the respective indexes.

As of January 31, 1991, the weightings for each country were: United Kingdom, 43.0%; Germany, 14.2%; France, 13.0%; Netherlands, 8.0%; Switzerland, 6.9%; Italy, 5.4%; Spain, 3.8%; Belgium, 2.9%; Sweden, 1.9%; Ireland, 6%; Norway, .3%; Denmark, .2%. The Index is calculated by multiplying the price of each constituent stock, coverted into European Currency Units ("ECUs") by the number of shares outstanding. However, for the purpose of calculating the value of the Eurotrack 200 Index, the value of the stock in the FT-SE 100 are reduced by a factor that reflects the comparative capitalization of the U.K. stock market and the stock markets of the other Eurpoean countries included in the Index.[4] After making this adjustment for the FR-SE 100 stocks, the sum of the products of price times shares outstanding, across all stocks, is divided by the total market capitalization of the Index ("the divisor") on the base date, February 25 1991. On February 25, 1991, the value of the Index was 1000.00. The divisor is changed to reflect changes in individual constituent companies such as stock dividends.

The Index is updated each minute from 9 a.m. to 5:30 p.m. (London time) (3 a.m. to 11:30 a.m. Chicago time) using the mid-point of the best bid and best offer prices currently available for each component stock. The Index and the prices of its component stocks are disseminated in Europe and the U.S. by the ISE via market information vendors.

Index options trading. On February 27, 1991, the Index closed at 1083.75. Because the CBOE believes that this level is too high for successful options trading in the U.S. market, the CBOE proposes to base trading in Index options on a fraction of the value calculated by the ISE. The precise amount of the fraction will be determined immediately prior to the commencement of options trading. Given the current Index level, the CBOE anticipates that a U.S. Index level of one-tenth of the Eurotrack 200 would be appropriate. After dividing the Index by the divisor, the CBOE will disseminate the reduced value of the Index to vendors through the Options Price Reporting Authority system.

[1] A list of the constituent companies in the Index can be obtained from the Office of the Secretary, CBOE and at the Commission.

[2] The Exchange has submitted a proposal to the Commission to trade options based on the Eurotrack 100 Index. See File No. SR-CBOE-91-08.

[3] The Exchange has submitted a proposal to the Commission to trade options based on the FT-SE 100 Index. See File No SR-CBOE-91-07.

[4] Currently, the FT-SE 100 stocks are reduced by a factor of .66678 when calcuating the Eurotrack 200 Index.

Each reduced value Index point will be valued at one U.S. dollar, so that the premium values will change in U.S. dollar terms. This will allow option premiums to be quoted in U.S. dollars and trading accounts to be denominated in U.S. dollars. All Exchange, Options Clearing Corporation and clearing member systems will be able to accommodate trading and clearance and settlement of the options without alteration, thereby facilitating the trading of Eurotrack 200 Index options by U.S. retail customers.

Exercise. The Exchange proposes to trade Eurotrack 200 options on Exchange business days just as it trades European-style options on the Standard and Poor's 500 Stock Index. The proposed Index options will expire on the Saturday following the third Friday of the expiration months. The current Index value for exercise ("CIV") will be calculated based on SEAQ and SEAQ International prices between 11 and 11:20 a.m. London time (5 a.m. and 5:20 a.m. Chicago time) on the day following the last day of trading in the expiring contracts. Normally, trading in the expiring contract month will cease on a Thursday at 3:15 Chicago time unless a holiday occurs. Therefore, the CIV for exercise of the proposed options will be determined during the Friday morning ISE trading session, that is, between 5 a.m. and 5:20 a.m. Chicago time on Friday morning. If a stock does not trade during this interval, or if it fails to open for trading, the last available price for the stock will be used in the calculation of the Index as is done currently for listed indexes. When expirations are moved according to Exchange holidays, such as when the CBOE is closed on the Friday before expiration, the last trading day for expiring options will be Wednesday and the CIV for exercise will be calculated during the Thursday trading session on the ISE, even if the ISE is open on Friday. If the ISE is closed on the Friday before expiration but the CBOE remains open, then the last trading day for expiring options will be moved up to Wednesday as if the CBOE had a Friday holiday.

The ISE will calculate and disseminate a separate CIV for exercise based on the average (excluding the high and low) of the Index values for each minute in the interval from 11 a.m. and 11:20 a.m. London time. Therefore, the ISE's Index settlement value will be the average of nineteen separate prices taken over a twenty-one minute period. The CBOE's CIV will represent an amount in U.S. dollars equal to the fraction of the ISE's CIV.

Exchange rules applicable to stock index options. The proposed Index option will be very similar to the two broad-based Standard and Poor's Index options presently listed for trading on the CBOE, including position and exercise limits, expiration months, strike price intervals, and the multiplier. Therefore, the Exchange proposes to establish the same position limits used for existing stock index options, i.e., 25,000 contracts on each side of the market, provided that no more than 15,000 of such contracts are in series in the nearest expiration month. The Exchange intends to list a March quarterly cycle of expiration months, and may list two additional long-term options series at two and three year intervals.

The CBOE has proposed various rule changes in SR–CBOE–91–07 which deal with the listing of reduced value index options on the FT–SE 100 Index. Those same changes shall apply here in that they relate to the hours of trading, whether trading halts or suspensions are necessary when the stocks comprising the Index close for the day, and when market makers must make appropriate bids and offers in compliance with the Exchange's price continuity rule, Rule 8.7 Interpretation .02(b). Additionally, Exchange Rule 24.9 (Terms of Option Contracts) will be amended to provide for the European exercise of Eurotrack 200 Index options.

Surveillance agreements. The Exchange expects to apply its existing index options surveillance procedures to the proposed Index option. The CBOE has market surveillance agreements with both The Securities Association ("TSA") in the U.K. and with the ISE. The Exchange believes that these agreements will enable the Exchange to fulfill its regulatory responsibilities regarding surveillance of trading related to the Index. The Exchange will be able to obtain information from the records of TSA and the ISE which will provide the CBOE with an effective means of surveilling the trading of the Index's component stocks on SEAQ and SEAQ International.

The Exchange is sensitive to concerns that manipulation of a stock in its home market could affect the underlying value of the Index, even though the Index is based on SEAQ and SEAQ International prices. However, the share of trading done on SEAQ International has grown to nearly 10% of total continental European stock trading, and is significantly higher in some of the major European stocks.

The Exchange is party to an information sharing agreement with the Frankfurt Stock Exchange, the leading stock exchange in Germany, where 14.2% of the Eurotrack 200 stocks, by capitalization, are traded. The Exchange also has in place an information sharing agreement with the Societe des Bourses Francaises (SBF). This agreement would enable the Exchange to obtain surveillance information on the trading activity of French stocks on the Paris Bourse, which comprise 13% percent of the Index by capitalization. The Exchange is also engaged in discussions with other foreign exchanges, and hopes to establish information sharing agreements with the home marketplaces of other stocks which comprise the Eurotrack 200.

Notwithstanding the above surveillance agreements and discussions, the Exchange believes that because of the method of determining the Eurotrack 200 CIV for exercise, the commencement of trading of Eurotrack 200 Index options should not be dependent on the existence of additional information sharing agreements. As discussed above, the CIV value is based on an average of separate Index values over the course of a specified time period. This method of computation of the CIV for exercise minimizes the opportunity for price manipulation and therefore should lessen the need for information sharing agreements with all twelve countries to be in place before the start of trading.

Economic rationale. The interest of U.S. investors in the geographical extension of portfolio diversification has increased dramatically in the past few years. The democratization of Eastern Europe, the unification of Germany, and the imminent consolidation of the European Community in 1992 have increased the interest in the regions's prospects.

Accordingly, the Exchange is proposing to list a cash-settled index option on the FT–SE Eurotrack 200 Index which will provide a performance measure and evaluation guide for European stock portfolios. The Eurotrack 200 Index option will provide an effective means for hedging the risks of foreign investments, and a low-cost means of altering the composition of an international stock portfolio without incurring substantial transactions costs.

(b) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and with section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest and to

remove impedients to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Efffectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commision, 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 Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 1, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8427 Filed 4-9-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29045; International Series Release No. 252; File No. SR-CBOE-91-08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Listing Reduced Value Index Options on the FT-SE Eurotrack 100 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 11, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to chapter XXIV of the Exchange's Rules, the CBOE proposes to list and trade cash-settled, European-style index options on a reduced value Financial Times-Stock Exchange Eurotrack 100 Index ("Eurotrack 100" or "Index"). Each reduced value Index point will be valued at one U.S. dollar.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to allow the CBOE to list for trading cash-settled, European-style options (exercisable only on the last business day prior to the option's expiration) based on the Index. The Eurotrack 100 is a capitalization-weighted stock index based on the prices of 100 stocks from 11 non-U.K European countries traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE"),[1] an investment exchange recognized by the Securities and Investment Board ("SIB") of the U.K. All of the Index's component stocks are traded on the ISE by means of either the ISE's Stock Exchange Automated Quotation System ("SEAQ") or SEAQ International, electronic information and communications systems which provide competing market maker prices for securities traded over the system. The stocks in the Index from the Republic of Ireland are traded over SEAQ and the stocks in the Index from the other European countries are traded over SEAQ International. SEAQ's and SEAQ International's quotations of the stocks traded on the ISE are available to all exchanges listing those stocks. The system is solely that of the ISE and its dealers and does not reflect markets from the other exchanges.

Index design. The Eurotrack 100 is designed and operated by the ISE. The Index is intended to represent a broad measure of the performance of the non-U.K. European stock market as a whole, as well as correlate with existing European indexes.

Index construction and calculation. To qualify for inclusion in the Index, a company must satisfy the following conditions: (1) There must be a firm quote for the stock on SEAQ or SEAQ International; (2) the market capitalization of the stock must represent at least 0.125% of the total market capitalization of continental European companies quoted on SEAQ International or SEAQ; (3) it must have at least 25% of its stock publicly held; and (4) it must be available for ownership by non-domestic investors. The largest companies in each of the constituent countries that meet the above criteria are then selected in order

[1] A list of the constituent companies in the Index can be obtained from the Office of the Secretary, CBOE and at the Commission.

to reflect the relative market capitalizations of the European stock markets.

As of January 31, 1991, the weightings for each country were: Germany, 25.1%; France, 23.1%; Netherlands, 13.1%; Switzerland, 12.1%; Italy 9.1%; Spain, 6.8%; Belgium, 5.1%; Sweden, 3.7%; Ireland, 1.0; Norway, 5%; Denmark, .3%.

The Index is calculated by taking the summation of the product of the price of each constituent stock, converted into Deutschemarks, and the number of its shares outstanding and dividing this summation by the total market capitalization of the Index ("the divisor") on the base date, October 26, 1990. On October 26, 1990, the value of the Index was 100.00. The divisor is changed to reflect changes in individual constituent companies such as stock dividends.

The Index is updated each minute from 9:45 a.m. to 3:30 p.m. (London time) (3:45 a.m. to 9:30 a.m. Chicago time) using the mid-point of the best bid and best offer prices currently available for each component stock. The Index and the prices of its component stocks are disseminated in Europe and the U.S. by the ISE via market information vendors. Daily closing prices of the Index are available back to January 1, 1985, for the purposes of comparison with other indexes.

The Index will be reviewed on a quarterly basis by the Eurotrack Steering Committee. Eligible stocks with SEAQ International firm quotes and component securities whose prices or market capitalizations have fallen significantly will be inserted or deleted from the Index. If a stock obtains a firm quote on SEAQ International, or a non-index stock takes over a stock with a firm quote, and has more than 1.5% of the Index's total market capitalization, then it will enter the Index at the start of the next business day after it has joined SEAQ International, or following a stabilization period.

Index options trading. On February 8, 1991, the Index closed at 965.63. Because the CBOE believes that this level is too high for successful options trading in the U.S. market, the CBOE proposes to base trading in Index options on a fraction of the value calculated by the ISE. The precise amount of the fraction will be determined immediately prior to the commencement of options trading. Given the current Index Level, the CBOE anticipates that a U.S. Index level of one-tenth of the Eurotrack 100 would be appropriate. After dividing the Index by the divisor, the CBOE will disseminate the reduced value of the Index to vendors through the Options Price Reporting Authority system.

Each reduced value Index point will be valued at one U.S. dollar, so that the option premium values will change in U.S. dollar terms. This will allow option premiums to be quoted in U.S. dollars and trading accounts to be denominated in U.S. dollars. All Exchange, Options clearing Corporation and Clearing member systems will be able to accommodate trading and clearance and settlement of the options without alteration, thereby facilitating the trading of Eurotrack 100 Index options by U.S. retail customers.

Exercise. The Exchange proposes to trade Eurotrack 100 options on Exchange business days just as it trades European-style options on the Standard and Poor's 500 Stock Index. The proposed Index options will expire on the Saturday following the third Friday of the expiration months. The current index value for exercise ("CIV") will be calculated based on SEAQ prices between 11 and 11:20 a.m. London time (5 a.m. and 5:20 a.m. Chicago time) on the day following the last day of trading in the expiring contracts. Normally, trading in the expiring contract month will cease on a Thursday at 3:15 Chicago time unless a holiday occurs. Therefore, the CIV for exercise of the proposed options will be determined during the Friday morning ISE trading session, that is, between 5 a.m. and 5:20 a.m. Chicago time on Friday morning. If a stock does not trade during this interval, or if it fails to open for trading, the last available price for the stock will be used in the calculation of the Index as is done currently for listed indexes. When expirations are moved according to Exchange holidays, such as when the CBOE is closed on the Friday before expiration, the last trading day for expiring options will be Wednesday and the CIV for exercise will be calculated during the Thursday trading session on the ISE, even if the ISE is open on Friday. If the ISE is closed on the Friday before expiration but the CBOE remains open, then the last trading day for expiring options will be moved up to Wednesday as if the CBOE had a Friday holiday.

The ISE will calculate and disseminate a separate CIV for exercise based on the average (excluding the high and low) of the Index values for each minute in the interval from 11 a.m. and 11:20 a.m. London time. Therefore, the ISE's Index settlement value will be the average of nineteen separate prices taken over a twenty-one minute period. The CBOE's CIV will represent an amount in U.S. dollars equal to the fraction of the ISE's CIV.

Exchange rules applicable to stock index options. The proposed Index option will be very similar to the two broad-based Standard and Poor's Index options presently listed for trading on the CBOE, including position and exercise limits, expiration months, strike price intervals, and the multiplier. Therefore, the Exchange proposes to establish the same position limits used for existing stock index options, i.e., 25,000 contracts on each side of the market, provided that no more than 15,000 of such contracts are in series in the nearest expiration month. The Exchange intends to list a March quarterly cycle of expiration months, and may list two additional long-term options series at two and three year intervals.

The CBOE has proposed various rule changes in SR-CBOE-91-07 which deal with the listing of reduced value index options on the FT-SE 100 Index. Those same changes shall apply here in that they relate to the hours of trading, whether trading halts or suspensions are necessary when the stocks comprising the Index close for the day, and when market makers must make appropriate bids and offers in compliance with the Exchange's price continuity rule, Rule 8.7 Interpretation .02(b). Additionally, Exchange Rule 24.9 (terms of Option Contracts) will be amended to provide for the European exercise of Eruotrack 100 Index options.

Surveillance agreements. The Exchange expects to apply its existing index options surveillance procedures to the proposed Index option. The CBOE has market surveillance agreements with both The Securities Association ("TSA") in the U.K. and with the ISE. The Exchange believes that these agreements will enable the Exchange to fulfill its regulatory responsibilities regarding surveillance of trading related to the Index. The Exchagne will be able to obtain information from the records of TSA and the ISE which will provide the CBOE with an effective means of surveilling the trading of the Index's component stocks on SEAQ and SEAQ International.

The Exchange is sensitive to concerns that manipulation of a stock in its home market could affect the underlying value of the Index, even though the Index is based on SEAQ and SEAQ International prices. However, the share of trading done on SEAQ International has grown to nearly 10% of total continental European stock trading, and is significantly higher in some of the major European stocks.

The Exchange is party to an information sharing agreement with the Frankfurt Stock Exchange, the leading stock exchange in Germany, where

25.1% of the Eurotrack 100 stocks, by capitalization, are traded. The Exchange also has in place an information sharing agreement with the Societe des Bourses Francaises (SBF). This agreement would enable the Exchange to obtain surveillance information on the trading activity of French stocks on the Paris Bourse, which comprise 23.1% percent of the Index by capitalization. The Exchange is also engaging in discussions with other foreign exchanges, and hopes to establish information sharing agreements with the home marketplaces of other stocks which comprise the Eurotrack 100.

Notwithstanding the above surveillance agreements and discussions, the Exchange believes that because of the method of determining the Eurotrack 100 CIV for exercise, the commencement of trading of Eurotrack 100 Index options should not be dependent on the existence of additional information sharing agreements. As discussed above, the CIV value is based on an average of separate Index values over the course of a specified time period. This method of computation of the CIV for exercise minimizes the opportunity for price manipulation and therefore should lessen the need for information sharing agreements with all eleven countries to be in place before the start of trading.

Economic rationale. The interest of U.S. investors in the geographical extension of portfolio diversification has increased dramatically in the past few years. The democratization of Eastern Europe, the unification of Germany, and the imminent consolidation of the European Community in 1992 have increased the interest in the region's prospects.

Accordingly, the Exchange is proposing to list a cash-settled index option on the FT–SE Eurotrack 100 index. The Eurotrack is the only real-time (during European trading hours) index available on the non-UK European stock market as whole, and will provide a performance meausre and evaluation guide for international stock portfolios. The Eurotrack 100 Index option will provide an effective means for hedging the risks of foreign investments, and a low-cost means of altering the composition of an international stock portfolio without incurring substantial transactions costs.

(b) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and with section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 1, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–8428 Filed 4–9–91; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration (Go-Video, Inc., Common Stock, $.001 Par Value; Common Stock Purchase Warrants) File No. 1–9706

April 4, 1991.

Go-Video, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2–2(d) promulgated thereunder to withdraw its Common Stock and Common Stock Purchase Warrants from listing and registration on the Philadelphia Stock Exchange, Inc. ("Phlx") and the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The Board of Directors of the Company has determined that, because the securities were accepted for listing on the American Stock Exchange, it is in the Company's best interest to withdraw its securities from listing and registration on the Phlx and PSE.

Any interested person may, on or before April 25, 1991, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Phlx and/or PSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–8356 Filed 4–9–91; 3:45 am]

BILLING CODE 8010–01–M

SUSQUEHANNA RIVER BASIN COMMISSION

Proposed Project Review Filing & Monitoring Fee Schedule

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposal and public hearing.

SUMMARY: Notice is hereby given that the Susquehanna River Basin Commission will hold a public hearing in accordance with this notice to receive comments on a proposed schedule of project review filing and monitoring fees for review of water resources projects.

DATE: The public hearing will be held on May 23, 1991 at 10 a.m.

ADDRESSES: The hearing will be held in the third floor conference room of the Commission's Headquarters Building at 1721 N. Front Street, Harrisburg, Pa. 17102–2391. Written comments should be submitted to Richard A. Cairo, Secretary to the Commission at the above address.

FURTHER INFORMATION CONTACT: Richard A. Cairo, Commission Secretary, Susquehanna River Basin Commission, (717) 238–0423.

SUPPLEMENTARY INFORMATION: The Susquehanna River Basin Commission is proposing to implement a project review filing and monitoring fee schedule to help defray a portion of the costs associated with processing project review applications and monitoring compliance with Commission Regulations.

Certain water resources projects must be approved by the Commission under § 3.10 of the Susquehanna River Basin Compact and the Commission's Regulations and Procedures for Review of Projects found at 18 CFR part 803. The costs of processing applications for project approval and of monitoring projects for compliance with the conditions of approval have continued to escalate as more and more projects of increasing complexity have come under the jurisdiction of the Commission. Therefore, the Commission feels that it is both timely and in the public interest to establish a fee schedule by which a portion of the review costs may be allocated to project applicants rather than the general public.

The Commission has formulated two proposals for project review fees—one based on project cost and a second based on project water usage. The Commission is herewith submitting both for public review and comment.

The subject of the hearing will be as follows:

Proposed Project Review Filing Schedule

The two alternative proposals would read as follows:

Alternative 1

1. A non-refundable project review fee shall be paid to the Commission, accordng to the schedule herein, for projects described in Paragraph 2 hereof. Agencies, authorities, or commissions of the signatories to the Compact shall be exempt from such project review fee; however, political subdivisions of the signatory states shall be subject to said fee.

2. A project review fee under this resolution shall be required for the following categories of projects which require review and approval by the Commission under § 3.10(2) of the Compact and Commission Regulation §§ 803.3 and 803.4 (18 CFR 803.3 and 803.4):

a. Diversions of water into or out of the Susquehanna River Basin.

b. Surface water withdrawals for which the Commission has primary review authority as may be applicable within the signatory states; provided, however, that the Commission shall exercise as it deems necessary overview of proposed surface withdrawals and subsequent allocations of water and shall exempt such overview action from its project review fees.

c. Hydroelectric projects.

d. Stream encroachments including local flood protection projects and impoundments having potential to cause interstate effects, or such other projects as the Commission may determine necessary.

e. Consumptive uses as defined and regulated by Commission Regulation § 803.61 (18 CFR 803.61).

f. Ground-water withdrawals as defined and regulated by Commission Regulation § 803.62 (18 CFR 803.62).

g. Projects determined by the Commission to be subject to its review and approval, but not covered under sub-paragraphs a–f above.

3. Fee Schedule.

a. All projects involving consumptive use of water will be charged an application fee based on their consumptive use in accordance with the following schedule:

20,000 gallons per day (gpd)-100,000 gpd	$750
100,001 gpd-500,000 gpd	3,000
500,001 gpd-1 million gallons per day (mgd)	6,000
Over 1 mgd	12,000

b. All hydropower projects will be charged an application fee based on name plate generation capacity as follows:

Less than 1 megawatt	$250
1–10 megawatts	1,500
Greater than 10 megawatts	7,500

These fees will be charged for review of applications for FERC exemption, short form, or regular license, if the hydro project requires Commission review and approval as per paragraph 2 above. No fee will be charged for review of applications for a preliminary permit.

c. Stream encroachments—$2,500.

d. All other project review fees will be based on the quantities of water requested in the application as follows:

Up to 250,000 gpd	$1,000
250,001 to 500,000 gpd	2,000
500,001 gpd to 1 mgd	3,000
Over 1 mgd	4,000

e. If any project involves more than one of the above elements, the highest of the applicable fees shall apply.

4. The applicable fee shall be submitted upon billing by the Commission. Revision of or addition to projects previously submitted to the Commission shall require submission of a review fee based on the cost of the review unless the Commission finds that the said revision requires no significant review effort by staff.

5. Except as otherwise provided by contract, the sponsors of projects previously approved by the Commission shall be required to pay an annual compliance monitoring fee as follows:

a. All consumptive use projects will be charged as follows:

20,000 gpd-100,000 gpd	$100
100,001 gpd-500,000 gpd	300
500,001 gpd-1 mgd	750
Over 1 mgd	1,500

b. All ground-water withdrawal projects will be charged $100.

c. Projects having special monitoring requirements may be assessed annual fees as determined by Commission review.

d. Projects that have consumptive use from ground-water sources will be charged a fee from each category of a and b above.

6. In assessing the application fees, the Commission shall give a dollar for dollar credit to the project sponsor for any application fees paid to any

signatory agency for the same scope of review on the same project.

7. Whenever, under the guidelines and requirements of Commission Regulation 18 CFR part 803, subpart C, §§ 803.40–803.51, the Commission holds a public hearing or an adjudicatory hearing on a project, the project sponsor shall be required to pay the reasonable costs of holding and making a record of said hearing.

8. Revenues received pursuant to this resolution shall be deposited in the Commission's general fund and be appropriated for use in support of the Commission's Annual Expense Budget.

Alternative 2

1. A non-refundable project review fee shall be paid to the Commission, according to the schedule herein, for projects described in Paragraph 2 hereof. Agencies, authorities, or commissions of the signatories to the Compact shall be exempt from such project review fee; however, political subdivisions of the signatory states shall be subject to said fee.

1. A project review fee under this resolution shall be required for the following categories of projects which require review and approval by the Commission under § 3.10(2) of the Compact and Commission Regulation §§ 803.3 and 803.4 (18 CFR 803.3 and 803.4):

a. Diversions of water into or out of the Susquehanna River Basin.

b. Surface water withdrawals for which the Commission has primary review authority as may be applicable within the signatory states; provided, however, that the Commission shall exercise as it deems necessary overview of proposed surface withdrawals and subsequent allocations of water and shall exempt such overview action from its project review fees.

c. Hydroelectric projects.

d. Stream encroachments including local flood protection projects and impoundments having potential to cause interstate effects, or such other projects as the Commission may determine necessary.

e. Consumptive uses as defined and regulated by Commission Regulation § 803.61 (18 CFR 803.61).

f. Ground-water withdrawals as defined and regulated by Commission Regulation § 803.62 (18 CFR 803.62).

g. Projects determined by the Commission to be subject to its review and approval, but not covered under sub-paragraphs a–f above.

3. Fee Schedule.

a. Projects having a cost, as defined in Paragraph 4 below of less than $100,000 shall pay a minimum fee of $1,000.

b. Projects having a cost, as defined in Paragraph 4 below of $100,000 or more shall pay a minimum fee of $1,000 plus 1/10 of 1% of project costs, exceeding $100,000, but not to exceed a maximum fee of $25,000.

4. The applicable fee shall be submitted upon billing by the Commission. The project cost shall include as applicable the estimated costs of design, supervision of construction, legal services, contract administration, land acquisition and easements, materials, equipment, construction and fabrication. Revision of or addition to projects previously submitted to the Commission shall require submission of a review fee based on the cost of the review unless the Commission finds that the said revision requires no significant review effort by staff.

5. Except as otherwise provided by contract, the sponsors of projects previously approved by the Commission shall be required to pay an annual compliance monitoring fee as follows:

a. All consumptive use projects will be charged as follows:

20,000 gallons per day (gpd)-100,000 gpd	$100
100,001 gpd-500,000 gpd	300
500,001 gpd-1 million gallons per day (mgd)	750
Over 1 mgd	1,500

b. All ground-water withdrawal projects will be charged $100.

c. Projects having special monitoring requirements may be assessed annual fees as determined by Commission review.

d. Projects that have consumptive use from ground-water sources will be charged a fee from each category of a and b above.

6. In assessing the application fees, the Commission shall give a dollar for dollar credit to the project sponsor for any application fees paid to any signatory agency for the same scope of review on the same project.

7. Whenever, under the guidelines and requirements of Commission Regulation 18 CFR part 803, subpart C, §§ 803.40–803.51, the Commission holds a public hearing or an adjudicatory hearing on a project, the project sponsor shall be required to pay the reasonable costs of holding and making a record of said hearing.

8. Revenues received pursuant to this resolution shall be deposited in the Commission's general fund and be appropriated for use in support of the Commission's Annual Expense Budget.

Authority: Susquehanna River Basin Compact, 84 Stat. 1509 *et seq.*

Dated: April 1, 1991.

Robert J. Bielo,

Executive Director.

[FR Doc. 91–8215 Filed 4–9–91; 8:45 am]

BILLING CODE 7040-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Exemption or Waiver

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that two railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91–189, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty in excess of 12 hours. However, the Hours of Service Act contains a provision permitting a railroad which employs not more than 15 employees subject to the statute, to seek an exemption from the 12 hour limitation.

Algers, Winslow & Western Railway Company (AWW)

(FRA Waiver Petition Docket No. HS–91–3)

The AWW seeks continuation of a previously existing exemption so it may permit certain employees to remain on duty not more than 16 hours in any 24-hour period. The AWW states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if granted, would help its operation if unusual operating conditions are encountered. The AWW provides service over 16 miles of track from a connection with the Consolidated Rail Corporation (Conrail) and the Norfolk Southern Railway at Oakland City Junction, Indiana to Enosville and Algers, Indiana.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts it employs not more than 15 employees and has demonstrated good cause for granting this exemption.

Indiana Hi-Rail Corporation (IHRC)

(FRA Waiver Petition Docket No. HS–91–4)

The IHRC seeks an exemption from the deadhead transportation provisions of 49 CFR part 228, Hours of Service of Railroad Employees, appendix A. The IHRC requests an exemption to permit certain employees to drive a company-

provided vehicle for deadhead transportation from the release point to the final terminal, following a 12-hour duty tour. The IHRC is a railroad switching operation serving customers located on several disconnected line segments in Indiana, Illinois, Ohio, and Kentucky.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled a public hearing since facts do not appear to so warrant. If any interested party desires a public hearing, he or she should notify FRA in writing, before the end of the comment period and specify the basis for his or her request. Any communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number HS–90–XX) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Communications received before May 20, 1991, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on March 27, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91–8358 Filed 4–9–91; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 4, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington DC 20220.

Bureau of Alcohol, Tobacco, and Firearms

OMB Number: 1512–0352.
Form Number: ATF REC 5170/1.
Type of Review: Extension.
Title: Importers Records and Reports (Alcoholic Beverages).
Description: Importers are required to maintain usual and customary business records and file letter applications or notices related to specific regulated activities.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Response/Recordkeeping: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 251 hours.

OMB Number: 1512–0462.
Form Number: ATF REC 5110/9.
Type of Review: Extension.
Title: Registration and Records of Vinegar Vaporizing Plants.
Description: Data is necessary to identify persons producing and using distilled spirits in the manufacture of vinegar and to account for spirits so produced and used.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeeping: 4.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 4 hours.
Clearance Officer: Robert Masarsky, (202) 566–7077, Bureau of Alcohol, Tobacco, and Firearms, Room 3200, 650 Massachusetts Avenue NW., Washington, DC 20026.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–8421 Filed 4–9–91; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 3, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: EZ–1.
Type of Review: New Collection.
Title: Telephone Survey on Use of Form EZ–1.
Description: This survey is being conducted to help the Service fulfill its responsibilities under OMB Circular A–132. This survey will help the IRS evaluate taxpayer acceptance of Form EZ–1.
Respondents: Individuals or households.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Response: 5 minutes.
Frequency of Response: One-time survey.
Estimated Total Reporting Burden: 17 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–8422 Filed 4–9–91; 8:45 am]

BILLING CODE 4830–01–M

Fiscal Service

[Dept. Circ. 570, 1990 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; Bankers Multiple Line Insurance Company; Redomestication

Bankers Multiple Line Insurance Company has redomesticated from the state of Iowa to the state of Illinois, effective November 16, 1990. The Company was last listed as an acceptable surety on Federal bonds at 55 FR 27339, July 2, 1990.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1990

Revision, on page 27339 to reflect this change.

Question concerning this notice may be directed to the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (FTS/202) 287–3921.

Dated: April 3, 1991.

Charles F. Schwan, III,

Director, Funds Management Division.

[FR Doc. 91–8380 Filed 4–9–91; 8:45 am]

BILLING CODE 4–9–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 69
Wednesday, April 10, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 1–91

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Thursday, April 18, 1991 at 10:00 a.m.—Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, DC on April 8, 1991.

Judith H. Lock,

Administrative Officer.

[FR Doc. 91–8586 Filed 4–8–91; 3:54 pm]

BILLING CODE 4410–01–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Tuesday, April 16, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Regional Staffing Allocations. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91–8584 Filed 4–8–91; 1:56 pm]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, April 16, 1991.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC. 20594.

STATUS: The first item is open to the public. The last two items are closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Capsizing and Sinking of the U.S. Liftboat AVCO V, Gulf of Mexico, July 31, 1989.
2. Opinion and Order: Petition of Mashburn, Docket SM–3583; disposition of Administrator's appeal.
3. Opinion and Order: Administrator v. Windle, Docket SE–9163; disposition of Administrator's appeal.

NEWS MEDIA CONTACT: 382–6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: April 5, 1991

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 91–8587 Filed 4–8–91; 3:54 pm]

BILLING CODE 7533–01–M

federal register

Wednesday
April 10, 1991

Part II

Department of Transportation

Coast Guard

Lists of Ports or Terminals Holding Certificates of Adequacy; Notice

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91-018]

Lists of Ports or Terminals Holding Certificates of Adequacy

AGENCY: Coast Guard, DOT.

ACTION: Notice of holders of Certificates of Adequacy.

SUMMARY: This document publishes lists of all U.S. ports and terminals holding valid Certificates of Adequacy (COAs) issued as evidence that their facilities meet the requirements of Annexes I, II and V of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). These lists themselves meet the requirements of the Act to Prevent Pollution from Ships (the Act) and of regulations issued under it, to aid owners, operators, and agents of ships in location ports and terminals with facilities capable of accepting residues and mixtures containing oil or noxious liquid substances (NLSs), or of accepting garbage from seagoing ships. The Coast Guard expects that ships' readier access to these facilities will reduce their discharges of oil, NLSs, and garbage into the waters.

EFFECTIVE DATE: This notice is effective on April 10, 1991. The lists in this notice include all COAs issued and effective as of September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Kelly Hoyle, Marine Environmental Protection Division (G-MEP), (202) 267-0518.

SUPPLEMENTARY INFORMATION: Table I, published below, consists in a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart B (Criteria for Reception Facilities: Residues and Mixtures Containing Oil). The list provides the names, locations, telephone numbers, and quantities of oily wastes that they can accept. The ports and terminals that have "0" entered under the column "Daily Capacity of Reception Facility" are small facilities in remote, rugged areas that receive only a few ships operating in a dedicated trade. To comply with the intent of MARPOL 73/78 and of the regulations, ships visiting these ports and terminals have agreed to discharge their oily waste at others, where adequate facilities are available.

Table II, published below after Table I, consists in a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart C (Criteria for Certifying That a Port's or Terminal's Facilities Are Adequate for Receiving NLS Residue). The list provides the names, locations, telephone numbers, and quantities of various categories of NLS waste that they can accept. (A list relating names of cargoes to, among other things, their Pollution Categories under annex II appears in 46 CFR part 153, table I.) The ports and terminals that have no amounts entered under the column "Daily Capacity," receive only ships that do not require any prewashing of their cargo tanks. They can reduce back-pressure to below 1 BAR, to facilitate stripping of cargo tanks, but cannot accept NLS waste.

Table III, published below after Table II, consists in a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart D (Criteria for Adequacy of Reception Facilities: Garbage). The list provides the names, locations, and telephone numbers of the facilities.

Definitions of the terms used in these lists appear in 33 CFR 158.120.

Dated: April 3, 1991.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
		Amerada Hess				
		Greens				
		Manchester Terminal Corporation				
	Cabras Island, Piti	Kaiser Cement Corp	671-477-1530	59.52		13.2
	Convent	K-2	504-562-7313	3,163.13	750	750
	Guam, MI	Guam Oil & Refining Co., Inc	671-565-2921	6,000	3,500	3,500
	Pago Pago America	Port of Pago Pago	684-633-4211			
	Piti Guam	Drydock 'AFDL-21'	671-477-7345	185	400	250
	Piti Guam	Port Authority of Guam	671-477-9931-35	10.1	80	100
AK	Akutan	Trident Seafoods Co	907-698-2211	23.81	30	N/A
AK	Angoon	Angoon Ferry Terminal	907-465-3946	0	0	0
AK	Angon	Port of Angoon Alaska	907-788-3653	0	0	
AK	Clark Bay	Clark Bay Ferry Terminal	907-465-3946	0	0	
AK	Cordova	City of Cordova Municipal Dock	907-424-3351	95		
AK	Craig	Port of Craig Alaska	907-826-3275	0	0	
AK	Dutch Harbor	American President Lines	907-581-1200	27.32	150	N/A
AK	Dutch Harbor	Delta Western	907-581-1284	35	27	27
AK	Dutch Harbor	East Point Seafoods, Inc	907-581-1225	2	11	N/A
AK	Dutch Harbor	Petro Marine Services	907-581-1350	161	60	N/A
AK	Excursion Inlet	Excursion Inlet Packing Co	907-588-4244	0	0	
AK	Haines	Haines	907-766-2448	0	0	
AK	Haines	Haines Army Terminal	907-766-2357	0	0	
AK	Haines	Haines Ferry Terminal	907-465-3946	0	0	
AK	Hawk Inlet	Greens Creek Mining Co	907-789-4171	N/A	N/A	N/A
AK	Hobart Bay	Hobart Bay Logging Camp	907-225-2675	0	0	
AK	Hollis	Hollis Ferry Terminal	907-465-3946	0	0	
AK	Homer	Port of Homer	907-235-8597	447	100	
AK	Hoonah	Hoonah Ferry Terminal	907-465-3946	0	0	
AK	Hoonsh	Port of Hoonah Alaska	907-945-3670	0	0	
AK	Hydaburg	Hydaburg	907-285-3761	0	0	
AK	Juneau	Alaska Marine Highway System	907-465-3955	1,607	250	250
AK	Juneau	Auke Bay Ferry Terminal	907-465-3946	0	0	

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
AK	Juneau	City and Borough of Juneau	907-586-5255	20	30	
AK	Juneau	Union Oil Juneau, Alaska	907-586-1276	0	0	
AK	Kake	Kake Ferry Terminal	907-465-3946	0	0	
AK	Kake	Port of Kake Alaska	907-785-3804	0	0	
AK	Kasaan	Port of Kasaan Alaska	907-542-2212	0	0	
AK	Kenai	Kenao Pipeline Co. Mikiski Term	907-776-8181	642	500	5,950
AK	Kenai	Tesoro Alaska Petroleum Co	907-776-8191	354	500	6,000
AK	Kenai	Unocal Chem Division	907-776-8121	590	30	
AK	Ketchikan	Chevron USA Ketchikan	907-225-2106	20	400	400
AK	Ketchikan	City Docks	907-225-3111	20	400	400
AK	Ketchikan	Ketchikan Ferry Terminal	907-465-3946	0	0	
AK	Ketchikan	Unocal	907-225-4176	20	600	600
AK	Klawock	Port of Klawock Alaska	907-755-2261	0	0	
AK	Metlakatla	Annette Island Packing	907-866-4661	0	0	
AK	Metlakatla	Metlakatla Ferry Terminal	907-465-3946	0	0	
AK	Metlakatla	Port of Metlakatla Alaska	907-886-4646	0	0	
AK	Pelican	Port of Pelican Alaska	907-735-2202	0	0	
AK	Petersburg	Chevron USA Petersburg	907-772-4251	0	0	
AK	Petersburg	Icicle Seafoods Co	907-772-4294	0	0	
AK	Petersburg	Nelbro Packing Co	907-772-4486	0	0	
AK	Petersburg	Petersburg Ferry Terminal	907-465-3946	0	0	
AK	Petersburg	Port of Petersburg Alaska	907-772-4688	0	0	
AK	Port of Anchorage	Municipality of Anchorage	907-272-1531	1,400	100	
AK	Rig Tender	Puget Sound Tug and Barge Co	907-776-8860	45	50	
AK	Sitka	Port of Sitka	907-907-3439	20	18	
AK	Sitka	Sitka Ferry Terminal	907-465-3946	0	0	
AK	Skagway	Port of Skagway Alaska	907-983-2297	0	0	
AK	Skagway	Skagway Ferry Terminal	907-465-3946	0	0	
AK	Tenakee Springs	Port of Tenakee Springs	907-736-2221	0	0	
AK	Tenakee Springs	Tenakee Springs Ferry Terminal	907-465-3946	0	0	
AK	Unalaska	Alyeska Seafoods	907-581-1270	161	60	N/A
AK	Unalaska	Ballyhoo Dock	907-581-1254	87.5	60	N/A
AK	Valdez	Alaska Marine Highway	907-465-3946	34.2		30
AK	Valdez	Alaska Pipeline Service Co	907-835-6422	100,000		63,000
AK	Valdez	Chevron USA, Inc	907-835-4337	30	N/A	N/A
AK	Valdez	Port of Valdez	907-835-4313	105		N/A
AK	Wrangell	Port of Wrangell AK	907-874-3736			
AK	Wrangell	Wrangell Ferry Terminal	907-465-3946	0	0	
AK	Yakutat	Chevron USA Yakutat	907-784-3411	0	0	
AK	Yakutat	Port of Yakutat Alaska	907-784-3323	0	0	
AL	Chicksaw	Mobile-Chicksaw Port Facility	205-456-7648	1,587	1,050	1,050
AL	Jackson Co. Port	Port of Pascagoula	601-762-4041	206	80	
AL	Mobile	Alabama Dry Dock & Shipbuilding	205-690-7011	2,809	200	
AL	Mobile	Alabama State Docks	205-690-6113	4,408	1,050	1,050
AL	Mobile	Amerada Hess Corp	205-456-4688	12,000	5,000	
AL	Mobile	Louisiana Land & Exploration Co	205-675-7040	206	200	
AL	Mobile	Mobile Bulk Terminal	205-438-9891	178	300	
AL	Mobile	Mobile River Terminal Co	205-432-3233	4,408	1,050	
AL	Mobile	Pacific Molasses Co	205-432-8771	4,408	1,050	
AL	Theodore	Ideal Basic Industries	205-653-5800	4,408	1,050	
AL	Theodore	Resource Consultants, Inc	205-653-6324	20	1,200	1,200
AS	Pago Pago	South West Marine of Samoa, Inc	684-633-4123	75	50	50
CA	Alameda	Pennzoil	415-522-4224	450	100	
CA	Benicia	Benicia Port Terminal	707-745-2394	358	100	
CA	Carpinteria	Chevron U.S.A.	213-782-1939	0	0	0
CA	Crockett	C&H Sugar	415-772-3918	460	100	
CA	El Segundo	El Segundo Marine Terminal	213-615-5489	300	1,400	1,400
CA	Hunnington Beach	Golden West Refining Co	714-536-8130	2,110	0	3,500
CA	Long Beach	C. Brewer Terminals	213-435-5623	437.5		
CA	Long Beach	Cooper/T. Smith Stevedoring Co	213-437-3524	459	1,200	1,200
CA	Long Beach	Domtar Gypsum America Inc	213-436-4611	131	90	
CA	Long Beach	Dow Chemicalo USA	213-533-5375	288	80	100
CA	Long Beach	Forest Terminals Corp	213-432-5401	228	1,400	1,400
CA	Long Beach	Four Corners Pipeline	213-428-9022	7,646	280	6,720
CA	Long Beach	Gold Bond Building Products	213-435-4465	1,309	90	140
CA	Long Beach	International Transportation	213-435-7781	229	200	200
CA	Long Beach	Long Beach Container Terminal	213-435-8585	228	0	61
CA	Long Beach	Maersk Lines Long Beach Pier G	213-435-7706	131	90	
CA	Long Beach	Metropolitan Stevedoring Co	213-830-5340	360	200	200
CA	Long Beach	Ocean Salt Co	213-437-0071	20	70	200
CA	Long Beach	Pacific Coast Cement	213-435-0195	210	70	140
CA	Long Beach	Pacific Container Terminal	213-435-0642	245	0	
CA	Long Beach	Petro-Diamond Terminal Co.	213-435-8364	346	253	252
CA	Long Beach	Procter & Gamble Mfg. Co.	213-432-8981	346	70	200
CA	Long Beach	Salen Shipping Agencies, Inc.	213-436-9961	364	50	250

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
CA	Long Beach	Standard Fruit & Steamship Co.	213-437-3521	2,153	50	250
CA	Long Beach	Star Terminal Co. Inc.	213-436-2273	130	100	100
CA	Long Beach	Stevedoring Services of America	213-432-6477	245	100	
CA	Long Beach	Texaco Refiners & Marketing	213-513-2463	15,000	3,500	
CA	Long Beach	Toyota Motor Sales, USA, Inc.	213-437-6767	549	300	10
CA	Long Beach	United States Lines Inc.	213-435-3761	228	1,400	1,400
CA	Los Angeles	Defense Fuel Support Point	213-832-3144	5,135	4,200	4,200
CA	Los Angeles	Distribution & Auto Service Inc.	213-549—18-	131	200	
CA	Los Angeles	Indies Terminal Co.	213-547-3351	245	0	
CA	Los Angeles	Los Angeles Cruiseship Terminals	213-519-4049	228	200	200
CA	Los Angeles	Matson Terminals Inc.	213-519-6438	346	100	100
CA	Los Angeles	Mobil Oil Corporation SW Terminal	213-832-2702	174	350	350
CA	Los Angeles	Overseas Terminal Co.	213-832-3341	0	0	
CA	Los Angeles	Pasha	213-437-0911	244	90	90
CA	Los Angeles	Penzoil Petroleum Terminal	213-385-0311	346	110	110
CA	Los Angeles	Petrolane, Inc.	213-833-5275	2,178	200	
CA	Los Angeles	Refiners Marketing Co.	213-519-7679	1,527	62.5	62.5
CA	Los Angeles	Southern California Outport	213-514-4970	636	90	
CA	Los Angeles	Southwest Marine, Inc.	213-519-0600	2,000	100	130
CA	Los Angeles	Texaco Venture Marine Terminal	213-327-0110	2,250		3,000
CA	Los Angeles	Todd Pacific Shipyards Corp.	213-832-3361	346	350	
CA	Los Angeles	Union Oil Co-Supertanker Term.	213-832-4519	20	5,000	
CA	Los Angeles	Unocal Corp.	213-513-7600	1,200	4,200	4,200
CA	Los Angeles	Western Oil Fuel Co.	213-549-7711	837	70	70
CA	Oakland	Maersk Line	415-398-1515	460	100	
CA	Oakland	Matson Container Terminal	415-271-9819	460	100	
CA	Oakland	Oakland Ctr Term.	415-834-5822	460	100	
CA	Oakland	Pacific Dry Dock and Repair	415-893-7020	67	400	400
CA	Oakland	Schnitzer Steel Products	415-444-3919	460	100	
CA	Oakland	Sealand Services	415-271-1000	460	100	
CA	Oakland	Stevedoring Services	415-271-1800	460	100	
CA	Oakland	Stevedoring Services of America	415-271-1800	460	100	
CA	Port Hueneme	Port of Hueneme	805-488-3677	1,348	417	500
CA	Richmond	Burmah-Castrol Terminal	415-236-6312	30	700	
CA	Richmond	Pasha Services	415-234-8550	248	150,250	
CA	San Diego	Bay City Marine Inc.	619-224-6655	2,975	300	500
CA	San Diego	Campbell Industries	619-233-7115	1,489	150	150
CA	San Diego	Continental Maritime	619-234-6851	2,975	300	300
CA	San Diego	Embarcadero Marine Inc.	619-233-6884	1,052	250	250
CA	San Diego	National Steel and Ship Building	619-696-7938	3,346	300	300
CA	San Diego	Naval Supply Ctr, Pt. Loma Annex	619-225-2355	4,738	5,600	5,600
CA	San Diego	Port of San Diego	619-291-3900	3,346	300	300
CA	San Diego	Southwest Marine, Inc.	619-238-1000	2,975	300	300
CA	San Diego	Tuna Clipper Marine	619-232-1838	1,654	300	500
CA	San Francisco	Continental Maritime Inc	415-957-1500	3,360	200	
CA	San Francisco	Baker Commodities	415-282-4188	460	100	
CA	San Francisco	C&H Sugar Co.	415-772-3918	460	100	
CA	San Francisco	California Fats and Oils Inc	415-826-6108	460	100	
CA	San Francisco	California Stevedore & Ballast	415-826-7100	460	100	
CA	San Francisco	Continental Grain Co.	415-824-7177	460	100	
CA	San Francisco	Continental Maritime	415-957-1500	3,360	200	200
CA	San Francisco	Forrest Terminals	415-951-5113	1,346	100	
CA	San Francisco	Maersk Line	415-398-1515	460	100	
CA	San Francisco	Marine Terminals	415-986-6576	460	100	
CA	San Francisco	Matson Container	415-271-9819	460	100	
CA	San Francisco	Oakland Center Terminal	415-834-5822	460	100	
CA	San Francisco	Pennzoil Co	415-522-4224	450	100	
CA	San Francisco	Pier 70	415-546-9111	460	100	
CA	San Francisco	San Francisco Port Commission	415-391-8000	460	100	
CA	San Francisco	Star Terminal	415-981-6622	460	100	
CA	San Francisco	Stevedoring Services of America	415-271-1800	460	100	
CA	San Francisco	Todds Shipyard	415-621-8633	2,279	150	
CA	San Pedro	American President Lines	213-432-5991	228	200	200
CA	San Pedro	Chevron USA Inc	213-632-3324	150	1,400	1,400
CA	San Pedro	Evergreen Terminal	213-519-6942	20	22	
CA	San Pedro	GATX Tank Storage Terminal	213-547-9655	257	50	
CA	San Pedro	GATX Terminals Corp.	213-547-0881	547	400	
CA	San Pedro	Kaiser International Corp	213-514-2880	346	70	
CA	Terminal Island	Hugo Neu Proler T1210	213-775-6626	346	200	200
CA	Wilmington	Berth 200-A	213-830-8181	131	90	90
CA	Wilmington	Berths 180-181, LA Harbor	213-834-3444	0	0	
CA	Wilmington	Cargill Inc.	213-830-8231	228	200	20
CA	Wilmington	Chemolin Petroleum Co	213-834-7254	7,463	1,500	
CA	Wilmington	GATX L.A. Marine Terminal	213-835-0187	0	800	
CA	Wilmington	Golden Eagle Refining Co. Inc	213-834-4495	15,683.40	140	8,750

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
CA	Wilmington	L.A. Terminals	213-549-5822	226	200	200
CA	Wilmington	Marine Terminal	213-834-7254	7,463	1,500	
CA	Wilmington	Marine Terminals Corp	213-432-5904	288	1,400	1,400
CA	Wilmington	Pacific Molasses Company	213-549-1810	530	200	200
CA	Wilmington	Shell Oil Co	213-834-2638	3,000	4,900	
CA	Wilmington	United Fruit Co	213-834-2631	346	22	22
CA	Wilmington	United States Borax & Chemical Corp	213-835-0121	446	40	40
CA	Wilmington	Willington Liquid Bulk Terminals	213-549-0961	500	2,100	2,100
CT	East Hartford	Andrew Wilgoos Turbine Lab	203-565-3975	90	50	50
CT	East Hartford	Texaco Sales Terminal	203-568-9600	0	0	
CT	East Hartford	The Atlas Oil Company	203-568-7220	0	0	
CT	Groton	Pfizer Inc	203-441-3206	102	150	150
CT	Groton	United Fuel Corp	203-445-4095	1,488	250	250
CT	Middletown	Peterson Oil	203-346-7775	0	0	
CT	Middletown	United Techologies Corporation	203-344-4317	273	125	125
CT	New London	New London Terminals Div	203-442-3939	240	115	115
CT	Norwich	Dahl Oil Company	203-889-3525	0	0	
CT	Norwich	Lehigh Oil Company	203-889-1311	0	0	
CT	Norwich	State of Ct Norwich Hospital	203-889-7361	0	0	
CT	Portland	Chevron Asphalt	203-342-1440	408	115	115
CT	Portland	Rocky Hill Oil Co., Inc	203-563-8123	30	133	133
CT	Rocky Hill	F.L. Roberts & Co., Inc	203-529-6821	0	0	
CT	Wethersfield	Amerada Hess Wethersfield	203-529-7781	0	0	
CT	Wethersfield	Northeast Petroleum	203-529-3299	0	0	
FL	Canaveral	Canaveral Port Authority	305-783-7831	252	50	50
FL	Cape Canaveral	Belcher Oil Company	904-783-3393	272	150	
FL	Dania	Port Denison	305-920-2581	169.6	100	100
FL	Fernandina Beach	Nassau Terminal (Fernandina)	904-261-0753	1,550	90	150
FL	Ft. Lauderdale	Port Everglades	305-523-3404	5,380	150	100
FL	Ft. Lauderdale	Tracor Marine, Inc	305-463-1211	77	200	200
FL	Ft. Pierce	Ft. Pierce	305-464-5600	120	50	50
FL	Ft. Pierce	Indian River Terminal Company	305-465-7700	113.51	200	200
FL	Gibsonton	Agrico Chemical Co	813-677-8404	1,575	100	100
FL	Gibsonton	Mitsui and Co USA (International)	813-677-8483	1,575	100	100
FL	Jacksonville	Amerada Hess	904-757-4498	281	50	500
FL	Jacksonville	Amerada Corporation	904-757-4498	281	50	500
FL	Jacksonville	Amoco	904-757-5706	61	125	207
FL	Jacksonville	Amoco Oil Co	904-757-5706	61	125	207
FL	Jacksonville	Belcher Oil Co	904-358-8725	850	350	350
FL	Jacksonville	Belcher Oil Company	904-783-3393	20	300	350
FL	Jacksonville	Bellinger Shipyard	904-246-9981	1,336	90	100
FL	Jacksonville	Bernuth Lembcke Co., Inc	904-355-8567	2,720	90	150
FL	Jacksonville	Bernuth Lembecke Co	904-355-8567	214	90	150
FL	Jacksonville	Canaveral Port Authority	904-783-7831	252	50	
FL	Jacksonville	Celotex Corporation	904-751-4400	1,458	207.5	312.5
FL	Jacksonville	Chevron U.S.A., Inc	904-353-1094	368	207.5	312.5
FL	Jacksonville	Chevron U.S.A., Inc	904-353-1094	368	207.5	312.5
FL	Jacksonville	Commodores Points Terminal Corp	904-353-0828	2,934	90	150
FL	Jacksonville	Eastern Seaboard Petroleum Co	904-355-9675	122	100	
FL	Jacksonville	Gulf Oil Products Co	904-757-4650	1,457	207.5	312.5
FL	Jacksonville	Gulf Product Division of B.P. Inc	904-757-4650	61	125	207
FL	Jacksonville	Independent & Pipeline Co	904-791-8822	368.42	240	240
FL	Jacksonville	Jacksonville Bulk Terminal Inc	904-355-8099	404	150	150
FL	Jacksonville	Jacksonville Port Authority	904-633-5140	1,458	207	312
FL	Jacksonville	Jacksonville Shipyards, Inc	904-798-3700	281	50	500
FL	Jacksonville	Naval Supply Center Jacksonville	904-757-5354	2,367	150	
FL	Jacksonville	North Florida Shipyard, Inc	904-354-3278	256	50	50
FL	Jacksonville	Occidental Chemical Corp	904-632-3813	404	150	150
FL	Jacksonville	Phillips Pipeline Co	904-353-6740	122	100	
FL	Jacksonville	Port of Fernandina	904-261-0753	1,550	90	150
FL	Jacksonville	Shell Oil Co	904-355-5521	3,020	300	
FL	Jacksonville	Trailer Marine Transport Corp	904-354-0352	2,720	90	150
FL	Jacksonville	U.S. Gypsum Co	904-768-2501	1,529	75	100
FL	Jacksonville	U.S. Gypsum Company	904-768-2501	850	150	150
FL	Jacksonville	Witco Chemical Corporation	904-353-0941	6,875	150	N/A
FL	Jacksonville	Witco Corp	904-353-0941	20	150	
FL	Key West	Port of Key West	305-294-3721	53.45	67	20
FL	Miami	Port of Miami	305-371-7678	431	150	100
FL	Palmetto	Belcher Oil-Manatee	813-722-7727	147.6	350	350
FL	Palmetto	Florida Power and Light	813-722-7727	147.6	350	350
FL	Panama City	Port of Panama City	904-763-8471	4,388	1,050	0
FL	Pensacola	Port of Pensacola	904-436-4270	72	75	100
FL	Petersburg	City of St. Petersburg Cargo Terminal	813-893-7654	1,365	75	150
FL	Petersburg	City of St. Petersburg Cruise Port	813-893-7654	1,365	75	150
FL	Petersburg	City of St. Petersburg Cruise Port	813-893-7654	1,365	75	150

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
FL	Port St. Joe	Amerada Hess Corp	205-229-6763	1,250	2,000	3,000
FL	Port St. Joe	Amerada Hess Corporation	904-229-6763	1,250	2,000	
FL	Tampa	American Petrofina of Texas	813-248-3191	1,365	75	150
FL	Tampa	American Petrofina of Texas	813-248-3191	1,365	75	150
FL	Tampa	Amoco Oil Company	813-248-3191	1,365	75	150
FL	Tampa	Apollo Stevedoring Company, Inc	813-722-0558	1,365	75	150
FL	Tampa	Atlantic Land and Improvement Co	813-248-8111	1,050	100	100
FL	Tampa	Banana	813-729-5602	1,365	75	150
FL	Tampa	Bay Terminals and Stevedoring	813-225-2610	1,622	150	150
FL	Tampa	Cargill, Inc	813-247-3602	1,575	100	100
FL	Tampa	CF Industries	813-247-5531	1,050	100	100
FL	Tampa	Chevron USA, Inc	813-248-3191	1,365	75	150
FL	Tampa	Citgo Petroleum Corp	813-248-3191	1,365	75	150
FL	Tampa	Commercial Metals Co	813-248-1918	1,050	100	100
FL	Tampa	Dravo Basic Materials Co., Inc	813-248-1070	1,050	100	100
FL	Tampa	Eastern Associated Terminals	813-248-5038	1,050	100	100
FL	Tampa	Eastern Cement Corp	813-729-7311	1,365	75	150
FL	Tampa	Eller and Co., Inc	813-247-5511	1,575	100	100
FL	Tampa	Florida Power—Boca Grande	813-964-2461	1,050	100	100
FL	Tampa	Florida Power Corp	813-248-3191	1,365	75	150
FL	Tampa	G&C Stevedoring	813-223-3139	1,622	150	150
FL	Tampa	Gardinier, Inc	813-248-3191	1,365	75	150
FL	Tampa	Garrison Terminals, Inc	813-229-1958	1,575	100	100
FL	Tampa	General Portland Inc	813-248-3191	1,365	75	150
FL	Tampa	Gold Bond Building Products	813-839-2111	1,050	100	100
FL	Tampa	Gold Bond Building Products	813-839-2111	1,050	100	100
FL	Tampa	Gulf Oil Company	813-248-3191	1,365	75	150
FL	Tampa	Gulf Portland Cement Inc	813-248-2000	1,365	75	150
FL	Tampa	Gulf-Tampa Drydock	813-247-3153	179	41.7	41.7
FL	Tampa	Harborside Refrigerated Services Inc	813-248-6996	1,575	100	100
FL	Tampa	Hendry Corporation	813-831-1211	1,619	100	220
FL	Tampa	Ideal Basic Industries	813-248-3129	1,365	150	150
FL	Tampa	International Minerals & Chemicals	813-248-1971	1,365	75	150
FL	Tampa	International Ship Repair & Marine Ser	813-247-1118	1,113	900	1 050
FL	Tampa	Louisville Scrap Material Co	813-248-2110	1,050	100	100
FL	Tampa	Manatee Scrap Processing	813-702-5388	1,365	75	150
FL	Tampa	Manatee Terminals, Inc	813-722-7719	1,365	75	150
FL	Tampa	Marathon Petroleum Co	813-247-1459	1,365	75	150
FL	Tampa	Marathon Petroleum Company	813-248-2876	1,365	75	150
FL	Tampa	Morton Salt Company	813-248-2715	1,050	100	100
FL	Tampa	Murphy Oil Company	813-248-3191	1,365	75	150
FL	Tampa	Murphy Oil Company	813-248-3191	1,365	75	150
FL	Tampa	National Portland Cement Company	813-746-1177	100	10	10
FL	Tampa	Paktank Florida Inc	813-247-5417	1,365	75	150
FL	Tampa	Pasco Terminals, Inc	813-248-3411	1,365	75	150
FL	Tampa	Pennzoil Sulpher Co	813-248-3411	1,365	75	150
FL	Tampa	Petroleum Packers, Inc	813-248-3191	1,365	75	150
FL	Tampa	Royster Company	813-248-6778	1,575	100	100
FL	Tampa	Seagull Terminal and Stevedoring	813-223-3216	1,622	150	150
FL	Tampa	Sel Maduro Inc	813-223-4721	1,050	100	100
FL	Tampa	Sel Maduro Inc	813-223-4721	1,050	100	100
FL	Tampa	Shell Oil Corp	813-831-1121	1,050	100	100
FL	Tampa	Sol Walker and Company	813-248-5796	1,050	100	100
FL	Tampa	South States Term. (GATX)	813-248-3191	1,365	75	150
FL	Tampa	Southern Stevedoring Co	813-223-5481	1,365	75	150
FL	Tampa	Southport Stevedores Inc	813-248-6168	1,365	75	150
FL	Tampa	Standard Gypsum	813-837-0192	1,365	75	150
FL	Tampa	Sulpher Terminals Co., Inc	813-248-4949	1,050	100	100
FL	Tampa	Tampa Barge Service, Inc	813-247-5408	1,065	75	150
FL	Tampa	Tampa Bulk Services, Inc	813-837-0192	1,050	100	100
FL	Tampa	Tampa Cement, Inc	813-248-2110	1,050	100	100
FL	Tampa	Tampa Electric	813-248-3191	1,365	75	150
FL	Tampa	Tampa Electric Hookers Pt	813-248-3191	1,365	75	150
FL	Tampa	Tampa Export Company, Inc	813-248-2876	1,365	75	150
FL	Tampa	Tampa Shipyards	813-247-1183	1,050	100	100
FL	Tampa	Tenco Services, Inc	813-248-3191	1,365	75	150
FL	Tampa	Texaco, Inc	813-248-3191	1,365	75	150
FL	Tampa	Texas Gulf Chemicals Co	813-247-5674	1,365	75	150
FL	Tampa	Trans Florida Terminal	813-248-5796	1,050	100	100
FL	Tampa	Union Oil Co. of California	813-248-3191	1,365	75	150
FL	Tampa	W.R. Grace—Port Sutton	813-248-2185	1,575	100	100
FL	Tampa	West Coast Oil Inc	813-247-1118	3,113	900	1,050
FL	Tampa	Western Fuels Company	813-248-3191	1,365	75	150
FL	West Palm Beach	Port of Palm Beach	305-842-4201	3,321	150	100
GA	Brunswick	Brunswick Port Authority	912-265-3700	601	350	440

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
GA	Brunswick	Georgia Authority	912-264-7295	342	300	350
GA	Brunswick	LCP Chemicals—Georgia	912-265-8560	6,563	440	440
GA	Garden City	Gold Bond Building Products	912-964-1561	274	100	100
GA	Garden City	Koch Asphalt Co	912-964-1913	196	300	350
GA	Goleta	Gaviota Marine Terminal	303-866-0419			
GA	Port Wentworth	Savannah Sugar Refinery	912-964-1361	601	350	440
GA	Port Wentworth	Stone Container Corp	912-964-1271	1,312	100	N/A
GA	Savannah	Amoco Oil Company	912-964-6282	601	350	440
GA	Savannah	Belcher Oil Company	912-964-1811	196	300	350
GA	Savannah	Blue Circle Atlantic Inc	912-236-6318	1,500	100	N/A
GA	Savannah	Bulk Terminal Management	912-964-2785	1,500	100	100
GA	Savannah	Chevron USA	912-232-0184	3,111	123	123
GA	Savannah	Colonial Oil Industries, Inc	912-236-1331	347	175	N/A
GA	Savannah	Damond Manufacturing Co	803-233-3003	134	50	50
GA	Savannah	East Coast Terminal Company	912-236-1531	1,500	100	N/A
GA	Savannah	Genstar	912-233-4951	1,005	123	N/A
GA	Savannah	Georgia Port Authority	912-964-3811	196	300	350
GA	Savannah	Georgia Steamship Company	912-964-0719	7,875	120	
GA	Savannah	Marcona Ocean Industries, Ltd	912-234-5005	340	350	440
GA	Savannah	Occidental Chemical Agricultural	912-964-1214	196	300	350
GA	Savannah	Panocean Southland Inc	912-964-1611	196	300	350
GA	Savannah	Powell Duffryn Terminals	912-437-2600	3,925	200	N/A
GA	Savannah	Sayler Marine Corp	912-234-2266	123	100	100
GA	Savannah	Union Oil Company	912-233-9266	601	350	440
GA	Wentworth	Atlantic Wood Industries, Inc	912-964-1234	10	350	440
HI	Honolulu	Honolulu Shipyard		273.4	150	150
HI	Ilesle	Port Allen Harbor	808-245-6996	176	84	84
HI	Ilesle	Port Allen Harbor	808-335-5511	175.7	84	84
HI	Ewa Beach	Barbers Pt. Offshore Tanker Terminal	808-682-5711	425	15,500	150
HI	Ewa Beach	Hawaii Independent Refinery, Inc	808-682-4505	563	10,000	10,000
HI	Ewa Beach	Hawaiian Independent Refinery, Inc	808-682-4505	563	10,000	10,000
HI	Hilo	Hilo Harbor	808-935-4877	105	75	75
HI	Hilo	Hilo Harbor	808-935-4877	105.3	75	75
HI	Honolulu			21.1	100	100
HI	Honolulu	Barbers Point Offshore Tanker	808-682-5711	425		N/A
HI	Honolulu	Chevron U.S.A., Inc., Pier 30	808-527-2747	154	500	500
HI	Honolulu	Honolulu Commercial Harbors	808-543-4134	840	100	100
HI	Honolulu	Honolulu Shipyard	808-848-6262	273	150	150
HI	Kahului	Port of Kahului	808-877-6051	105	100	100
HI	Kahului	Hakului Harbor	808-877-6051	105.3	100	100
HI	Kawaihae	Kawaihae Harbor	808-882-7565	105.3	75	75
HI	Kawaii	Kawaii Harbor	808-935-4877	105	75	75
HI	Lihue	Nawiliwili	808-245-6996	175.5	84	84
HI	Pearl Harbor	Navy Supply Center	808-471-0725	333	100	100
HI	Pearl Harbor	Fuel Department	808-471-0725	[1] 2,000	250	250
IL	Chicago	International Port District	312-646-4400	294	35	
IN	Portage	Burns International Port	219-787-9636	103	30	
LA	Ama	ADM-Growmark System	504-431-8245	10,000	185	
LA	Arabi	Amstar Corp.	504-271-5331	1,100	200	N/A
LA	Arabi	Amstar Corporation	504-271-5331	1,100	200	
LA	Arabi	Kaiser Aluminum & Chemical	504-271-7046	20	150	150
LA	Avondale	International Matex	504-436-4466	40	420	N/A
LA	Baton Rouge	Exxon Company USA	504-359-7518	15,000	7,700	7,700
LA	Baton Rouge	Formoss Plastics Corp	504-356-3341	6,048	50	
LA	Baton Rouge	Port of Greater Baton Rouge	504-387-4207	104,909	88	88
LA	Belle Chasse	Miss. River Grain Elevator	504-656-2213	199	75	75
LA	Belle Chasse	B.P. Oil Inc	504-656-7711	6,530	0	10,000
LA	Belle Chasse	Chevron Chemical Co	504-394-4320	50	150	150
LA	Belle Chasse	Dockside Elevators, Inc	504-524-0611	4,200	650	650
LA	Burnside	Burnside Terminal	504-473-4245	1,175	2,500	2,500
LA	Carville	Cos-Mar Company	504-642-5454	180	100	100
LA	Chalmette	Exxon Co, USA	504-359-7605	6,000	1,400	
LA	Chalmette	Tenneco Oil Company P&M	504-279-9481	100	40	40
LA	Convent	Delta Bulk Terminals	504-524-7105	640	133	133
LA	Convent	Diamond Shamrock	504-562-7402	20	30	30
LA	Convent	Zen-Noh Grain Elevator	504-562-3571	2,940	700	700
LA	Darrow	Copper/T. Smith Stevedoring	504-473-4288	24	60	60
LA	Darrow	River Cement Company	504-473-6748	1,581	150	N/A
LA	Davant	Electro-Cal Transfer Corp	504-524-4181	2,300	45	500
LA	Destrehan	Bunge Corporation	504-466-5300	595	22	22
LA	Destrehan	St. Charles Grain Elevator Co	504-466-2753	3,000	350	350
LA	Destrehan	Tulane Anchorage	504-464-1466	980	1,150	1,150
LA	Donaldsonville	Agrico Chemical	504-473-4271	150	50	0
LA	Donaldsonville	C&F Industries, Inc	504-473-8291	1,200	2,450	2,450
LA	Donaldsonville	Triad Chemical	504-473-9231	2,976	1,050	1,050

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
LA	Garyville	Clark Oil & Refining Corporation	504-535-6256	770	2,100	2,800
LA	Garyville	Marathon Petroleum Co	504-535-2241	12,000	140,000	140,000
LA	Geismar	Allied Corporation	504-642-8311	180	100	100
LA	Geismar	Shell Chemical Plant	504-473-4261	1,470	75	100
LA	Goodhope	GATX Terminal Corp	504-443-2511	802	300	300
LA	Gramercy	Kaiser Aluminum & Chemical Corp	504-525-0460	20	650	N/A
LA	Grameron	Colonial Sugar, Inc	504-529-1102	61	2,000	2,000
LA	Hackberry	Oxy Cities Services N.G.L. Inc	318-762-4201	1,699	182	
LA	Hahnville	Becker Industries Corp	504-783-6872	1,100	1,000	1,000
LA	Hahnville	Occidental Chemical Corp	504-783-6611	389	10	350
LA	Hahnville	Union Carbide Corp	504-468-4300	645	100	100
LA	Harvey	BP North America Petroleum, Inc	504-368-2560	4,200	1,000	1,000
LA	Harvey	Delta Commodity, Inc	504-340-4911	199	75	75
LA	Houma	Texas Pipe Line Company	504-876-5645	1,250	133	133
LA	Lake Charles	Citgo Pipeline	318-491-6237	11,000	2,000	5,000
LA	Lake Charles	Conoco	318-491-5855	1,670	400	
LA	Lake Charles	Lake Charles Carbon	318-437-3200	31	15	
LA	Lake Charles	Lake Charles Harbor & Terminal	318-439-3661	812	180	700
LA	Lake Charles	Olin Corporation	318-491-3320	1,670	400	400
LA	Lake Charles	PPG Industries	318-491-4266	1,670	400	400
LA	Lake Charles	Truckline LNG	318-478-8936	1,000	100	
LA	Luling	Compass Fleet 122, Inc. Anchorage	368-0312	20	1,150	1,150
LA	Marrero	Amerada Hess Corporation	504-341-9561	12,000	3,000	5,000
LA	Marrero	Texaco Refining & Marketing, Inc	504-595-6611	150	700	700
LA	Meraux	Murphy Oil, Inc	504-271-4141	47	35	
LA	New Orleans	Algiers Iron Works & Dry Dock Co	504-362-7960	20	100	100
LA	New Orleans	Avondale Industries Shipyards	504-436-5165	2,350	2,000	2,000
LA	New Orleans	Avondale Industries Shipyards	504-436-5165	10,463.2	2,000	2,000
LA	New Orleans	Boland Marine Mfg. Co. Inc	944-0223	1,518	100	1,000
LA	New Orleans	Buck Kreiks Co	504-524-7681	1,400	1,000	
LA	New Orleans	Chevron Pipeline Co	504-364-2496	1,000	100	N/A
LA	New Orleans	Dixie Machine & Welding Inc	504-581-3088	100	20	20
LA	New Orleans	I.T.O. Corporation	504-899-9544	1,200	50	50
LA	New Orleans	Port of New Orleans	504-528-3209	9,413	617	6,833
LA	New Orleans	Southern Scrap Material Co, Ltd	504-944-3371	3,000	350	350
LA	New Orleans	United Gypsum Company	504-241-2020	196	180	180
LA	New Orleans	United States Gypsum Company	504-241-2020	196	180	180
LA	Paulina	Peavey Grain Elevator	504-482-4405	47	100	
LA	Plaquemines	Dow Chemical Corp	504-389-8646	58	21	21
LA	Plaquemines	Georgia Gulf Corp	504-685-2500	159	50	50
LA	Port Allen	Anchorage Chemical Terminal	504-389-0170	1,470	350	N/A
LA	Port Sulphur	Fresport Sulphur	504-564-3981	5,400	105	105
LA	Port Sulphur	International Marine Terminals	504-656-7341	3,000	350	350
LA	Reserve	Cargill-Terre Haute	504-467-4126	3,163.13	750	750
LA	Reserve	Godchaux Henderson Sugar Co	504-536-1161	1,200	100	100
LA	Reserve	Reserve Elevator Corp	504-568-1036	2,500	1,000	1,000
LA	St. James	Koch Gathering Systems	504-265-2112	500	1,000	1,000
LA	St. James	Shell Pipeline Corporation	504-588-4831	1, 250	100	100
LA	Sulphur	Fredemans Shipyard	318-583-7333	1,670	500	500
LA	Sunshine	Petrounited Terminals, Inc	504-642-8335	2,205	350	350
LA	Uncle Sam	Freeport Chemical Co	504-562-3501	27	100	100
LA	Union	Missouri Portland Cement	504-562-7471	1,400	1,000	
LA	Violet	Violet Dock Port Inc	504-682-8528	1,250	50	50
LA	Westlake	Conoco	318-491-5222	1,050	3,500	3,500
LA	Westlake	Dravo Basic Materials	318-436-5642	1,670	400	
LA	Westlake	Ideal Basic Industries	318-436-7561	20	100	
LA	Westwego	Continental Grain Elevator	504-436-9200	1,000	185	1,400
LA	Westwego	Gold Bond Building Products	504-341-8586	381	100	
LA	Westwego	Pacific Molasses	504-347-8454	389	60	
LA	Westwego	Park Tank	504-623-0000	191	46	
MA	Boston	Boston Edison Company	617-424-3547	2,284	200	
MA	Boston	Economic Development & Ind. Co	617-725-3300	1,003	300	
MA	Boston	Mass Port Authority	617-973-5354	730	500	
MA	Boston (Charleston)	Amstar Corp. Bunker Hill Refin	617-242-5335	1,003	300	
MA	Boston	Blue Circle Atlantic Cement	617-241-9040	983	200	
MA	Boston (East)	Boston Fuel Transportation, Inc	617-567-9100	983	200	
MA	Boston (East)	Mobil Oil Corporation	617-381-4039	298	300	
MA	Boston (South)	Belcher of South Boston, Inc	617-269-8400	1,391	200	
MA	Chelsea	Cumberland Farms Inc	617-884-5980	983	200	
MA	Chelsea	Eastern Minerals	617-884-0029	3,126	300	300
MA	Chelsea	Gulf Oil Products Company	617-884-5980	983	200	
MA	Chelsea	Northeast Petroleum	617-884-7570	125	200	
MA	Chelsea	U.S. Gypsum Co	617-241-9100	1,003	300	
MA	Chelsea	Ultramar Petroleum Inc	617-288-1100	983	200	
MA	Dorchester	Boston Gas Co	617-288-3820	983	200	

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
MA	E. Braintree	Citgo Petroleum Corporation	617-848-2595	298	300	
MA	East Boston	Amerada Hess Corp	203-529-7781	76	200	
MA	East Boston	General Ship	617-569-4200	2,530	300	300
MA	Everett	Coldwater Seafood Corporation	617-387-2050	1,151	300	
MA	Everett	Everett Marine LNG Terminal	617-423-5959	730	500	
MA	Everett	Exxon Co., USA-Everett Terminal	617-381-2800	983	200	
MA	Everett	Independent Cement Corporation	617-387-3829	1,155	300	
MA	Everett	Prolerized New England Company	617-389-6300	298	300	
MA	Fall River	Borden & Remington Corp	617-675-0181	1,003	300	
MA	Fall River	Northeast Products Co., Inc	617-678-8367	1,004	300	
MA	Gloucester	Americold/Quincy Market Cold	617-283-6100	1,003	300	
MA	Lynn	General Electric Company	617-594-3834	1,155	300	
MA	New Bedford	Frionor Kitchens, Inc	617-997-0031	122	200	
MA	New Bedford	Glen Petroleum Corp	617-998-8271	327	200	
MA	New Bedford	Global Petroleum Corp	617-997-4534	327	200	
MA	North Weymouth	C.H. Sprague & Son Co	603-431-1000	983	200	
MA	Quincy	General Dynamics Corp	617-471-4200	214	50	
MA	Quincy	Quincy Oil, Inc	617-773-2500	1,391	200	
MA	Quincy	The Proctor & Gamble Mfg Co	617-417-9100	298	300	
MA	Revere	Belcher New England, Inc	617-284-4490	1,391	200	
MA	Revere	Gibbs Oil, Div. of BP Oil, Inc	617-289-4201	1,391	200	
MA	Revere	Northeast Petroleum	617-884-7570	1,391	200	
MA	Revere	Revere Terminal Corporation	617-289-2102	1,391	200	
MA	Salem	New England Power Co	617-744-5540	1,281	200	
MA	Salem	Northeast Petroleum	617-884-7570	1,391	200	
MA	Sandwich	Esco Terminals, Inc	617-888-2001	327	200	
MA	Somerset	Montaup Electric Co	617-678-5283	327	200	
MA	Somerset	New England Power Company	617-678-8321	327	200	
MA	Woods Hole	Woods Hole Oceanographic	617-548-1400	1,003	300	
MD	Baltimore	Agrico Chemical Corporation	301-276-8100	546	60	
MD	Baltimore	Amerada Hess Corporation	301-355-0705	124	50	
MD	Baltimore	Amoco Oil Co	301-636-0522	491	450	450
MD	Baltimore	Amstar Corporation	301-752-6150	115	20	
MD	Baltimore	Atlantic Terminal	301-355-9434	1,120	133	N/A
MD	Baltimore	B.P. Oil Inc	301-355-7200	619	20	
MD	Baltimore	Blue Circle Atlantic	301-355-4440	3,872	150	150
MD	Baltimore	Cargill	301-539-5950	390	200	200
MD	Baltimore	Central Soya, Canto Grain Eleva	301-522-5100	2,251	350	350
MD	Baltimore	Chesapeake Terminal	301-625-1370	1,866	133	133
MD	Baltimore	Conoco Docking Facility	301-355-5296	3,062	150	
MD	Baltimore	Consolidation Sales Company	301-342-1020	454	75	75
MD	Baltimore	Curtis Bay Coal & Ore Pier	301-347-5201	583	42	42
MD	Baltimore	Eastalco Aluminum Co	301-354-1113	1,516.6	150	150
MD	Baltimore	Essex Industrial Chemical, Inc	301-355-1770	828	60	60
MD	Baltimore	G&M Terminal Incorporated	301-355-8833	575	450	
MD	Baltimore	Gold Bond Building Products	301-563-5315	615	150	150
MD	Baltimore	Indiana Grain-Locust Pt. Elev	301-685-6410	108	50	40
MD	Baltimore	Joseph E. Seagrams & Sons, Inc	301-247-1000	2,579	150	150
MD	Baltimore	Lebanon Chemical Corp	301-327-4700	11,067	60	
MD	Baltimore	Louis Dreyfus Canada	301-752-6997	119	42	42
MD	Baltimore	Maryland Port Administration	301-955-1160	1,620	31	
MD	Baltimore	Petroleum Fuel & Terminal	301-342-7800	1,075	450	450
MD	Baltimore	Port Covington Piers 4, 5, 6	301-347-5201	583	42	41.67
MD	Baltimore	Rukert Terminal Corp	301-276-1013	154	100	100
MD	Baltimore	Shell Oil Co	301-354-0404	327	600	
MD	Baltimore	Star Enterprise	301-355-6500	58	50	N/A
MD	Baltimore	Support Terminal Services, Inc	301-355-6262	49	60	
MD	Baltimore	Texaco Refining & Marketing Inc	301-355-6500	58	50	
MD	Baltimore	The Proctor & Gamble Mfg. Co	301-576-1231	113	50	50
MD	Baltimore	Transpacific Communications	301-385-0428	636.6	200	N/A
MD	Baltimore	United States Gypsum Company	301-355-6600	860	50	50
MD	Piney Point	Stuart Petroleum	301-994-1200	686	100	100
MD	Sparrows Point	Bethlehem Steel	301-388-7707	959	100	200
ME	Bangor	Barrett Paving	207-942-4681	305	50	100
ME	Bangor	Irving Oil Co	207-942-6323	305	50	100
ME	Bangor	Mobil Oil Co	207-942-8248	305	50	100
ME	Bangor	Webber Oil Co	207-942-5501	305	50	100
ME	Bar Harbor	CN Marine Terminal	207-288-3395	0	0	
ME	Brewer	Mainway Terminal Inc	207-989-2410	305	50	305
ME	Brewer	Webber Thomas Inc	207-989-7770	305	50	
ME	Bucksport	C.H. Sprague & Son Co	207-469-7946	305	50	100
ME	Bucksport	Elden Corp	207-469-7450	305	50	100
ME	Bucksport	Webber Tanks Inc	207-469-3165	305	50	100
ME	Cousins Island	Central Maine Power—Wyman	207-846-9055	197	50	50
ME	Easport	Federal Marine Terminals, Inc	207-853-6098	120	50	50

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
ME	Hampden	Texaco Inc	207-945-9485	305	50	100
ME	Portland	Portland International Lyon's	207-775-5611	197	50	
ME	Searsport	C.H. Sprague & Son Co	207-548-2531	305	50	100
ME	Searsport	Irving Oil Co	207-942-6323	305	50	100
ME	Searsport	Tenco Service's	207-548-2201	305	50	100
ME	So. Harpswell	Defense Fuel Supply Point	207-833-6232	306	50	50
ME	So. Portland	BP Oil Inc	207-799-8586	305.8	50	100
ME	So. Portland	Exxon Co. Inc	207-767-2141	306	50	100
ME	So. Portland	Getty Petroleum Corp	207-799-8518	305	50	100
ME	So. Portland	Koch Fuels Inc	207-767-2161	305	50	
ME	So. Portland	Mobil Oil Corp	207-767-3251	259	50	50
ME	So. Portland	Portland Pipeline Corp	207-767-3231	20	28	
ME	So. Portland	Texaco Inc	207-799-3394	200	50	50
ME	So	Northeast Petroleum	207-799-2294	328	50	
ME	Winterport	Maine Terminal Inc	207-223-5011	305	50	100
ME	Wiscasset	Central Maine Power—Mason	207-882-6212	259	50	50
ME	Yarmouth	Central Maine Power—Wyman	207-846-9055	197	50	
MI	Bay City	Dow Chemical Seaway Terminal	517-667-0308	120	50	100
MI	Bay City	Saginaw Valley Marine	517-895-8571	120	50	100
MI	Detroit	Harridon Terminal	313-841-7880	444	250	250
MI	Ludington	Dow Chemical USA	616-845-4444	10	50	100
MI	Port Huron	Port Huron Terminal Company	313-982-8596	444	250	250
MI	River Rouge	Nicholson Terminal & Dock Co	313-842-4300	6,643	330	330
MI	Saginaw	Berger and Company	517-754-1460	120	50	100
MN	Duluth	Port of Duluth/Superior	218-727-8525	150	60	60
MS	Bay St. Louis	Port Bienville	601-467-9231	389	60	
MS	Gulfport	MS State Port Authority	601-865-4317	354	150	
MS	Pascagoula	Chevron, USA, Inc	601-938-4214	6,432	9,999	1,000
MS	Pascagoula	Ingalls Shipbuilding Division	601-935-4676	370	112	112
NC	Morehead City	Port of Morehead City	919-726-3158	6,394	1,000	1,000
NC	Wilmington	Amerada Hess Wilmington	919-763-5123	6,394	1,000	N/A
NC	Wilmington	Cape Fear Terminal Port	919-762-6615	6,339	1,000	1,000
NC	Wilmington	Exxon Terminal	919-799-0144	650	1,400	N/A
NC	Wilmington	Gold Bond Building Products	919-799-3954	6,394	1,000	
NC	Wilmington	Paktank Corp—Wilmington Terminal	919-763-0104	1,314	95	
NC	Wilmington	Port of Wilmington	919-371-2325	1,743	820	N/A
NC	Wilmington	Transcarolina Terminal	919-763-4444	6,394	1,000	
NC	Wilmington	W.R. Grace—Nitrex Plant	919-763-0171	20	28	N/A
NC	Wilmington	Wilmington Shipyard, Inc	919-763-6274	360	480	N/A
NH	Newington	C.H. Sprague & Son	603-431-1000	331	50	50
NH	Newington	Fuel Storage Corp	803-431-6000	327	50	100
NH	Newington	Sea-3 Inc	603-431-5990	327	50	100
NH	Portsmouth	C.H. Sprague	603-431-1000	331	50	50
NH	Portsmouth	Gold Bond Building Products	603-436-4848	305	50	50
NH	Portsmouth	Granite State Minerals Inc	603-436-8505	1,003	300	300
NH	Portsmouth	New Hampshire State Port Auth	603-436-8500	1,008	300	300
NJ	Bayonne	Constable Terminal Corporation	201-437-2993	278	200	
NJ	Bayonne	Exxon Company USA	201-858-5503	14,460	2,800	
NJ	Bayonne	Gordon Terminal Service	201-437-8300	279	200	N/A
NJ	Bayonne	Hoboken Shipyards, Inc	800-645-4506	412	20	300
NJ	Bayonne	IMTT-Bayonne	201-437-2200	3,325	1,000	1,000 F./50 T.
NJ	Bayonne	Port Belcher of New York	201-437-2104	11,760	2,800	N/A
NJ	Bayonne	Powell Duffern Terminals	201-437-2600	540	200	N/A
NJ	Bayonne	Rollins Terminals, Inc	201-436-5000	279	200	N/A
NJ	Bayonne	Standard Tank Cleaning Corp	201-339-5222	15,360	2,800	2,800
NJ	Bayonne	Texaco Refining & Marketing Inc	201-436-2200	15,008	100	100
NJ	Carteret	Amoco Oil Company	201-541-5131	187	100	
NJ	Carteret	GATX Terminal Corporation	201-541-5161	15,008	2,800	
NJ	Elizabeth	Atlantic Container Lines	201-289-3000	262	250	
NJ	Elizabeth	Chevron-Bayway Lube Plant	201-354-1700	443	115	
NJ	Elizabeth	Croda Storage Inc	201-353-6933	621	132	
NJ	Elizabeth	Crown Central Petroleum Corp	201-352-0542	0	0	
NJ	Elizabeth	Puerto Rico Marine Management	201-225-2121		0	
NJ	Elizabeth	Sea-Land Service, Inc	201-558-6001	11,760	2,800	N/A
NJ	Hoboken	Union Drydock & Repair	201-792-9090	14,695	2,800	2,800
NJ	Jersey City	Global Terminal Cont Serv, Inc	201-451-5200	15,008	2,800	
NJ	Jersey City	Port Maher Terminal	201-963-2100	15,008	2,800	
NJ	Kearny	Columbia Terminals Inc	201-344-3604	5,040	400	
NJ	Linden	BP Tremley Point	201-862-2990	15,008	2,800	2,800
NJ	Linden	Citgo Petroleum Corp	201-862-3300	20,843	2,800	1,200/2,800
NJ	Linden	E.I. du Pont de Nemours & Co	201-474-1726	313	110	N/A
NJ	Linden	Exxon Bayway	201-474-7361	14,460	2,800	2,800
NJ	Newark	Celanse Chemical Co., Inc	201-589-2705	137	150	
NJ	Newark	Port Tenneco Oil Company	201-589-8582	2,559	132	

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
NJ	Newark	Sun Refining & Marketing Co	201-465-3200	25	100	
NJ	Newark	Texaco Refining & Marketing Inc	201-344-6815	15,008	2,800	
NJ	Newark	Trumbull Asphalt	201-998-2534	390	180	N/A
NJ	Newark	Van Iderstine Co	201-465-1900	11,760	2,800	
NJ	Perth Amboy	Chevron U.S.A. Inc	201-738-2000	75	1,400	
NJ	Perth Amboy	Stolt Terminals Inc	201-826-1144	192	73	
NJ	Port Newark	B.P. North American	201-465-2424	15,008	2,800	
NJ	Port Newark	Ecuadorian Line Inc	201-589-8894	127	28	
NJ	Port Newark	Hudson Tank Storage Company	201-465-1115	440	100	100
NJ	Port Newark	Interamerican Juice Company, Inc	201-589-4044	0	0	
NJ	Port Newark	Maersk Container Service Co. Inc	201-465-1000	15,008	2,800	N/A
NJ	Port Newark	Turbana Corp. Shed 138 Berth 4	201-690-5390	198	100	
NJ	Sewaren	Port Shell Oil Co	201-634-1000	15,202	2,800	N/A
NJ	Sewaren	Royal Petroleum, Inc	201-634-3344	3,500	100	
NJ	Woodbridge	Amerada Hess Port Hudson	201-750-6555	124	50	50
NY	Albany	Cibro Petroleum Products, Inc	518-462-4237	262	200	
NY	Albany	Port Mobil	518-436-6575	76	200	
NY	Athens	Peckham Materials Corp	518-945-1120	34	100	
NY	Beacon	Garret-Storm Inc	914-831-1100	0	0	
NY	Bronx	Fred M. Schildwachter & Sons	212-828-2500	0	0	
NY	Bronx	Getty Terminals Corporation	212-324-5134	0	0	
NY	Bronx	Port Castle Coal & Oil Co., Inc	212-823-8800	11,760	2800	N/A
NY	Bronx	Port Cibro Petroleum	212-585-0600	576	220/100	
NY	Bronx	Ultramar Petroleum Inc	201-573-0300	512	100	N/A
NY	Brooklyn	Amoco Oil Company	718-389-5961	238	100	
NY	Brooklyn	Amstar Corporation	718-387-6800	11,760	2,800	
NY	Brooklyn	Coastal Drydock Ship Repair	718-403-8291	15,008	2,800	2,800
NY	Brooklyn	Lumber Exchange Terminal, Inc	718-383-5000	512	100	
NY	Brooklyn	Newton Creek Water Pollution	212-860-9314	0	0	
NY	Brooklyn	Port Continental Terminal, Inc	718-875-4935	15,008	2,800	
NY	Brooklyn	South Brooklyn Marine Terminal	718-499-3900	11,760	2,800	
NY	Brooklyn	Terminelle Corp	718-388-7011	0	0	
NY	Buffalo	Gateway Trade Center Inc	716-826-2890	20	150	
NY	Cementon	Port Lehigh Portland Cement Co	718-943-5300	421	200	
NY	East Elmhurst	Dept. of Corrections	718-728-7659	15,008	2,800	
NY	East Greenbush	Gold Bond Products Terminal	518-449-7354	419	200	
NY	Glenmont	Sears Petroleum & Terminal Co	518-436-7942	323	200	
NY	Glenwood Landing	Glenwood Terminal Corrections	516-676-2500	0	0	
NY	Glenwood Landing	Port Long Island Lighting Co	516-671-3100	103	50	
NY	Great Neck	A.H.J. Associates	516-922-7000	337	100	
NY	Great Neck	Universal Utilities, Inc	516-922-7000	337	100	
NY	Highland	Star Terminal Corp	914-691-8171	0	0	
NY	Inwood	Amoco Oil Company	516-239-4913	0	0	N/A
NY	Inwood	Port Watcher Petroleum	516-239-3800	0	0	
NY	Lackawanna	Bethlehem Steel Corp	716-821-2587	20	300	
NY	Mt. Vernon	Amoco Oil Company	914-667-8339	0	0	
NY	New Rochelle	Port Westchester Hudson Fuel	914-738-6110	0	0	
NY	New Windsor	Big "S" Oil Co	914-561-4300	135	200	
NY	New York	Con-Edison of New York	718-390-2705	514	100	
NY	New York	Nebumar Lines of NY	212-668-1709	512	100	N/A
NY	New York	Pier 42 East River	212-349-5075	307	100	
NY	New York	Port Authority of NY & NJ	212-466-7968	99,999	500	
NY	New York	Port Universal Maritime Services	212-269-5121	15,008	2,800	
NY	New York	Witte Chase	201-344-7800	180	40	
NY	Newburgh	Mid-Valley Petroleum Corporation	914-561-4000	135	200	
NY	North Tarrytown	General Motors	914-631-6000	0	0	N/A
NY	Oceanside	Chevron-Oceanside	516-764-3488	88	50	
NY	Odgensburg	Port of Ogdensburg	315-393-7580	100	200	
NY	Oswego	Atlantic Fuels	315-343-6070	123.5	50	
NY	Oswego	Nia. Mohawk Steam Station	315-349-2220	20	50	
NY	Oswego	Port of Oswego Authority	315-343-4503	22	400	
NY	Port Washington	Lewis Oil Company	516-883-1000	148	50	N/A
NY	Poughkeepsie	Effron Fuel Oil Company	914-452-2600	744	500	N/A
NY	Poughkeepsie	J.R. Sousa Sons, Inc	914-452-4330	135	200	
NY	Ravena	Blue Circle Atlantic	518-756-6141	422	200	
NY	Rensselaer	Atlantic Refining & Marketing Corp	518-449-7138	323	200	
NY	Rensselaer	Petroleum Fuel Terminal	518-465-1557	333	50	50
NY	Rensselaer	Port Bray Terminals	518-462-5052	400	200	
NY	Rensselaer	Ultramar Petroleum Inc	518-463-6609	124	50	N/A
NY	Staten Island	Chester A. Poling, Inc	718-727-1000	147	2,800	N/A
NY	Staten Island	Chevron-Gulfport Terminal	718-981-1000	479	115	
NY	Staten Island	First Marine Shipyard Inc	212-448-1882	14,894	2,800	N/A
NY	Staten Island	Morania Oil Tankers/Shipyard	718-442-0700	14,895	2,800	2,800
NY	Staten Island	Port Mobil	718-948-2200	21,588	5,600	5,800
NY	Staten Island	Taverna Fuel Co., Inc	718-448-9840	19,260	2,800	

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
NY	Staten Island	U.S. Lines	201-272-9600	97	100	
NY	Stony Point	United States Gypsum Co	914-786-2712	443	100	
NY	Syracuse	Agway Petroleum Corp	315-477-6128	0	0	
NY	Tompkins Cove	Port Orange & Rockland Utilities	914-577-2150	95	50	
NY	Tonawanda	Asland Petroleum Company	716-879-8610	20	200	
NY	Troy	Chevron-Asphalt Troy	518-272-2040	237	50	
NY	Wards Island	Wards Is. Sewage Treatment Plant	212-860-9341	318	50	
NY	Woodbridge	Amerada Hess Port New York	201-750-6555	15,008	2,800	
NY	Yonkers	A. Tarracone Inc	914-964-9866	0	0	
NY	Yonkers	Refined Sugars, Inc	914-963-2400	30	150	
OH	Ashtabula	Pinney Dock & Transportation	216-964-7186	400	100	100
OH	Cleveland	Cuyahoga County Port Authority	216-241-8004	238	40	40
OH	Huron	The Pillsbury Company	419-433-4900	80	85	85
OH	Toledo	Toledo-Lucas County Port Auth	419-243-8251	80	85	85
OR	Astoria	McCall Oil and Chemical	503-221-5755	441	1,050	1,050
OR	Astoria	Port of Astoria	503-325-4521	332	150	150
OR	Coos Bay	Union Oil Co. of California	503-269-9600	452	350	350
OR	Newport	New Port International	503-265-7758	268	115	115
OR	Portland	Chevron	503-221-7700	300	2,400	2,400
OR	Portland	Gasco Portland	503-286-9621	330	90	90
OR	Portland	GATX Corp	503-286-1691	1,345	150	
OR	Portland	Georgia-Pacific Corp	503-248-7370	332	150	
OR	Portland	Kaiser	503-288-5175	1,764	1,050	1,050
OR	Portland	McCall Oil and Chemical	503-221-5755	1,764	1,050	1,050
OR	Portland	Pacific Molasses	503-286-1601	164	300	300
OR	Portland	Palmco	503-286-8341	298	150	150
OR	Portland	Shell Oil	503-220-1240	1,764	1,050	1,050
OR	Portland	Texaco Refining & Marketing	503-226-3571	332	150	
OR	Portland	Time Oil Co	503-286-1611	1,701	84	167
OR	Portland	Trumbull Asphalt	503-227-2666	1,061	400	
OR	Portland	Union Oil Co	503-248-1530	355	350	350
OR	Portland	Union Oil Co Chemical Division	213-977-7146	247	150	150
PA	Erie	Erie International	814-453-6651	20	140	
PA	Erie	Erie Intl. Marine Terminal	814-453-6651	20	140	
PR	Isla Grande	Trailer Marine Transport	809-721-1456	30	100	100
PR	Mayaquez	Star Kist Caribe, Inc	809-834-2424	10	25	
PR	Penuelas	Puntilla Dock	809-840-2626	3,000	500	500
PR	Playa de Ponce	Muelles Municipales de Ponce	809-836-1290/843	20	43.20	43.20
PR	San Juan	1-3-6-8-9-11-12-13-14- Frontier Base	809-724-3262	27		
PR	San Juan	Army Terminal, A,B,C,D,E,F,G,H,J,K,L,M	809-724-3262	27		
PR	San Juan	Caribbean Gulf Refining Corp	809-785-0520	40		
PR	San Juan	Catano Navy Oil Dock	809-792-2920	125	2,100	2,100
PR	San Juan	Clear Ambient Service Co. Inc	809-792-1844	40	200	200
PR	San Juan	Pan American Dock—Isla Grande Terminals	809-724-3262	27		
PR	San Juan	Port of Mayaquez	809-724-3262	27		
PR	San Juan	Puerto Rican Ports Authority	809-724-3262	30	100	100
PR	San Juan	Puerto Rico Dry Dock	809-721-6010	30	100	100
PR	San Juan	Puerto Rico Drydock & Marine Terminals	809-721-6010	20		
PR	San Juan	San Juan, PR	809-722-1111	20	100	100
PR	Tallaboa Ponce	Puerto Rican Oil Term. Co	809-836-2055	7,100	90	90
PR	Yabucoa	Yabucoa Terminal	809-893-2424	18,750	3,500	3,500
RI	East Providence	Astroline Corp	401-438-1666	1,004	300	
RI	East Providence	Getty Petroleum Corp	401-434-1322	1,004	300	
RI	East Providence	Union Chemicals Div., Union Oil	401-438-7250	118	100	
RI	Providence	C.H. Sprague & Son Co	401-421-4690	327	200	
RI	Providence	George Mann and Co., Inc	401-781-5600	1,004	300	
RI	Providence	Independent Cement Corp	401-467-8411	268	300	
RI	Providence	Petrolane Transport	401-781-6640	1,003	300	
RI	Providence	Port of Providence	401-781-4717	1,004	300	
RI	Providence	Providence Terminal Associates	401-941-4640	1,004	300	
RI	Providence	Texaco	401-461-6600	125	200	
SC	Charleston	Braswell Shipyard	803-577-4692	1,018	75	228
SC	Charleston	Defense Fuel Support Point	803-723-7442	1,103	250	250
SC	Charleston	Delmonte Fresh Fruit	803-723-7442	1,103	250	250
SC	Charleston	Exxon Charleston Term	803-723-7442	1,103	250	250
SC	Charleston	Gulf Oil Products	803-722-3858	1,103	250	250
SC	Charleston	Macalloy Corp	803-723-7442	1,103.06	250	250
SC	Charleston	SCSPA Union Pier	803-723-7442	1,103	250	
SC	Charleston	Shipyard River Coal Terminal	803-723-7442	1,103	250	250
SC	Georgetown	International Paper Co	803-723-7442	1,103	250	250
SC	Georgetown	SCSPA	803-723-7442	1,103	250	
SC	Mt. Pleasant	Detyens Shipyard	803-884-2811	2,571	600	1,791
SC	Mt. Pleasant	SCSPA Wando	803-723-7442	1,103	250	250
SC	North Charleston	Amerada Hess Charleston	803-554-1581	601	350	440
SC	North Charleston	Chem-Marine Corp	803-724-4332	1,103	250	250

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
SC	North Charleston	Marathon Petroleum Company	803-554-5440	601	350	440
SC	North Charleston	SCSPA	803-723-7442	1,103	250	
SC	North Charleston	Texaco Refining & Marketing Inc	803-747-5262	601	350	440
SC	North Charleston	Westvaco Dock	803-723-7442	1,103	250	250
SC	Port Royal	Port Royal—Pier 21	803-525-6001/524	601	350	N/A
TX	Arabi	Aristar Corporation	504-271-5331	11,000	200	
TX	Aransas Pass	American Petrofina	512-758-3571	1,299	245	
TX	Aransas Pass	Exxon Pipeline Company	512-289-4147	1,299	245	
TX	Baytown	Exxon Baytown Refinery	713-452-3300	17,400	7,000	7,000
TX	Beaumont	Amoco Pipeline co	409-835-5381	7,000	2,000	3,000
TX	Beaumont	Brooks Terminal	409-838-3663	155	130	
TX	Beaumont	E.I. Du Pont de Nemours & Co Inc	409-727-0565	118	91	
TX	Beaumont	Mobil Chemical	409-839-1200	20	130	
TX	Beaumont	Mobil Oil Corp	409-833-9411	1,419.28	560	3,500
TX	Beaumont	Port of Beaumont	409-722-3242	2,500	3,500	
TX	Beaumont	Texas Gulf Chemicals	409-835-5311	1,907	0	
TX	Brownsville	Port of Brownsville	512-831-4592	2,999	7,067	7,067
TX	Channel View	Lone Star-Falcon	713-452-4740	413	300	
TX	Channelview	Cargill	713-452-4741	1,172	125	
TX	Channelville	Lonestar-Falcon	713-452-4740	413.38	300	
TX	Corpus-Christi	Amerada Hess Corporation	512-884-4831	12,000	3,000	5,000
TX	Corpus-Christi	American Chrome and Chemical Inc	512-883-6421	1,299	245	
TX	Corpus-Christi	Bay Incorporated	512-289-2100	1,500	500	
TX	Corpus-Christi	Center Cement Corporation	512-883-6381	1,299	245	
TX	Corpus-Christi	Champlin Petroleum Company	512-880-5475	20,250	4,200	4,200
TX	Corpus-Christi	Coastal Refining and Marketing	512-887-4258	14,875	7,000	7,000
TX	Corpus-Christi	Coastal States Crude Gathering	512-887-3820	1,299	245	
TX	Corpus-Christi	Diamond Shamrock	512-884-6393	1,299	245	
TX	Corpus-Christi	Interstate Grain Port Terminal	512-289-5651	1,299	245	
TX	Corpus-Christi	Koch Refining Company	512-241-4811	16,500	2,800	2,800
TX	Corpus-Christi	Mobil Pipeline Co	512-884-8081	1,299	245	
TX	Corpus-Christi	Port of Corpus Christi Authority	512-882-5633	1,299	245	
TX	Corpus-Christi	Southwestern Refining Co. Inc	512-884-6863	37,250	8,750	8,750
TX	Corpus-Christi	The Permian Corporation	512-884-0491	1,299	245	
TX	Corpus-Christi	Valero Refining Company	512-286-6000	25,255	5,250	5,250
TX	Deer Park	Intercontinental Terminal Co	713-479-6024	721	300	3,500
TX	Deer Park	Patank Corp Deer Park Terminal	713-479-6051	2,775	1,750	
TX	Deer Park	Shell Oil	713-476-6332	12,600	100	
TX	Deer Park	Union Equity Coop. Exchange	713-479-2801	1,172	125	
TX	Freeport	BASF Harbor Terminal	409-238-6357	1,333	60	
TX	Freeport	Dow Chemical	409-238-4003	96	100	
TX	Freeport	Phillip 66 Port of Freeport	409-647-4431	3,162	150	
TX	Freeport	Port of Freeport (Brazos River)	409-233-2667	192	75	
TX	Galena	Amerada Hess Corp	713-453-6301	23,541	7,000	8,000
TX	Galena Park	GATX Terminals Corp	713-455-1231	276	120	
TX	Galena Park	International Terminals Corp	713-672-2536	2,685	75	
TX	Galena Park	International Terminals Corp	713-672-2536	2,635	175	
TX	Galena Park	Internationals Terminals Corp	713-672-2536	382	175	
TX	Galena Park	Paktank	713-479-6051	127.4	48	
TX	Galena Park	US Gypsum	713-672-8261	20	35	
TX	Galena Park	Warren Gas Terminal	713-453-7173	40	112	
TX	Galveston	Galveston Oil Terminal	409-744-6351	805	125	125
TX	Galveston	Pennzoil Sulphur	409-763-5376	4,255	100	
TX	Galveston	Port of Galveston	409-766-6172	4,255	100	
TX	Galveston	Texas A&M University	409-740-4562	2,502	130	
TX	Galveston	Texas International Terminals	409-740-1271	3,753	100	
TX	Gregory	Reynolds Metals Company	512-643-6531	1,299	245	
TX	Houston	Bludworth Bond Shipyard	713-923-2001	110	125	
TX	Houston	Buckingham Gate Ltd. Inc	713-452-4752	764.4	60-80	60-80
TX	Houston	Care Shipping	713-457-6083	172	70	70
TX	Houston	Crown Central Petroleum	713-920-3920	4,285	1,200	1,200
TX	Houston	Greens Port Terminal	713-453-0634	20	182	
TX	Houston	Hill Petroleum Co	713-923-3421	60	200	500
TX	Houston	Houston Fuel Oil Terminal Co	713-452-3300	4,286	300	5,600
TX	Houston	Inbeesa America, Inc	713-452-0083	897	600	2,100
TX	Houston	Jacob Stern & Son	713-928-8386	77.9	200	
TX	Houston	Joe D. Hughes Inc	713-422-7577	123	35	
TX	Houston	Lyondell Petrochemical	713-475-4506	20,600	350	7,000
TX	Houston	Manchester Terminal Corp	713-926-9631		150	
TX	Houston	Manchester Terminal Corp	713-926-9631	525	150	
TX	Houston	Manchester Terminal Corp	713-926-9631	525	150	
TX	Houston	Manchester Terminal Co	713-926-9631	525	150	
TX	Houston	Marine Maintenance Industries	713-928-5911	2,167	28	500
TX	Houston	Newpark Shipyard	713-928-5051	1,728	330	330
TX	Houston	Oil Tanking of Texas	713-452-5901	25	50	

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
TX	Houston	Pacific Molasses Co	713-923-2736	3,220	100	100
TX	Houston	Port of Houston Authority	713-226-2100	413.38	300	
TX	Houston	Texas Petrochemical	713-474-7458	21	140	
TX	Houston	Todd Shipyard Corp	713-453-7261	249.3	300	300
TX	Ingleside	E.I. Dupont De Nemours Co., Inc	512-643-7511	1,299	245	
TX	Ingleside	Sun Marine Terminals, Inc	512-776-7535	23	70	
TX	Nederland	Palmer Barge Line	409-982-3937	1,260	70	
TX	Nederland	Sun Marine Terminals, Inc	409-721-4834	793	7,000	7,000
TX	Nederland	Union Oil Co. of California	409-724-3223	8,571	1,000	10,000
TX	Nederland	Unocal	409-724-3223	8,571	1,000	10,000
TX	Orange	Orange County Navigation	409-883-4363	155	130	0
TX	Orange	Port of Orange	409-883-4363	155	130	
TX	Pasadena	Gatz Terminals Corp	713-475-9235	206	125	
TX	Pasadena	John Bludworth Marine, Inc	713-473-5561	156.38		80
TX	Pasadena	Kerley Agriculture	713-477-4400	46	50	
TX	Pasadena	Mobil Mining and Minerals Co	713-920-5311		125	
TX	Pasadena	Occidental Chemical Corp	713-884-4020	60	75	
TX	Pasadena	GATX Terminals Corp	713-475-9235	388	125	
TX	Pasadena	GATX Terminals Corp	713-475-9235	388	125	125
TX	Pasadena	Georgia Gulf	713-473-4453	313	35	
TX	Pasadena	John Bludworth Marine, Inc	713-473-5561	156		80
TX	Pasadena	Mobil Mining and Minerals	713-472-3641	241	125	
TX	Pasadena	Occidental Chemical	713-884-4020	60	75	
TX	Pasadena	Occidental Chemical Agricultural	713-479-6008	20	117	
TX	Pasadena	Phillips Petroleum	713-475-3612	233	56	
TX	Point Comfort	Alcoa	512-987-2604	754	35	70
TX	Point Comfort	Port Lavaca-Point Comfort	512-987-2813	869	35	70
TX	Port Arthur	Atlantic Shippers of Texas	409-962-2457	3,990	130	
TX	Port Arthur	Bethlehem Steel	409-838-6821	2,115	65	175
TX	Port Arthur	Carotex	409-962-0251	155	130	0
TX	Port Arthur	Chevron	409-985-1306	9,330	3,500	3,500
TX	Port Arthur	Costal Marine Service of Texas	409-983-1616	8,829	98	98
TX	Port Arthur	Fina Oil & Chemical	409-962-4421	4,791	3,500	
TX	Port Arthur	Great Lake Carbon	409-985-4421	155	130	
TX	Port Arthur	Hall-Buck Marine Services	409-983-6271	30	130	
TX	Port Arthur	Pabtex Terminal	409-982-8343	155	130	
TX	Port Arthur	Port of Port Arthur	409-983-2011	155	2,155	
TX	Port Arthur	Sabine Towing & Transportation	409-962-0201	4,914	50	100
TX	Port Arthur	Texaco Refining & Marketing	409-982-5711	7,200	8,400	8,400
TX	Port Arthur	Vessel Repair	409-962-1302	1,349	200	200
TX	Port Arthur	Comnotex	409-962-0251	20	130	
TX	Port Neches	Erickson Refining	409-722-9366	128	35	35
TX	Port Neches	Texas Chemical	409-722-8381	7,200	8,400	8,400
TX	Seabrook	Baytank (Houston)	713-474-4181	20	182	
TX	Seabrook	Celenese Chemical	713-474-2841	20	150	
TX	Seabrook	Petro United Terminals	713-474-4433	20	350	
TX	Texas City	Aimcor Marine Terminal	409-945-7210	3,278	250	250
TX	Texas City	Amoco Chemicals	409-948-1601	184	75	
TX	Texas City	Amoco Oil Docks	409-945-1345	6,192	75	7,000
TX	Texas City	Arco Pipe Line	713-450-2081	23,197	150	
TX	Texas City	Arco Pipe Mascon	713-450-2081	2,918	75	1,820
TX	Texas City	Coastal States Crude Gathering	409-945-6622	4,255	100	
TX	Texas City	IMC Marine Terminal	409-945-7210	4,255	100	100
TX	Texas City	Lowry-Unitank	409-948-6310	7,056	600	600
TX	Texas City	Marathon Petroleum Co	409-945-2331	4,570	200	
TX	Texas City	Stan Trans, Inc	409-948-3561	294	250	
TX	Texas City	Sterling Chemicals, Inc	409-942-3720	2,535	400	
TX	Texas City	Texas City Refining	409-945-4451	2,672	650	
TX	Texas City	Union Carbide Corp	409-948-5171	2,340	400	
TX	Vidor	Texas Eastern Products Pipeline	409-768-1033	20	130	
V.I	St. Croix	Hess Oil Virgin Islands Corp	809-778-4100	57,000	10,500	10,500
VA	Alexandria	Robinson Terminal Warehouse	703-836-8300	229	100	100
VA	Chesapeake	Amerada Hess Chesapeake	201-750-6000	6,394	1,000	1,000
VA	Chesapeake	American Hoechst Corp	601-494-2500	6,394	1,000	1,000
VA	Chesapeake	Amoco Oil Co	804-545-4641	6,394	1,000	
VA	Chesapeake	Atlantic Energy Inc	804-485-1018	6,934	1,000	
VA	Chesapeake	Bernuth Lembcke Co. Inc	804-543-6220	6,394	1,000	1,000
VA	Chesapeake	BP North America Inc	804-543-4444	6,394	1,000	1,000
VA	Chesapeake	Cargill Elevator	804-545-8461	9,751	1,733	2,600
VA	Chesapeake	Elizabeth River Terminals	804-543-0335	6,394	1,000	1,000
VA	Chesapeake	Hitch Terminal	804-545-0735	6,394	1,000	1,000
VA	Chesapeake	Mobil Oil Corp	804-545-4681	6,394	1,000	1,000
VA	Chesapeake	Royster Agricultural Products	804-545-3024	6,394	1,000	1,000
VA	Chesapeake	Swann Oil	804-485-3000	7,236	2,600	2,600
VA	Chesapeake	Tenneco Oil Co	804-543-3514	6,394	1,000	1,000

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
VA	Chesapeake	Texaco Refining & Marketing	804-543-6811	6,394	1,000	1,000
VA	Chesapeake	Unocal	804-545-8455	6,394	1,000	1,000
VA	Galena Park	Amerda Hess	713-453-6301	23,541	7,000	.....
VA	Hopewell	Allied Fibers	804-541-5000	6,394	1,000	1,000
VA	Newport News	Chesapeake & Ohio Railway Co	804-380-5000	6,394	1,000	1,000
VA	Newport News	Dominion Terminal Assoc	804-245-2275	6,394	1,000	1,000
VA	Newport News	Koch Fuels, Inc	804-244-6545	6,394	1,000	1,000
VA	Newport News	Massey Coal Term., Inc	804-244-0554	6,394	1,000	1,000
VA	Norfolk	Chemphalt of Carolina	804-545-7371	602	205	250
VA	Norfolk	Colonna's Shipyard, Inc	804-545-2414	2,074	500	500
VA	Norfolk	Exxon Company USA	804-440-2540	6,394	1,000	1,000
VA	Norfolk	Lamberts Point Docks	804-446-1200	6,394	1,000	1,000
VA	Norfolk	Lone Star Industries	804-853-6704	224	100	0
VA	Norfolk	Lyon Shipyard, Inc	804-622-4661	78	150	150
VA	Norfolk	Metro Machine Corp	804-543-6601	6,451	1,000	1,000
VA	Norfolk	Norfolk Oil Transit, Inc	804-622-2667	6,394	1,000	1,000
VA	Norfolk	Norfolk Shipbuilding & Drydock	804-545-3551	3,772	371	566.6
VA	Norfolk	Norfolk & Western Railway Coal	804-446-5343	9,751	1,730	2,600
VA	Norfolk	Seahorse Marine	804-625-5386	9,751	1,733	2,600
VA	Norfolk	The Jonathan Corp	804-622-0440	6,394	1,000	1,000
VA	Norfolk	U.S. Gypsum Company	804-545-2461	6,394	1,000	1,000
VA	Portsmouth	Aluminum of America	804-485-3301	6,394	1,000	1,000
VA	Portsmouth	Sea-Land Services, Inc	804-393-4071	6,394	1,000	1,000
VA	Yorktown	Amoco Oil Company	804-898-5120	429	800	800
WA	Aberdeen	Port of Grays Harbor	206-533-9519	1,050	250	250
WA	Anacortes	Port of Anacortes	206-293-3134	1,667	250	.....
WA	Anacortes	Shell Oil Company	206-293-9122	275	2,800	2,800
WA	Anacortes	Texaco Refining & Marketing, Inc	206-293-0800	1,102	4,700	4,700
WA	Bellingham	Bellingham Cold Storage	206-733-1640	131	83	166.67
WA	Bellingham	Georgia Pacific Corp	206-733-4410	134	83	166
WA	Bellingham	Port of Bellingham	206-676-2500	920	83	166.67
WA	Edmonds	Unocal Edmonds Terminal	206-774-9584	824	350	3,506
WA	Everett	Port of Everett	206-259-3764	2,657	250	250
WA	Ferndale	Arco Petroleum Products Co	206-384-2200	3,750	4,000	4,000
WA	Ferndale	Intalco Aluminum Corp	206-384-7292	76	40	40
WA	Ferndale	Mobil Oil Corporation	206-384-1011	2,873	1,400	3,500
WA	Hoquiam	ITT Rayonier	206-532-2500	1,030	1,400	.....
WA	Kalama	Kalama Chemical Inc.	206-673-2550	332	150	150
WA	Kalama	North Pacific Grain Growers	206-673-2011	332	150	150
WA	Long View	Reynolds Aluminum Co	206-425-2800	387	150	.....
WA	Manchester	Naval Supply Center	206-476-2145	1,950	666	666
WA	Mukilteo	Defense Fuel Support Point	206-355-2051	1,607	250	.....
WA	Olympia	Port of Olympia	206-754-1660	1,607	250	250
WA	Port Angeles	BP North America Petroleum, Inc	206-452-1433	206	85	.....
WA	Port Angeles	ITT Rayonier	206-457-3391	1,607	250	250
WA	Port Angeles	Merrill & Ring	206-452-2367	1,607	250	250
WA	Port Angeles	Port of Angeles	206-457-8527	1,604	250	250
WA	Port Townsend	Port Townsend Paper Corp	206-385-3170	560	7,000	7,000
WA	Richmond Beach	Chevron U.S.A. Inc	206-542-2131	364	1,400	1,400
WA	Seattle	American President Lines	206-292-4650	1,607	250	.....
WA	Seattle	Atlantic Richfield	206-623-4635	1,350	90	90
WA	Seattle	Cargill, Inc	206-284-4851	1,350	90	90
WA	Seattle	GATX TST Corporation	206-622-0920	1,350	90	.....
WA	Seattle	Hanjin Container Lines (T-18)	206-447-9422	20	90	90
WA	Seattle	International Terminal Company	206-763-3460	1,350	90	90
WA	Seattle	Jacob Sterns & Sons, Inc	206-622-3260	1,350	90	90
WA	Seattle	Kaiser Cement	206-764-3075	233	67	133
WA	Seattle	Lake Union Drydock Co	206-323-6400	3,190	2,50	90-250
WA	Seattle	Lockhead Shipbuilding Co	206-292-4745	30	90	90
WA	Seattle	Marine Power & Equipment Co	206-632-1441	7,887	250	250
WA	Seattle	Maritime Contractors, Inc	206-647-0030	59	135	85-135 GPM
WA	Seattle	Matson Terminals Inc	206-223-2494	1,167	89	167
WA	Seattle	Port of Seattle	206-728-3258	1,350	90	90
WA	Seattle	Seacon Terminals, Inc	206-628-6772	1,350	90	.....
WA	Seattle	Shell Oil Company	206-453-3051	1,167	84	167
WA	Seattle	Stevedoring Services of America	206-623-0304	20	90	90
WA	Seattle	Terminal 37	206-622-4520	20	90	90
WA	Seattle	Terminal 91	206-284-2450	1,470	1,400	1,400
WA	Seattle	Texaco Refining & Marketing, Inc	206-623-6101	2,800	250	.....
WA	Seattle	Time Oil Co	206-285-2400	1,167	84	167
WA	Seattle	Todd Pacific Shipyards Corp	206-623-1635	1,470	1,400	1,400
WA	Seattle	Wyckoff Co	206-624-3535	1,350	90	90
WA	Tacoma	Continental Grain Co	206-572-3511	504	85	.....
WA	Tacoma	Domtar Gypsum America	206-627-2108	72	85	85
WA	Tacoma	Occidental Chemical Corp	206-593-1362	875	85	85

TABLE I.—ANNEX I—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area/phone	Daily capacity of reception facility (metric tons)	Oily residue and mixtures transfer rate (GPM)	Oily ballast transfer rate (GPM)
WA	Tacoma	Pennwalt Corp	206-627-9101	875	85	85
WA	Tacoma	Port of Tacoma	206-383-5841	3,217	85	85
WA	Tacoma	Sound Refining, Inc	206-835-6505	5,554	1,400	1,400
WA	Tacoma	U.S. Oil & Refining Co	206-383-1651	1,224	656	
WA	Tacoma	Unocal Tacoma Terminal	206-272-3215	1,080	350	350
WA	Tacoma	Weyerhaeuser Co	206-593-7921	875	85	
WA	Vancouver	Aluminum Co. of America	206-696-8657	232	150	150
WA	Vancouver	Ideal Cement	206-695-9208	1,729	1,000	1,000
WA	Vancouver	Port of Vancouver	206-693-3611	332	150	150
WI	GreenBay	Anamax Terminal	414-494-5233	148	300	
WI	GreenBay	F. Huribut Dock	414-432-7731	148	200	
WI	GreenBay	North Dock, GreenBay	414-432-8632	148	200	
WI	GreenBay	U.S. Oil Company, Inc	414-432-4422	148	300	
WI	Kanosha	Westlake Harbor Terminals	414-652-3125	65	300	
WI	Manitowoc	The Manitowoc Company, Inc	414-684-6621	577	117	113
WI	Milwaukee	Port of Milwaukee	414-278-3511	65	300	
WI	Sturgeon Bay	Bay Shipbuilding Co	414-684-6621	577	117	133
WI	Superior	Fraser S/Y, Inc	715-394-7787	188	40	60

TABLE II.—ANNEX II—RECEPTION FACILITIES, 24 SEPTEMBER 1990

State	City	Terminal name	Area code	Phone No.	Category of waste facility can receive
CA	Long Beach	C. Brewer Terminals, Inc	213	435-5623	C[1]
CA	Long Beach	Dow Chemical	213	533-5375	B[1], D
CA	Long Beach	Petro-Diamond Terminals Company	213	435-8364	C[2]
CA	Pittsburg	Pittsburg Terminal	415	432-5496	B[2], C[2]
CA	Richmond	Chevron USA, Richmond Refinery	415	620-2314	C[1]
CA	Richmond	Petromark, Inc	415	232-3275	B[2]
CA	Richmond	UNITANK Terminal Service	415	236-2020	C[2]
CA	San Pedro	GATX Terminals Corporation	213	547-0881	C[2]
CA	Wilmington	Wilmington Liquid Bulk Terminals	213	549-0961	C[1], D
CT	Groton	Pfizer Inc	203	441-3206	C[2]
CT	New Haven	E.I. duPont de Nemours & Co	203	562-5151	C[2]
DE	Wilmington	Delaware Terminal Co	302	654-3717	B[1], C[1], D
GA	Savannah	Colonial Oil Industries, Inc	912	236-1331	B[1], C[2]
GA	Savannah	Powell Duffryn Terminals	912	437-2600	B[1], C, D
HI	Honolulu	Chevron U.S.A. Inc	808	527-2747	C[1]
IL	Chicago	Stolt Terminals (Chicago) Inc	312	646-4448	B[1], C[1], D
LA	Baton Rouge	Exxon Company, USA	504	359-7518	B, C, D
LA	Bridge City	Paktank Corp. (WESTWEGO)	504	436-2242	C[1], D
LA	Carville	Cos-Mar Company	504	642-5454	C[2]
LA	Geismer	Shell Chemical Co	504	379-6368	B[1], C[1]
LA	Hahnville	Union Carbride Corp	504	468-4300	C[1]
LA	Harvey	Delta Commodities	504	340-4911	A, B[2]
LA	Jennings	SBA Shipyards, Inc	201	824-1519	A
LA	Lake Charles	PPG Industries	318	491-4260	B[1], D
LA	Norco	GATX Terminals Corp	504	443-2511	A, B[1], D
LA	Plaquemine	Dow Chemical Company	504	389-6157	C[1]
LA	Plaquemine	Georgia Gulf Corp	504	685-2500	B[1]
LA	Sulphur	Fredman Shipyard, Inc	318	583-7383	B, C, D
LA	Sunshine	Petrounited Terminals Inc	504	642-8335	C[2]
LA	Uncle Sam	Agrico Chemical Co	504	562-3501	C
LA	Westwego	Pacific Molasses Co	504	340-3000	A
MD	Baltimore	Essex Industrial Chemical Inc	301	355-9090	C[2]
MD	Sparrows Point	Bethlehem Steel Co	301	388-7706	C, D
NC	Leland	Chemserv Terminals Inc	919	371-2325	C[2]
NC	Leland	Koch	919	371-2325	C[2]
NC	Leland	Pfizer Inc	919	371-2325	C[2]
NC	Leland	Port of Wilmington	919	371-2325	C[2]
NC	Wilmington	Exxon Company USA	919	799-0144	C[1]
NC	Wilmington	Patank Corporation	919	763-0104	C[2], D
NJ	Bayonne	Constable Terminal Corp	201	437-2993	C[2]
NJ	Bayonee	Exxon Co., USA	201	858-5508	C[1]
NJ	Bayonne	Gordon Terminal Service Co	201	437-8300	C[1], D
NJ	Bayonee	IMTT-Bayonne	201	437-2200	A, B[2]
NJ	Bayonne	Powell Duffryn Terminals	201	437-2600	A, B[1], C, D
NJ	Bayonne	Rollins Terminals, Inc	201	436-5433	B[1], C[2]
NJ	Bridgeport	Monsanto Chemical Co	609	467-3000	B[1], C[1]
NJ	Deepwater	du Pont Marine Terminal	609	540-2706	B[2]
NJ	Elizabeth	Allied-Signal, Inc	201	354-3215	C[2]

TABLE II.—ANNEX II—RECEPTION FACILITIES, 24 SEPTEMBER 1990—Continued

State	City	Terminal name	Area code	Phone No.	Category of waste facility can receive
NJ	Linden	Exxon Co., USA Bayway Refinery	201	474-7073	C[1]
NJ	Newark	Celanese Chemical Company, Inc	201	589-2705	C[1], D
NJ	Paulsboro	BP Oil Co	609	423-4000	C[1]
NJ	Perth Amboy	Stolt Terminals, Inc	201	826-1144	B[1], C[1], D
NJ	Port Newark	Hudson Tank Storage Co	201	465-1115	B[2]
NJ	Seawaren	Shell Oil Co	201	855-3310	B[1], C, D
NJ	Westville	Costal Eagle Point Oil Co	609	853-3100	C[2]
NY	Staten Island	Procter & Gamble, Port Ivory	718	816-2199	C[2]
PA	Marcus Hook	Sun Refining and Marketing Co	215	447-5988	C[1], D
PA	Philadelpia	Chevron USA, Inc—Girad Point	215	339-7233	B[1], C
PA	Philadelphia	Unitank Terminal Service	215	634-3031	A, B, C, D
TN	Milwaukee	Milsolv River Terminal	414	252-3550	C[2]
TX	Corpus Christi	American Chrome & Chemicals	512	883-6421	B[1]
TX	Corpus Christi	Koch Refining Co	512	242-8357	B[1], C[1]
TX	Deer Park	Intercontinental Terminals Co	713	479-6024	B[2], C[2]
TX	Deer Park	Shell Oil Company	713	476-6815	C[1]
TX	Freeport	DOW Chemical Co	409	238-4283	B, C
TX	Galena Park	Amerada Hess Corporation	713	453-6301	A
TX	Galena Park	Paktank Corporation	713	675-9171	A, B[2], C[1]
TX	Galena Park	Warren Petroleum Terminal	713	453-7173	C[1]
TX	Houston	Lyondell Petrochemical	713	475-4506	C[2]
TX	Houston	Oiltanking Inc	713	452-2212	A, B[2], C[2]
TX	Houston	South Coast Terminals, Inc	713	926-7451	C[1]
TX	Houston	Stolt and Oiltanking Chemical	713	452-2212	A, B[1], C[1]
TX	Pasedena	Georgia Gulf Corp	713	920-4301	C[2], D
TX	Seabrook	Baytank Inc	713	474-4181	A, B, C
TX	Seabrook	Hoechst Celanese Corporation	713	474-2841	C[1]
TX	Seabrook	Petrounited	713	474-4433	C[2], D
TX	Texas City	Amoco Chemicals Company	409	948-1601	B[1], C[1]
TX	Texas City	Costal States Crude Gathering	409	945-6622	C[2]
TX	Texas City	Stan Trans, Inc	409	948-3561	B[2], C
TX	Texas City	Sterling Chemicals Dock 1	409	942-3448	C[2]
TX	Texas City	Union Carbide Corp	409	948-5171	B[1], D
TX	Texas City	Unitank-Texas, Inc	409	948-6310	B[1], C, D
WI	Milwaukee	Milsolv River Terminal	424	252-3550	C[1]

[1] Indicates facility receives only non-solidifying or non-high viscosity cargos.
[2] Indicates facility receives only solidifying or high viscosity cargos.

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990

State	City	Name of terminal	Port name	Area code	Phone no.
AK	Akutan	Trident Seafoods		907	698-2211
AK	Alitak	Wards Cove Packing-CWF Alitak		907	836-2226
AK	Anchorage	John Cabot Co		907	349-2783
AK	Anchorage	P.O.L. Terminal	Port of Anchorage	907	272-1531
AK	Anchorage	Terminals No. 1-2 & 3	Port of Anchorage	907	272-1531
AK	Angoon	Angoon Oil & Gas		907	788-3436
AK	Bethel	Kemp & Palucci Seafoods		907	543-2404
AK	Chignik Lagoon	Wards Cove Packing Co. (CWF CHIGNIK)		907	840-2227 or (206) 323-3200
AK	Cordova	Chugach Fisheries, Inc		907	424-3504
AK	Cordova	Chugach Fisheries, Inc		907	424-3504
AK	Cordova	North Pacific Processors	North Pacific Processors Inc	907	424-7111
AK	Cordova	St. Elias Ocean Products		207	285-6800
AK	Craig	Silver Lining Seafoods		907	826-3334
AK	Craig	Wards Cove Packing Co		907	826-3327
AK	Dutch Harbor	American President Lines, Ltd		907	581-1200
AK	Dutch Harbor	Delta Western		907	581-1284
AK	Dutch Harbor	East Point Seafood Co		907	581-1225
AK	Dutch Harbor	Offshore Systems Inc		907	581-1827
AK	Dutch Harbor	Royal Aleutian Barge		907	581-1671
AK	Dutch Harbor	Royal Aleutian Seafoods, Inc		907	581-1771
AK	Dutch Harbor	Unisea, Inc		907	581-1258
AK	Ekuk	Wards Cove Packing Company		907	236-3585
AK	Haines	Wards Cove Packing Co		907	766-2828
AK	Haines	White Pass Alaska-Haines		907	766-2338
AK	Homer		Port of Homer	907	235-3160
AK	Homer	Icicle Seafoods, Inc., Homer Plant		907	235-8107
AK	Homer	Seward Fisheries/Icicle Seafoods		907	235-8107
AK	Hoonah	Hoonah Cold Storage		907	945-3264
AK	Hoonah	Hoonah Seafoods		907	945-3211
AK	Kenai	Inlet Salmon, Inc		907	283-9275
AK	Kenai	Kenai Packers	North Pacific Processors Inc	907	283-7767
AK	Kenai	Rig Tenders Dock		907	563-1114

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
AK	Kenai	Salamatof Seafoods, Inc		907	283-7000
AK	Ketchican	Anderes Oil Co		907	225-2163
AK	Ketchican	Unocal Corporation		907	225-4176
AK	Ketchican	Silver Lining Seafoods		907	225-6664
AK	Ketchican	Wards Cove Packing Company		907	225-5030
AK	Ketchican	White Pass Alaska-Ketchican		907	225-2106
AK	Kodiak	Alaska Fresh Seafoods, Inc		907	486-5749
AK	Kodiak	Alaska Fresh Seafoods, Inc		907	486-5749
AK	Kodiak	Alaska Pacific Processors	North Pacific Processors Inc	907	486-3234
AK	Kodiak	Cook Inlet Processing		907	486-6385
AK	Kodiak	Eagle Fisheries		907	486-5807
AK	Kodiak	Kodiak Oil Sales	Port of Kodiak Municipal Harbor	907	486-3245
AK	Kodiak	Petro Marine Services	Port of Kodiak Municipal Harbor	907	486-3421
AK	Kodiak	Port of Kodiak, Municipal Harbor	Port of Kodiak	907	486-5438
AK	Kodiak	Ursin Seafoods, Inc		907	486-5724
AK	Kodiak	Western Alaska Fisheries	Port of Kodiak Municipal Harbor	907	486-4112
AK	Marshall	Nakamura Assoc. Inc		907	679-6703
AK	Naknek	King Crab Inc., Naknek		907	285-6600
AK	Naknek	Leader Creek Marina		907	246-4468
AK	Naknek	Nelbro Packing Company		907	246-4285
AK	Naknek	Pederson Point		907	246-4461
AK	Naknek	Wards Cove Packing Co., Red Salmon		907	246-4295
AK	Nome	City of Nome		907	443-5242
AK	Old Harbor	Old Harbor	Old Harbor	907	286-2204
AK	Petersburg	Alaskan Glacier Seafood		907	772-3333
AK	Petersburg	Chatham Straits Seafoods		206	285-6800
AK	Petersburg	Nelbro Packing Co		907	772-4488
AK	Petersburg	Unocal		907	772-4219
AK	River	Wards Cove Packing Egegik		206	233-2236
AK	Sandpoint	City OS Sand Point Harbor		907	383-2331
AK	Sandpoint	Trident Seafoods		907	383-4848
AK	Seward	Forth Ave Dock	Port of Seward	907	224-3138
AK	Seward	Seward Fisheries		907	224-3381
AK	Seward	Seward Marine Industrial Center	Port of Seward	907	224-3138
AK	Seward	Seward Small Boat Harbor	Port of Seward	907	224-3138
AK	Seward	Sunesl Alaska Coal Terminal	Port of Seward	907	224-3120
AK	Sitka	North Pacific Cold Storage		907	747-5811
AK	Sitka	Old Sitka Terminal Samson Tug Barge Co., Inc.		907	747-8559
AK	Skagway	White Pass Alaska-Skagway		907	983-2214
AK	South Naknek	South Naknek	North Pacific Processors Inc	907	246-6514
AK	South Naknek	South Naknek Seafoods, Inc		907	246-6506
AK	South Naknek	Trident-South Naknek		907	246-6510
AK	Togiak	T.E.A.M. Seafoods, Inc		907	493-5731
AK	Togiak	Togiak Fisheries, Inc		907	493-5331
AK	Unalaska	Alyeska Seafoods, Inc		907	581-1270
AK	Valdez	Sea Hawk Seafoods, Inc		907	835-4837
AK	Wrangell	White Pass Alaska-Wrangell		907	874-3977
AK	Wrangell	Wrangell Fisheries, Inc		907	874-3346
AK	Yakutat	Sitka Sound-Yakutat		907	784-3392 or 784-3393
AL	Anchorage	Chevron USA, Anchorage Terminal		907	258-2301
AL	Bayou La Batre	Bama Sea Products, Inc		205	824-2050
AL	Bayou La Batre	Gulf Star Seafood, Inc		205	824-2448 or 824-2063
AL	Gulf Shores	Plash Seafood		205	986-7801
AK	Kasilof	Carlson Dock		907	262-1746
AK	King Cove	Peter Pan Seafoods, Inc		907	497-2234
AK	Kodiak	East Point Seafood Company		907	486-5799
AL	Mobile	Atlantic Marine, Inc		205	690-7100
AL	Mobile	Belcher Alabama, Inc		205	433-5418
AL	Mobile	Chevron USA, INC		205	434-8300
AL	Mobile	Mobile Bulk Terminal		205	438-9891
AL	Mobile	Mobile River Terminal Company, Inc		205	432-3233
AL	Mobile	Pacific Molasses Co		504	340-3000
AL	Mobile	Seaport Shipping, Co	Mobile-Chicksaw Port Facility, Inc	205	433-5401
AL	Mobile	Timbraz, Inc	Mobile-Chicksaw Port Facility, Inc	205	456-3836
AL	Theodore	Ideal Basic Industries		205	653-6200
CA	Alameda	Encinal Terminal Berths 1-5		415	523-2054
CA	Alameda	Harbor Tug & Barge		415	546-2600
CA	Avila Beach	Union Oil Co. of California-Avila Wharf Terminal.		805	595-2866
CA	Benicia	Distribution & Auto Service		707	746-5510
CA	Benicia	Huntway Refining Co		707	746-1330
CA	Crescent City	Calto Fisheries, Inc		707	464-9483
CA	Crescent City	Eureka Fisheries, Inc		707	464-3149
CA	Crescent City	Pt. St. George Fish		707	464-5583
CA	Crescent City	Sea Products Co		707	464-4169
CA	Crockett	Wickland Oil Terminals		415	787-1076
CA	El Segundo	Chevron USA El Segundo Marine Terminal		213	615-5489

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
CA	Eureka	Caito Fisheries Inc		707	443-0550
CA	Eureka	Eureka Fisheries, Inc		707	442-8218
CA	Eureka	Eureka Forest Products	Humbolt Bay-California	707	443-7039
CA	Eureka	Eureka Ice & Cold Storage Co		707	443-5663
CA	Eureka	Simpson Paper-Humboldt Pulp Mill		707	443-9771
CA	Fairhaven	North Coast Export	Humbolt Bay-California	707	443-9348
CA	Fields Landing	Humbolt Bay Forest Products	Humbolt Bay-California	707	443-5631
CA	Fields Landing	Eureka Fisheries, Inc		707	443-1673
CA	Fort Bragg	Caito Fisheries, Inc		707	964-6368
CA	Fort Bragg	Eureka Fisheries Inc		707	964-0257
CA	Fort Bragg	Mendocino Fisheries, Inc		707	961-5426
CA	Fort Bragg	Natural Sales Network		707	964-1261
CA	Long Beach	Baker Commodities, Inc		213	436-2355
CA	Long Beach	C. Brewer Terminal		213	435-5623
CA	Long Beach	California United Terminals		213	435-8235
CA	Long Beach	Cooper T. Smith		213	436-2259
CA	Long Beach	Crescent Terminals	Stevedoring Services of America	213	432-6477
CA	Long Beach	Domtar Gypsum		213	436-4611
CA	Long Beach	Forest Terminal Corporation		213	432-5401
CA	Long Beach	Gold Bond Building Products		213	435-4465
CA	Long Beach	International Transportation Service		213	435-7781
CA	Long Beach	Koch Carbon		213	436-4680
CA	Long Beach	Long Beach Berth 83	Los Angeles Pier 178	213	835-5042
CA	Long Beach	Long Beach Container Terminal Inc		213	435-8585
CA	Long Beach	Maersk Pacific Ltd		213	435-7706
CA	Long Beach	Metropolitan Stevedore Company	Metropolitan Stevedore Co	213	432-8721
CA	Long Beach	Morton Salt/Ocean Salt Company		213	437-0071
CA	Long Beach	Pacific Coast Cement Company		213	435-0195
CA	Long Beach	Pacific Container Terminal (Pct)	Stevedoring Services of America	213	435-0842
CA	Long Beach	Pacific Northern Oil		213	432-7555
CA	Long Beach	Petro-Diamond Terminal Company		714	553-0112
CA	Long Beach	Powerne Long Beach Marine Terminal		213	432-7327
CA	Long Beach	Salen Agencies	Metropolitan Stevedore Co	213	432-3939
CA	Long Beach	Salen Shipping Agencies		213	436-9961
CA	Long Beach	Sea-Land Service, Inc		213	432-7411
CA	Long Beach	Terminal 1 Berths 118 and 121	ARCO-Four Corners Marine Terminals	213	499-2222
CA	Long Beach	Terminal 2 Berths 76, 77 and 78	ARCO-Four Corners Marine Terminals	213	499-2222
CA	Long Beach	Texaco Refining & Marketing Inc		213	522-6000
CA	Long Beach	Weyerhaeuser Company		213	432-3373
CA	Martinez	Martinez Terminals, Ltd		415	228-3227
CA	Monterey	Sea Products Co		408	633-3365
CA	Morro Bay	Central Coast Seafood, Inc		805	772-1274
CA	Morro Bay	City of Morro Bay		805	772-1214
CA	National City	24th Street Marine Terminal	Port of San Diego	619	291-3900
CA	Oakland	Bay Bridge Terminal		415	465-5668
CA	Oakland	Berth 22/23		415	271-1800
CA	Oakland	Charles P. Howard Terminal		415	271-1815
CA	Oakland	Nineth Avenue Terminal	Marine Terminals Corporation	415	271-0484
CA	Oakland	Port of Oakland Berth 40		415	889-8555
CA	Oakland	Producers Seafood, Inc		415	533-5314
CA	Oakland	Public Container Terminal	Marine Terminals Corporation	415	271-0404
CA	Oakland	Schnitzer Steel Products Co		415	444-3919
CA	Oakland	Sealand Service Inc		415	271-1019
CA	Oakland	Transbay Container Terminal, Inc		415	839-8228
CA	Port Hueneme	SSA-Port Hueneme Office	Stevedoring Services of America	805	488-6298
CA	Richmond	Pacific Molasses Company		415	232-7321
CA	Richmond	Paktank Corp.-Richmond		415	233-0418
CA	Richmond	Richmond Terminal #3		415	232-1371
CA	Richmond	Richmond Terminal, Time Oil Company		415	232-7447
CA	Richmond	Texaco Refining & Marketing Inc		415	232-7671
CA	Rodeo	UNOCAL Wharf, Union Oil Co. of California		415	799-4411
CA	Samoa	Louisiana-Pacific Corporation		707	443-7511
CA	San Diego	B Street Pier Cruise Ship Terminal	Port of San Diego	619	291-3900
CA	San Diego	Continental Maritime San Diego		619	234-8851
CA	San Diego	Embarcadero Marina		619	233-6884
CA	San Diego	National Steel & Shipbuilding Co		619	544-7727
CA	San Diego	Naval Supply Center Point Loma Annex		619	553-1314
CA	San Diego	Tenth Avenue Marine Terminal	Port of San Diego	619	291-3900
CA	San Francisco	Baker Commodities Inc		415	282-4188
CA	San Francisco	Continental Maritime-San Francisco		415	957-1500
CA	San Francisco	Fisherman's Wharf; J3,4,5,7,9,10	Port of San Francisco	415	391-8000
CA	San Francisco	Forest Terminal Corp		415	984-1448
CA	San Francisco	Fred F. Noonan Co., Inc., Pier 70		415	546-9111 or 236-9670 (H)
CA	San Francisco	Fred F. Noonan Company, Inc., Pier 70		415	546-9111 (W) 236-9670 (H)
CA	San Francisco	M.T.C. Pier 27/29 S.F	Marine Terminals Corporation	415	986-3157
CA	San Francisco	Pier 70		415	695-2200

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
CA	San Francisco	Pier 92	Port of San Francisco North Container Terminal.	415	826-7100
CA	San Francisco	Port of San Francisco North Container Terminal.	Port of San Francisco North Container Terminal.	415	826-7100
CA	San Francisco	Port of San Francisco Piers 26, 28, 30/32, 45, 50 A & B.	Port of San Francisco	415	391-8000
CA	San Francisco	San Francisco Passenger Terminal-Pier 35		415	391-3696
CA	San Pedro	American President Lines, Inc		213	548-8872
CA	San Pedro	B.P. North America Petroleum Inc		213	548-6496
CA	San Pedro	Chevron U.S.A. Inc		213	832-6474
CA	San Pedro	Chevron U.S.A., Inc. (Dupe of 754)		213	832-6474
CA	San Pedro	Gatx Tank Storage Terminals-L.A. Harbor Terminal.	Gatx Terminals Corp/Port of L.A	213	830-5666
CA	San Pedro	Gatx Terminals Corp.-San Pedro Terminal	Gatx Terminals Corp/Port of L.A	213	547-0881
CA	San Pedro	Hanjin Shipping Company Ltd		213	499-4500
CA	San Pedro	Jankovich & Son, Inc		213	547-3305
CA	San Pedro	Kaiser International Corporation		213	514-2880
CA	San Pedro	Los Angeles Cruise Ship Terminal	Metropolitan Stevedore Co	213	514-4049
CA	San Pedro	Penzoil Products Company Berths 71/72		213	831-2011
CA	San Pedro	Petrolane, Inc		218	833-5275
CA	San Pedro	The Dow Chemical Company		213	533-5385
CA	San Pedro	Todd Shipyard Corp		213	832-3361
CA	San Pedro	Unocal Berths 45, 46, 47		213	326-7561
CA	San Pedro	Western Fuel Oil Company		213	549-7711
CA	Santa Barbara	Santa Barbara Harbor		805	965-6886
CA	Sausalito	Sea K Fish Company		415	331-3477
CA	Terminal Island	Evergreen	Metropolitan Stevedore Co	213	514-4004
CA	Terminal Island	Hugo Neu-Proler		213	775-6626
CA	Terminal Island	Indies Terminal	Stevedoring Services of America	213	547-3351
CA	Terminal Island	Matson Terminals, Inc		213	519-6537
CA	Terminal Island	Mobil Oil Corp., West Coast Pipe Lines		213	832-2702
CA	Terminal Island	Pan Pacific Fisheries, Inc		213	833-3564
CA	Terminal Island	Refiners Marketing Company		213	519-7696
CA	Terminal Island	Southwest Marine, Inc		213	519-0600 Ext 320
CA	Ventura	Seafood Specialties		805	653-0625
CA	Ventura Harbor	Pafco Marine Products		818	650-1799 or (213) 623-3433
CA	West Sacramento	Port of Sacramento	Port of Sacramento	916	371-8000
CA	Wilmington	Shell Oil Company		213	816-2475
CA	Wilmington	Chiquita Brands, Banana Discharge Terminal.		213	834-2631
CA	Wilmington	Distribution & Auto Service		213	835-8808
CA	Wilmington	Fred F. Noonan Company, Inc		213	830-8181
CA	Wilmington	Gatx Terminals Corp-San Pedro Terminal	Gatx Terminals Corp/Port of L.A	213	830-5666
CA	Wilmington	L.A. Terminals		213	549-5821
CA	Wilmington	Los Angeles City, Dept. Water/Power, Berth 180-181, LA.		213	834-3444
CA	Wilmington	Los Angeles Pier 178	Los Angeles Pier 178	213	835-5042
CA	Wilmington	Metropolitan Stevedore Co	Metropolitan Stevedore Co	213	514-4044
CA	Wilmington	Pacific Lumber Terminal		213	834-5261
CA	Wilmington	Pacific Molasses Company		213	549-1810
CA	Wilmington	Trans Pacific Container Service Corp		213	513-7441
CA	Wilmington	Ultramar Marine Terminal, Inc		213	834-7254
CA	Wilmington	United States Borax & Chemical Corp		213	522-5300
CA	Wilmington	Unocal Lar Marine Terminal		213	513-7614
CA	Wilmington	Wickland Oil Terminals		213	834-4495, 835-3292
CA	Wilmington	Wilmington Berth 153-155		213	431-8195
CA	Wilmington	Wilmington Liquid Bulk Terminals, Inc		213	549-0961
DE	Delaware City	Star Enterprise		302	834-6205
DE	Wilmington	Delaware Terminal Company		302	654-3717
DE	Wilmington	Port of Wilmington	Port of Wilmington	302	571-4600
FL	Bokeelia	St. James Fish Co		813	283-0601
FL	Cape Canaveral	Canaveral Port Authority		407	783-7831
FL	Cape Canaveral	Cape Seafoods, Inc. (DBA Fischer's Seafoods).		407	783-7605
FL	Cape Canaveral	Protem, Inc		407	452-8060
FL	Cape Canaveral	The Fish House of Cape Canaveral		407	783-7605
FL	Carrabelle	Protem, Inc		904	697-3387
FL	Cortez	A. P. Bell Fish Co., Inc		813	794-1249
FL	Cortez	Sigma International, Inc		813	792-3083
FL	Everglades City	Everglades Fish Corp		818	695-3241
FL	Fernandina Beach	Nassau Terminals Forest Products Terminal.	Port of Fernandina	904	261-0753
FL	Fort Lauderdale	Amerada Hess Corporation		201	750-6000
FL	Fort Pierce	Indian River Terminal Company		407	465-7700
FL	Ft. Lauderdale	Coastal Fuels Marketing, Inc		305	525-4261
FL	Ft. Myers Beach	Beach Shrimp Packers, Inc		813	463-5758

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
FL	Ft. Pierce	Hudgins Fish Company, Inc		407	461-5767
FL	Ft. Pierce	Inlet Fisheries, Inc		407	464-6722
FL	Grant	Hudgins Fish Company, Inc		407	723-8199
FL	Homosassa	Cedar Key Fish & Oyster, Co		904	628-2452 or 628-9101
FL	Jacksonville	Amoco Oil Co		904	757-5706
FL	Jacksonville	Atlantic Dry Dock Corp		904	252-3111
FL	Jacksonville	Bellinger Shipyard		904	798-3700
FL	Jacksonville	Blount Island Marine Terminal	Jacksonville Port Authority	904	757-7806
FL	Jacksonville	BP Oil		904	757-4650
FL	Jacksonville	Chevron USA, Inc		904	353-1094
FL	Jacksonville	Distribution & Auto Service		904	751-5720
FL	Jacksonville	J.E.A. Kennedy Generating Station	Jacksonville Port Authority	904	633-5280
FL	Jacksonville	J.E.A. Northside Generating Station	Jacksonville Port Authority	904	633-4490
FL	Jacksonville	J.E.A. Southside Generating Station	Jacksonville Port Authority	904	633-4440
FL	Jacksonville	J.E.A. St. John's River Coal Terminal	Jacksonville Port Authority	904	757-0694
FL	Jacksonville	Jacksonville Shipyards, Inc		904	798-3700
FL	Jacksonville	Joyserve Company, Ltd	Jacksonville Port Authority	904	354-5000
FL	Jacksonville	North Florida Shipyards, Inc		904	354-3278
FL	Jacksonville	Occidental Chemical Corp		904	632-3800
FL	Jacksonville	Petroleum Fuel & Terminal Co		904	358-2375
FL	Jacksonville	Phillips Pipeline Co	Steuart Petroleum	904	353-6740
FL	Jacksonville	Steuart Petroleum Co	Steuart Petroleum	904	355-9675
FL	Jacksonville	Talleyrand Docks & Terminal	Jacksonville Port Authority	904	630-3044
FL	Jacksonville	The Celotex Corporation		904	751-4400
FL	Jacksonville	Triangle Refineries, Inc	Jacksonville Port Authority	904	355-8396
FL	Jacksonville	U.S. Gypsum Co		904	768-2501
FL	Jacksonville	U.S. Gypsum Company		904	768-2501
FL	Jacksonville	U.S. Navy Fuel Department		904	757-5354
FL	Madeira Beach	Triangle Fisheries		813	391-3634
FL	Marathon	City Fish, Inc		305	743-5545
FL	Marathon	Didi Seafood Corporation		305	289-1452
FL	Marathon	Keys Fisheries, Inc		305	743-6727
FL	Matlacha	Lee County Fishermans Coop		813	283-1173
FL	Matlacha	Quality Seafood, Inc		813	283-3200
FL	Mayport	Atlantic Seafood Co		904	249-4031
FL	Mayport	Miss Becky-Seafood, Inc		904	241-4331
FL	Miami	Antillean Marine Shipping	Port of Miami River	305	633-6361
FL	Miami	Coastal Fuels Marketing, Inc		305	672-1065
FL	Miami	East River Terminal		305	633-3581
FL	Miami	Hyde Shipping Company		305	638-4262
FL	Miami	Hyde Shipping Corp	Port of Miami River	305	638-4262
FL	Miami	North River Terminal		305	633-3581
FL	Miami	Pioneer Shipping, Inc	Port of Miami River	305	633-3224
FL	Miami	Thompson Shipping, Co	Port of Miami River	305	633-8226
FL	Milton	Avalon Seafood, Co		904	994-5648
FL	Milton	Gulf Bait and Seafood		904	623-5442 or 623-1948
FL	Naples	Turners Seafood, Inc		813	261-7329
FL	Palmetto	Nu-Gulf Industries, Inc		813	722-8992
FL	Panama City	Bay Harbor Terminals	Panama City Port Authority	904	769-6714
FL	Panama City	Brannon's Seafood, Inc		904	769-0366
FL	Panama City	Panama City Port Authority	Panama City Port Authority	904	763-8471
FL	Panama City	Sanders Seafood		904	769-3675
FL	Panama City	Tarpon Properties		904	769-0366
FL	Pensacola	Coastal Fuel Marketing Inc	Port of Pensacola	904	432-2471
FL	Pensacola	Sulphur Terminal Co., Inc	Port of Pensacola	904	432-8393
FL	Pensacola	Unocal Pensacola Terminal		904	432-5133
FL	Pompano Beach	Merritt Seafood Inc		305	941-6174
FL	Pompano Beach	Triple M Seafood, Inc		305	781-8980
FL	Ponce Inlet	Inlet Harbor Marina		904	767-3268
FL	Port Canaveral	C & W Fish Company		407	286-0106
FL	Port Everglades	Exxon Company U.S.A		305	524-0267
FL	Port Everglades	Port Everglades Authority		305	523-3404
FL	Port Salerno	C & W Fish Company		407	286-0106
FL	Riviera Beach	Crown Cruise Line	Port of Palm Beach	407	845-2101
FL	Riviera Beach	Eastern Cement Corp	Port of Palm Beach	407	848-4824
FL	Riviera Beach	Florida Molasses Exchange, Inc	Port of Palm Beach	407	848-3301
FL	Riviera Beach	Florida Sugar Marketing & Terminal	Port of Palm Beach	407	842-2458
FL	Riviera Beach	Heavy Lift Services, Inc	Port of Palm Beach	407	848-2319
FL	Riviera Beach	Hudgins Fish Company, Inc		407	845-2681
FL	Riviera Beach	LaFarge Corp	Port of Palm Beach	407	842-1563
FL	Riviera Beach	Port of Palm Beach District	Port of Palm Beach	407	842-4201
FL	Riviera Beach	Tropical Shipping Co. Ltd	Port of Palm Beach	407	881-3968
FL	Riviera Beach	Williams Shipping	Port of Palm Beach	407	848-4389
FL	Sebastian	Mays Marina		407	589-2552
FL	Sebastian	Sembler & Sembler, Inc		407	589-4843
FL	St Petersburg	Pinellas Seafood		813	823-4601
FL	Tampa	Amoco Oil Co		813	248-3191
FL	Tampa	Chevron USA, Inc		813	248-2189

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
FL	Tampa	Citgo Petroleum Corp		813	247-2161
FL	Tampa	Eller & Company, Inc		813	247-5511
FL	Tampa	Fina Oil and Chemical Company		813	247-3429
FL	Tampa	Gatx Terminals Corporation		813	248-2148
FL	Tampa	Gold Bond Building Products Terminal		813	839-2111
FL	Tampa	Gulf Products/Div. BP Oil		813	831-1161
FL	Tampa	Harborside Refrigerated Services, Inc		813	248-6996
FL	Tampa	LaFarge Corporation		813	247-4831
FL	Tampa	Marathon Petroleum Company		813	247-1459
FL	Tampa	Marathon Petroleum Company		816	247-1459
FL	Tampa	Murphy Oil USA, Inc		813	248-3158
FL	Tampa	Paktank Florida, Inc		813	247-5417
FL	Tampa	Phillips Petroleum Co		813	248-3994
FL	Tampa	Shell Oil Company		813	839-2327
FL	Tampa	Sulfuric Acid Trading Co		813	248-4940
FL	Tampa	Sulphur Terminals, Inc		813	248-4940
FL	Tampa	Unocal Chemicals		813	837-6482
FL	Tarpon Springs	Leonard & Sons Shrimp Co		823	934-4657.
FL	West Palm Beach	General Electric Government Services	Port of Palm Beach	407	832-8566 X7238
FL	West Palm Beach	General Electric Government Services	Port of Palm Beach	407	832-8566 X7238
GA	Brunswick	East River Terminal (Berths 2 and 3)		912	264-4044
GA	Port Wentworth	Atlantic Wood Industries, Inc		912	964-1234
GA	Port Wentworth	Georgia Steamship C./Georgial Pacific		912	964-8624
GA	Port Wentworth	Koch Materials Company		912	964-1913
GA	Port Wentworth	Savannah Sugar Reginery		912	964-1361
GA	Port Wentworth	Stone Savannah River Pulp & Paper Co		912	966-4342
GA	Savannah	Amoco Oil Company		912	966-4200
GA	Savannah	Blue Circel Atlantic, Inc		912	236-6318
GA	Savannah	Chevron USA, Inc		912	353-1094
GA	Savannah	Colonial Oil Industries, Inc		912	236-1331
GA	Savannah	Marcona Ocean Ind. & Kemira Company		912	234-5005
GA	Savannah	Southern Bulk Industries		912	964-2785
GA	Savannah	Unocal Savannah Terminal		912	233-9266
HI	Ewa Beach	Chevron Hawaiian Refinery		808	682-2215
HI	Honolulu	Barbers Point	Honolulu	808	548-4134
HI	Honolulu	Kewalo Basin	Honolulu	808	548-4134
HI	Honolulu	Pier 35	Honolulu	808	548-4134
HI	Honolulu	Pier 36	Honolulu	808	548-4134
HI	Honolulu	Pier 37	Honolulu	808	548-4134
HI	Honolulu	Pier 38	Honolulu	808	548-4134
HI	Honolulu	Pier 39, 40, 41	Honolulu	808	548-4134
HI	Honolulu	Pier 5	Honolulu	808	548-4134
HI	Honolulu	Pier 51	Honolulu	808	548-4134
HI	Honolulu	Pier 52 & 53	Honolulu	808	548-4134
HI	Honolulu	Pier 60	Honolulu	808	548-4134
HI	Honolulu	Piers 1 & 2	Honolulu	808	548-4134
HI	Honolulu	Piers 13 & 14	Honolulu	808	548-4134
HI	Honolulu	Piers 15, 16, 17, 18	Honolulu	808	548-4134
HI	Honolulu	Piers 19 & 20	Honolulu	808	548-4134
HI	Honolulu	Piers 21, 22, 23, 24, 25, 26, 27, 28	Honolulu	808	548-4134
HI	Honolulu	Piers 29 & 30	Honolulu	808	548-4134
HI	Honolulu	Piers 31, 32, 33	Honolulu	808	548-4134
HI	Honolulu	Piers 34	Honolulu	808	548-4134
HI	Honolulu	Piers 8, 9, 10, 11	Honolulu	808	548-4134
IL	Chicago	Cargill Elevator Chicago	Port of Chicago	312	768-8432
IL	Chicago	Ceres Terminal North	Port of Chicago	312	646-4545
IL	Chicago	Continental Grain Co.	Port of Chicago	312	646-2387
IL	Chicago	Continental Grain Co.	Port of Chicago	312	646-2387
IL	Chicago	Emesio Marine Terminal	Port of Chicago	312	646-2100
IL	Chicago	Federal Marine Terminals	Port of Chicago	312	734-5100
IL	Chicago	Indiana Grain Cooperative (Gateway Elev)	Port of Chicago	312	646-2286
IL	Chicago	Iroquois Landing	Port of Chicago	312	374-3600
IL	Chicago	Rail to Water Transfer Corporation	Port of Chicago	312	375-3700
IL	Chicago	Shed 2 Lake Calumet	Port of Chicago	312	646-4400
IL	Chicago	Shed 3 Lake Calumet	Port of Chicago	312	646-4400
IL	Chicago	Tri River Docks, Inc.	Port of Chicago	312	646-4110
LA	Abbeville	Zapata Haynie Corp		318	893-2933
LA	AMA	Adm/Growmark		504	431-8241
LA	Arabi	Amstar Sugar Corporation		504	271-5331
LA	Arabi	Kaiser Aluminum & Chemical Corp		504	271-7046
LA	Arabi	Kaiser Aluminum & Chemical Corp. Chalmette Slip		504	271-7046
LA	Avondale	Avondale Industries, Inc		604	436-5274
LA	Avondale	International		504	436-4466
LA	Baton Rouge	Exxon Co., USA		504	359-7518
LA	Belle Chasse	B.P. America		504	656-3253
LA	Belle Chasse	B.P. America		504	656-3253
LA	Belle Chasse	Chevron Chemical Company		504	394-4320

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
LA	Belle Chasse	Maritime Oil Recovery, Inc.		504	393-1330
LA	Buras	Chevron Pipe Line Co. Empire/Ostrica Terminal		504	592-7613
LA	Burnside	Burnside Terminal	Greater Baton Rouge Port Commission	504	343-9420
LA	Cameron	Louisiana Menhaden Company		318	477-6578
LA	Cameron	Trosclair Canning Company		318	775-5275
LA	Cameron	Zapata Haynie Corporation		818	569-2314
LA	Carlyss	Conoco Clifton Ridge Marine Terminal	Lake Charles Harbor & Terminal District	318	491-5094
LA	Carville	Cosmar Company		504	642-5454
LA	Chalmette	Mobil Oil—Chalmette Refinery		504	279-9481
LA	Chalmette	Exxon Chalmette Terminal		504	561-3537
LA	Chauvin	Indian Ridge Shrimp Co.		504	594-3361
LA	Convent	Cargill, Inc. (K-2)		504	562-7313
LA	Convent	Occidental Chemical Corporation		504	562-9200
LA	Convent	Zen-Noh Grain Corporation		504	562-3571
LA	Convent	Zen-Noh Grain Corporation		504	562-3571
LA	Davant	Electro-Coal Transfer Corporation		504	524-4181
LA	Davant	Texaco Pipeline Inc. Davant Terminal		504	876-5645
LA	Destrehan	Bunge Corporation		504	466-5300
LA	Destrehan	St. Charles Grain Elevator		50	466-2753
LA	Donaldsonville	Triad Chemical		504	473-9231
LA	Dulac	Dulac Seafood Co./Terre Mar Corp.		504	563-2633
LA	Dulac	Samanie Shrimp Dock		504	563-4397
LA	Dulac	Tidelands Seafood Co., Inc.		504	563-4516
LA	Dulac	Zapata Haynie Corp.		504	563-4424
LA	Empire	Empire Menhaden Company, Inc.		504	657-7281
LA	Empire	Petrou Fisheries, Inc.		504	657-9711
LA	Garyville	Clark Oil & Refining Corporation		504	535-6256
LA	Garyville	Marathon Petroleum Company		504	535-2241
LA	Gibbstown	Chaikley Terminal of Unocal Pipeline		318	536-6093
LA	Golden Meadow	Fourchon Int'l Shipping Terminal		504	396-2835
LA	Golden Meadow	Gulf Shrimp Processors, Inc.		504	475-5738
LA	Gramercy	Colonial Sugars, Inc.		504	869-5521
LA	Gramercy	Kaiser Aluminum & Chemical Corporation		504	869-2270
LA	Gramercy	Laroche Chemicals, Inc.		504	869-2106
LA	Gretna	Nola Terminal, BP Oil Company		504	368-2560
LA	Gueydan	Mermentau Terminal of Unocal Pipeline		318	536-6098
LA	Hackberry	OXY NGL Inc. Hackberry LPG Terminal	Lake Charles Harbor & Terminal District	318	762-4205
LA	Hahnville	Agrico Chemical Company—Taft Plant		504	783-6872
LA	Hahnville	Union Carbide Corp.		504	468-4411
LA	Harvey	Delta Commodities, Inc.		504	340-4911
LA	Houma	D'Luke Seafood, Inc.		504	563-7102 or 563-2328
LA	Houma	Texaco Pipeline Inc., Houma Terminal		504	876-5645
LA	Lake Charles	BP Oil Co. Carbon Products Division	Lake Charles Harbor & Terminal District	318	583-7930
LA	Lake Charles	Citgo Petroleum—Clifton Ridge	Lake Charles Harbor & Terminal District	318	491-6121
LA	Lake Charles	Citgo Petroleum Corporation A Dock	Lake Charles Harbor & Terminal District	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation B Dock	Lake Charles Harbor & Terminal District	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation C Dock	Lake Charles Harbor & Terminal District	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation D Dock	Lake Charles Harbor & Terminal District	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation Refinery	Lake Charles Harbor & Terminal District	318	491-6165
LA	Lake Charles	Crowley Maritime Corp	Lake Charles Harbor & Terminal District	318	474-9600
LA	Lake Charles	Lake Charles Carbon Co.	Lake Charles Harbor & Terminal District	318	437-3265
LA	Lake Charles	Lake Charles Harbor & Terminal District	Lake Charles Harbor & Terminal District	318	439-3661
LA	Lake Charles	Olin Corporation Ammonia Docks	Lake Charles Harbor & Terminal District	318	491-3205
LA	Lake Charles	Olin Corporation Urea Docks	Lake Charles Harbor & Terminal District	318	491-3205
LA	Lake Charles	PPG Industries	Lake Charles Harbor & Terminal District	318	491-4730
LA	Lake Charles	Trunkline LNG Co	Lake Charles Harbor & Terminal District	318	478-9936
LA	Marrero	Amerada Hess Corporation		504	341-4225
LA	Metairie	Transocean Terminal Operators	Port of New Orleans	504	832-8219
LA	Metairie	Transocean Terminal Operators	Port of New Orleans	504	832-8219
LA	Myrtle Grove	Myrtle Grove Elevator		504	656-2212
LA	New Orleans	Algiers Ironwork & Dry Dock, Inc.		504	362-7960
LA	New Orleans	Anchor Stevedoring, Co	Port of New Orleans	504	945-6513
LA	New Orleans	Buck Kreihs Co., Inc.		504	524-7681 or 271-2112
LA	New Orleans	Ceres Gulf Stevedoring	Port of New Orleans	504	244-9882
LA	New Orleans	Coastal Cargo, Co. Inc	Port of New Orleans	504	942-4227
LA	New Orleans	Dbde Machine Welding & Metal Works, Inc. Andry St Wharf.		504	581-3088
LA	New Orleans	Fritz Maritime Agencies	Port of New Orleans	504	524-8713
LA	New Orleans	Fritz Maritime Agencies	Port of New Orleans	504	524-8713
LA	New Orleans	Gulf & Southern Terminal	Port of New Orleans	504	897-1320
LA	New Orleans	I.T.O. Corporation	Port of New Orleans	504	899-9544
LA	New Orleans	International Cruise Terminal, Inc	Port of New Orleans	504	529-4567
LA	New Orleans	Loop Inc		504	368-5867
LA	New Orleans	New Orleans Marine Contractors	Port of New Orleans	504	949-9601
LA	New Orleans	New Orleans Marine Contractors	Port of New Orleans	504	949-9301
LA	New Orleans	New Orleans Stevedoring Company	Port of New Orleans	504	942-5557
LA	New Orleans	Pacific Molasses Company		504	340-3000

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
LA	New Orleans	Puerto Rico Marine Management, Inc	Port of New Orleans	504	842-1100
LA	New Orleans	Ryan-Walsh Stevedoring Co. Inc	Port of New Orleans	504	895-5800
LA	New Orleans	Ryan-Walsh Stevedoring Co. Inc	Port of New Orleans	504	895-5800
LA	New Orleans	Ryan-Walsh Stevedoring Co. Inc	Port of New Orleans	504	895-5800
LA	New Orleans	Sea-Land Service, Inc	Port of New Orleans	504	948-7992
LA	New Orleans	Turner Marine Bulk, Inc	Port of New Orleans	504	245-1039
LA	New Orleans	U.S. Gypsum Co		504	241-2020
LA	Norco	GATX Terminals Corporation		504	443-2511
LA	Norco	GATX Terminals Corporation		504	443-2511
LA	Norco	Shell Oil Co. Norco Mfg. Complex		504	465-7301
LA	Paulina	I.T.O. Corporation		504	522-5246/ 469-5662
LA	Paulina	Peavey Company-St. Elmo Terminal		504	869-4405
LA	Pilottown	Texaco Pipeline Terminal Pilottown		504	676-5645
LA	Plaquemine	Georgia Gulf Corporation		504	389-2500
LA	Port Allen	Anchorage Chemical Terminal		504	389-0170
LA	Port Allen	Petroleum & Fuel Terminal Company	Greater Baton Rouge Port Commission	504	383-9211
LA	Port Sulphur	Freeport Sulphur Company		504	564-3981
LA	Port Sulphur	International Marine Terminals		504	656-7341
LA	Reserve	Cargill Inc		504	536-4111
LA	Reserve	Cargill Inc. Molasses Liquid Products		504	536-4121
LA	Reserve	Louis Dreyfus Reserve Grain Elevator		504	536-1151
LA	St Bernard	Vic Molero Seafood Inc		504	676-1309
LA	St James	Capline Terminal		504	588-7834
LA	St. James	U.S. Dept. of Energy, St. James Terminal		504	265-3073
LA	St. James	U.S. Dept. of Energy, St. James Terminal		504	265-3073
LA	St. James	U.S. Dept. of Energy, St. James Terminal		504	265-3073
LA	St. Rose	International Matex Tank Terminals		504	468-3997
LA	St. Rose	International Matex Tank Terminals		504	468-3997
LA	Sunshine	Petro United Terminals, Inc.		504	642-8335
LA	Taft	Occidental Chemical Corp		504	783-7382
LA	Uncle Sam	Agrico Chemical Co		504	562-3501
LA	Union	Star Enterprise		504	562-7681
LA	Westlake	Conoco Inc-Refinery Dock	Lake Charles Harbor & Terminal District	318	491-5024
LA	Westwego	Gold Bond Building Products Terminal		504	341-9598
LA	Westwego	Koch-Ellis Barge & Ship		504	436-3766
LA	Westwego	Pacific Molasses Company		504	340-3000
LA	Westwego	Paktank Corporation (Westwego Terminal)		504	436-2242
LA	Westwego	Paktank Corporation (Westwego Terminal)		504	436-2242
MA	Boston	Blue Circle Atlantic, Inc		617	241-9040
MA	Boston	Boston Fish Pier	Massachusetts Port Authority	617	973-5500
MA	General Ship Corp. (East Boston)			617	569-4200
MA	General Ship Corp. (South Boston)			617	569-4200
MA	Charleston	United States Gypsum		617	241-9100
MA	Charlestown	Boston Edison Company-Mystic Station	Boston Edison Company	617	381-7277
MA	Charlestown	John E. Moran Docks	Massachusetts Port Authority	617	973-5500
MA	Charlestown	Massports Revere Sugar Wharf	Massachusetts Port Authority	617	973-5500
MA	Charlestown	Mystic Pier No. 1	Massachusetts Port Authority	617	973-5500
MA	Charlestown	Mystic Piers No. 48, 49, & 50	Massachusetts Port Authority	617	973-5500
MA	Chatham	Chatham Municipal Fish Pier		508	432-7161
MA	Chelsea	Atlantic Fuels Marketing Corp		617	288-1160.
MA	Chelsea	Belcher Chelsea	Belcher Boston	617	889-1391
MA	Chelsea	Eastern Minerals Inc		617	884-0027
MA	Chelsea	Gulf Oil Co		617	884-5980
MA	East Boston	East Boston Piers Nos. 1,3,4,5	Massachusetts Port Authority	617	973-5500
MA	East Boston	Mobil Oil East Boston Terminal		617	381-4035
MA	East Braintree	Citgo Petroleum Corporation		617	848-2595
MA	Everett	Coldwater Seafood Corporation		617	387-2050
MA	Everett	Distrigas of Massachusetts Corp. Everett Marine LNG.		617	381-8540
MA	Everett	Exxon Company U.S.A.		617	391-2802
MA	Everett	Independent Cement Corporation		617	387-3829
MA	Everett	Proterized N. E. Co		617	389-8300
MA	Fall River	Borden & Remington, Corp		508	675-0161
MA	Fall River	Fall River Line Pier, Inc		508	674-5707
MA	Fall River	Fall River/Shell Oil		508	675-6200
MA	Gloucester	Americold Corporation	Americold-Gloucester	508	283-6100
MA	Gloucester	Americold Corporation	Americold-Gloucester	508	283-6100
MA	Gloucester	Americold Corporation	Americold-Gloucester	508	283-6100
MA	Gloucester	Americold Corporation	Americold-Gloucester	508	283-6100
MA	Gloucester	Fisherman's Wharf		508	283-6190
MA	Gloucester	Frontiero Brothers, Inc		508	283-1282
MA	Gloucester	John B. Wright Fish Co., Inc		508	283-4205
MA	Gloucester	Ocean Crest Seafoods, Inc		508	281-0232
MA	Gloucester	Star Fisheries		508	283-0690
MA	Lynn	General Electric River Works		617	594-4826
MA	New Bedford	Atlantic Coast Fisheries Corp		508	999-2993
MA	New Bedford	Blue Gold Sea Farms		508	993-2635
MA	New Bedford	Fish Island Seafood, Inc		508	992-2969
MA	New Bedford	Frionor USA, Inc		508	997-0031

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
MA	New Bedford	Global Petroleum Corp		508	997-4534
MA	New Bedford	Maritime Terminal, Inc		508	996-8507
MA	New Bedford	Ocean Obsession Ltd		508	997-0720
MA	New Bedford	State Pier-New Bedford, MA		508	993-1646
MA	New Bedford	Trio-Algarvio Seafood, Inc		508	993-5868
MA	Quincy	Proctor & Gamble Mfg Company		617	847-3684
MA	Quincy	Quincy Oil, Inc		617	773-2500
MA	Revere	Belcher New England	Belcher Boston	617	284-4490
MA	Revere	BP Oil Company		617	289-4201
MA	Revere	Global Petroleum Corp		617	289-2102
MA	Salem	Northeast Petroleum Division of Cargill, Inc		508	744-3434
MA	Salem	Salem Harbor Station Terminal		508	744-5540
MA	Sandwich	Canal Marine, Inc		508	888-0096
MA	Sandwich	ESCO Terminals, Inc		508	888-2001
MA	Sandwich	Sandwich Marina		508	833-0808
MA	Somerset	Montaup Electric Company		508	678-5283
MA	Somerset	New England Power		508	678-8321
MA	South Boston	Belcher South Boston	Belcher Boston	617	269-8400
MA	South Boston	Boston Army Base Terminal, Berths 1-10	Massachusetts Port Authority	617	973-5500
MA	South Boston	Boston Edison Company-New Boston Station.	Boston Edison Company	617	464-6000
MA	South Boston	Massport Marine Terminal Wharf	Massachusetts Port Authority	617	973-5500
MA	South Boston	Paul W. Conley Marine Terminal, Berths 11-17.	Massachusetts Port Authority	617	973-5500
MA	Vineyard Haven	Campbell Oil Co	R.M. Packer Co	508	693-0900
MA	Vineyard Haven	M.V. Fuel & Ice	R.M. Packer Co	508	693-6422
MA	Vineyard Haven	R.M. Packer Co	R.M. Packer Co	508	693-0900
MA	Vineyard Haven	Tisbury Wharf Co	R.M. Packer Co	508	693-0900
MA	Woods Hole	Woods Hole, Martha's Vineyard & Nantucket Steamship.	Woods Hole, Martha's Vineyard and Nantucket.	508	548-5011
MA	Woods Hole	Woods Hole, Martha's Vineyard & Nantucket Steamship.	Woods Hole, Martha's Vineyard and Nantucket.	508	771-4000
MA	Woods Hole	Woods Hole Oceanographic Institution		508	548-1400
MD	Baltimore	Agrico Chemical Co		301	276-8100
MD	Baltimore	Amerada Hess Corporation		301	750-6000
MD	Baltimore	Amstar Sugar Corp		301	752-6150
MD	Baltimore	Atlantic Terminal		301	355-9430
MD	Baltimore	Blue Circle Atlantic		301	355-4440
MD	Baltimore	BP Oil Company		301	355-7200
MD	Baltimore	Canton Elevator-Ferruzzi U.S.A., Inc		301	631-5100
MD	Baltimore	Chesapeake Terminal		301	355-9430
MD	Baltimore	Clinton Street Marine Terminal	Port of Baltimore	301	633-1160
MD	Baltimore	Conoco Inc		301	355-5296
MD	Baltimore	Consolidation Coal Sales Co		301	631-7000
MD	Baltimore	CSX Transportation Curtis Bay Coal & Ore Piers.		301	347-5201
MD	Baltimore	Dundalk Marine Terminal	Port of Baltimore	301	633-1160
MD	Baltimore	Eastalco Alum Co. Hawkins Point		301	354-1113
MD	Baltimore	Eastalco Pier		301	354-1113
MD	Baltimore	Essex Industrial Chemicals, Inc		301	354-5308
MD	Baltimore	Exxon Co. USA		301	563-5118
MD	Baltimore	Fairfield Marine Terminal	Port of Baltimore	301	633-1160
MD	Baltimore	Gold Bond Building Products Terminal		301	631-5315
MD	Baltimore	Independent Cement Corp		301	354-1170
MD	Baltimore	Lebanon Chemical Corp		301	327-4700
MD	Baltimore	Locust Point Marine Terminal, North	Port of Baltimore	301	633-1160
MD	Baltimore	Locust Point Marine Terminal, South	Port of Baltimore	301	332-8320
MD	Baltimore	Petroleum Fuel & Terminal		301	342-7800
MD	Baltimore	Pier 7 North Locust Point		301	685-6410
MD	Baltimore	Proctor & Gamble		301	576-5650
MD	Baltimore	Rukert Terminals Corp.		301	276-1013
MD	Baltimore	Seagirt Marine Terminal	Port of Baltimore	301	633-1160
MD	Baltimore	Shell Oil Co		301	354-0404
MD	Baltimore	Star Enterprise		301	355-6500
MD	Baltimore	Support Terminal Services, Inc		301	355-6262
MD	Baltimore	Transmaryland Terminal Corp		301	355-4650
MD	Baltimore	Transpacific Communications, Inc		301	385-0425
MD	Baltimore	U.S. Gypsum Company		301	355-6600
MD	Cambridge	Cambridge Marine Terminal		301	288-6500
MD	Crisfield	Steuart Shipyard		301	968-2600
MD	Galesville	Woodfield Fish & Oyster Co. Inc		301	867-3421
MD	Piney Point	Steuart Petroleum Company		301	994-1200 Ext. 216
MD	Sparrows Point	Bethlehem Steel Balto Marine Div		301	388-7907
MD	Sparrows Point	Chesapeake Bulk Stevedores, Inc	Bethlehem Steel-Sparrows Point	301	388-1440
MD	Sparrows Point	High Pier	Bethlehem Steel-Sparrows Point	301	388-4969
MD	Sparrows Point	Ore Pier	Bethlehem Steel-Sparrows Point	301	388-6407
MD	Sparrows Point	Pennwood Wharf	Bethlehem Steel-Sparrows Point	301	388-7497
ME	Bangor	Barrett Paving Materials Inc		207	942-4681
ME	Bangor	Webber Oil Company		207	942-5501

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
ME	Bucksport	C. H. Sprague & Son Co.		207	469-7946
ME	Bucksport	C. H. Sprague & Son Co. (North Terminal)		207	469-7946
ME	Hampden	Cold Brook Energy Inc.		207	945-9465
ME	Lubec	Lubec Packing		207	733-5572
ME	Lubec	R. J. Peacock		207	733-5556
ME	Portland	Portland Marine Terminal		207	775-5611 or 773-1613
ME	Portland	Seatrade International Inc.		207	772-8220
ME	So. Portland	B.P. Oil Co.	B. P. Oil Co.	207	799-8586
ME	So. Portland	Getty Petroleum Corp.	B.P. Oil Co.	207	799-8518
ME	So. Portland	Gulf Oil		207	799-5561
ME	So. Portland	Koch Materials Co.	B. P. Oil Co.	207	767-2161
ME	So. Portland	Northeast Petroleum Fore River		207	799-2294
ME	So. Portland	Portland Pipeline Corporaton		207	767-0440
ME	So. Portland	Star Enterprise		207	799-3394
ME	South Portland	Mobil Oil Corporation		207	767-3251
ME	St George	Great Eastern Mussel Farms		207	372-6317
ME	Stonington	Lobster Transport Inc.		207	367-2215
ME	Wiscasset	Mason Station		207	623-3521 ext. 2443
ME	Yarmouth	William F. Wyman		207	623-3521 ext. 201-2305
MI	Ferrysburg	Koch Refining Company		616	842-2450
MI	Muskegon	Amoco Oil		616	759-0907
MN	Duluth	Azcon Corporation	Port of Duluth/Superior	218	722-7703
MN	Duluth	C. Reiss Coal Co.	Port of Duluth/Superior	218	628-2371
MN	Duluth	Cargill Inc.	Port of Duluth/Superior	218	727-7219
MN	Duluth	Cutler Magner Co.	Port of Duluth/Superior	218	722-3981
MN	Duluth	General Mills Elev.	Port of Duluth/Superior	218	722-7759
MN	Duluth	Hallett Dock #5	Port of Duluth/Superior	218	624-2281
MN	Duluth	Hallett Dock #6	Port of Duluth/Superior	218	624-2281
MN	Duluth	Hallett Dock #7	Port of Duluth/Superior	218	624-2281
MN	Duluth	International Multifoods	Port of Duluth/Superior	218	722-0538 or 722-6506
MN	Duluth	Lafarge Corporation, Great Lakes Region	Port of Duluth/Superior	218	727-2493
MN	Duluth	Meehan Seaway Service, Ltd.	Port of Duluth/Superior	218	727-6646
MN	Duluth	St Lawrence Cement Co.	Port of Duluth/Superior	218	726-1371
MS	Biloxi	Gollott Brothers Seafood Co. Inc.		601	432-7865
MS	Gulfport	MS. State Port Authority at Gulfport	MS. State Port Authority at Gulfport	601	865-4315
MS	Moss Point	Ampro Fisheries, Inc.		601	475-2003
MS	Moss Point	Ampro Fisheries, Inc.		601	475-2003
MS	Moss Point	Zapata Haynie Corporation		601	475-1252
MS	Pascagoula	Chevron U.S.A. Inc.		601	938-4214
MS	Pascagoula	Clark Seafood Co., Inc.		601	762-4511
MS	Pascagoula	Heinz Pet Products		601	762-7896
MS	Pearlington	Star Export Services		601	533-5541
NC	Beaufort	Aviation Fuel Terminals, Inc.	North Carolina State Ports Authority	919	726-3145
NC	Engelhard	Engelhard Shrimp Fish & Oyster Co., Inc.		919	925-3471
NC	Morehead City	Colonial Oil Industries, Inc.	North Carolina State Ports Authority	919	726-0558
NC	Morehead City	Gillikin Seafood, Inc.		919	726-7284
NC	Morehead City	J. M. Davis Industries		919	247-6902
NC	Morehead City	Morehead City Export Terminals	North Carolina State Ports Authority	919	247-3403
NC	Morehead City	Morehead City Ship & Cargo Agency, Inc.	North Carolina State Ports Authority	919	726-2500
NC	Morehead city	North Carolina State Ports Authority	North Carolina State Ports Authority	919	726-3158
NC	Morehead city	Trumbull Asphalt Company	North Carolina State Ports Authority	919	726-4101
NC	Newport	R.W. Jones Fish Co., Inc		919	726-8158
NC	Oriental	C.M. Muse Seafood Co., Inc.		919	249-0676
NC	Southport	Military Ocean Terminal, Sunny Point		919	341-8286
NC	Southport	Pfizer Marine Terminal	North Carolina State Ports Authority	919	457-5001
NC	Wanchese	Fisherman's Seafood, Inc		919	473-5026
NC	Wilmington	Almont Shipping Co	North Carolina State Ports Authority	919	791-9031
NC	Wilmington	Amoco Oil Company	North Carolina State Ports Authority	919	799-0483
NC	Wilmington	Chemserve Terminal, Inc	North Carolina State Ports Authority	919	762-8588
NC	Wilmington	Chevron USA, Inc		919	763-8423
NC	Wilmington	Chevron USA, Inc	North Carolina State Ports Authority	919	763-8423
NC	Wilmington	Eagle Island Marine, Inc.		919	762-2630
NC	Wilmington	Exxon Company USA	North Carolina State Ports Authority	919	799-0144
NC	Wilmington	Koch Refining Company	North Carolina State Ports Authority	919	799-0180
NC	Wilmington	Nitrex		919	763-0171
NC	Wilmington	North Carolina State Port Authority	North Carolina State Ports Authority	919	763-1621
NC	Wilmington	Paktank Corporation	North Carolina State Ports Authority	919	763-0140
NC	Wilmington	Petroleum & Fuel Terminal, Co	North Carolina State Ports Authority	919	799-0030
NC	Wilmington	Unocal Chemicals Division Cape Fear Terminal.	North Carolina State Ports Authority	919	762-6615
NH	Newington	C.H. Sprague & Son Co	Storage Tank Development Corporation	603	431-5131
NH	Newington	Fuel Storage Corporation	Storage Tank Development Corporation	603	431-6000
NH	Newington	SEA-3, Inc		603	431-5990
NH	Portsmouth	C.H. Sprague & Son Co		603	436-4120
NH	Portsmouth	Mobil Portsmouth		603	436-7887

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
NH	Portsmouth	Northeast Petroleum Div. Of Cargill		603	436-5147
NH	Portsmouth	State Fish Pier-Portsmouth Fish Co-Op		603	431-7078
NJ	Bayonne	Belcher Co. Of New York-Bayonne		201	437-2104
NJ	Bayonne	Constable Terminal Corporation		201	437-2993
NJ	Bayonne	Exxon Company, USA		201	858-5503
NJ	Bayonne	Gordon Terminals		201	437-8300
NJ	Bayonne	Texaco Refining & Marketing Inc		201	436-2200
NJ	Camden	Beckett Street Terminal	South Jersey Port Corporation	609	757-4969
NJ	Camden	Broadway Terminal	South Jersey Port Corporation	609	757-4969
NJ	Camden	Del Monte Tropical Fruit		609	365-0577
NJ	Camden	Domtar Gypsuim, Inc		609	966-7605
NJ	Cape May	Atlantic Capes Fisheries, Inc		609	884-3000
NJ	Cape May	Axelsson & Johnson Fish Co		609	884-8426
NJ	Cape May	Lund's Fisheries, Inc		609	729-9050
NJ	Carteret	Gatx Terminals Corp		201	541-5161
NJ	Cateret	Amoco Oil Company-Carteret Terminal		201	541-5131
NJ	Elizabeth	Atlantic Container Line		201	289-3000
NJ	Elizabeth	Croda Storage, Inc		201	353-8933
NJ	Elizabeth	Sea-Land Service, Inc		201	558-6001
NJ	Gibbstown	E.I. Dupont Co, Repauno Plant		609	423-0105 ext 428
NJ	Gloucester City	Koch Fuels, Inc		609	456-6673
NJ	Jersey City	Atlantic Liner Agencies (ACL) for Northwest Auto Marine.		201	289-3000
NJ	Jersey City	Global Terminal & Container Services, Inc		201	451-5200
NJ	Linden	E.I. Du Pont De Nemours & Co		201	474-1801
NJ	Linden	Northville Linden Terminal Division of Northville.		201	862-5740
NJ	Newark	Elizabeth Point Authority Marine Terminal (Berths 74 & 76).		201	578-2128
NJ	Newark	Port Newark		201	578-2128
NJ	Newark	Star Enterprise		201	344-6815
NJ	Newark	Sun Refining and Marketing Company		201	465-3200
NJ	Paulsboro	Mantua Oil Company L.P		609	423-5400
NJ	Pennsauken	Citgo Petroleum Corp. (Petty's Island)		609	963-8470
NJ	Pennsauken	Petty Island Terminal	Philadelphia/Pennsauken	609	486-4626
NJ	Pennsauken	Star Enterprise Pennsauken Sales Terminal.		609	662-5600
NJ	Perth Amboy	Chevron U.S.A., Inc		201	738-2000
NJ	Perth Amboy	Stolt Terminal (Perth Amboy)		201	826-1144
NJ	Port Elizabeth	Maher Terminals, Inc		201	527-8200
NJ	Port Elizabeth	Maher Terminals, Inc		201	527-8400
NJ	Port Newark	Distribution & Auto Service		201	465-0424
NJ	Port Newark	Ecuadorian Line, Inc		201	589-8894 or 589-9022
NJ	Port Newark	Hudson Tank Terminals Corp		201	465-1115
NJ	Port Newark	Maersk Container Service		201	465-1000
NJ	Port Newark	Maher Terminals, Inc		201	589-4902
NJ	Pt. Pleasant	Phillips Seafood Inc/Bradford Fisheries		201	295-9606
NJ	Pt. Pleasant	Atlantic Capes Fisheries, Inc		201	892-3522
NJ	Pt. Pleasant	Fishermen's Dock Cooperative, Inc		201	899-1872
NJ	Sayreville	Jersey Central Power & Light Company Sayreville Station.		201	257-0133
NJ	Sewaren	Shell Oil Company		201	855-3314
NJ	South Amboy	Jersey Central Power & Light Company (E.H. Werner Station).		201	721-0800
NJ	Westville	Coastal Eagle Point Oil Company		609	853-3100
NY	Albany	Albany Port District Commission	Port of Albany	518	463-8783
NY	Albany	Mobil Oil/Albany Terminal		518	436-6570
NY	Astoria	Castle Astoria Terminals, Inc		718	932-8816
NY	Astoria	Con Ed-Astoria Generation Station		718	204-3900
NY	Athens	Peckham Materials Corp.		518	945-1120
NY	Bronx	Castle Bronx Terminals, Inc		212	585-0310
NY	Bronx	Castleport Morris Terminals, Inc		212	585-0310
NY	Bronx	Fred M. Schildwachter & Sons, Inc		212	828-2500
NY	Brooklyn	Bayside Fuel Oil Depot Corp	Bayside Fuel Oil Depot Corp	718	372-9800
NY	Brooklyn	Bayside Fuel Oil Depot Corp	Bayside Fuel Oil Depot Corp	718	625-5932
NY	Brooklyn	Brooklyn Port Authority Marine Terminal (Piers 1-3, 5-8,.		718	330-2972
NY	Brooklyn	Columbia Street Marine Terminal		718	330-2972
NY	Brooklyn	Con Ed Hudson Avenue Generating Station.		718	834-3838
NY	Brooklyn	Con Ed North Street Terminal		718	384-4034
NY	Brooklyn	Erie Basin-Port Authority Marine Terminal		718	330-2972
NY	Brooklyn	Exxon Brooklyn Terminal		718	706-4164 or 4171
NY	Brooklyn	Metro Terminal Corp		718	389-7772
NY	Brooklyn	Shell Oil Co		718	383-4066
NY	Brooklyn	Terminal Corp		718	388-7011 or 388-6963

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
NY	Buffalo	Gateway Trade Center, Inc	Gateway Trade Center, Inc	716	826-2890
NY	College Point	Skaggs-Walsh, Inc		718	353-7000
NY	Glen Cove	Glenwood Terminal Corporation		516	676-2500
NY	Glenmont	Niagara Mohawk Power Corporation		518	436-5081
NY	Highland	Star Terminal		914	691-8171
NY	Inwood	Amoco Oil Co		516	239-8412
NY	Inwood	Shell Oil Company		516	239-4437
NY	Kingston	Kosco Ballard Terminal		914	331-0770
NY	Kingston	Kosco Exxon Terminals		914	331-0770
NY	Kingston	Kosco Phelan Cahill		914	331-0770
NY	Lackawanna	Bethenergy-Lackawanna Coke Div	Gateway Trade Center, Inc	716	821-3960
NY	Montauk	Deep Water Seafoods, Inc		516	668-2111
NY	Montauk	Montauk Fish Dock, Inc		516	668-2201
NY	Mt. Vernon	Amoco Oil Co		914	667-6385
NY	Mt. Vernon	West Vernon Pet. Corp		914	668-8787
NY	New Windsor	Big S Oil Co., Inc		914	561-4300
NY	New York	Continental Grain, Co	Port of New Orleans	504	436-5800
NY	New York	New York Consolidated Passenger Ship Terminal (Piers 40,.		212	246-5450
NY	Newburgh	Mobil Oil Corporation-Newburgh Terminal		914	562-1164
NY	North Tarrytown	General Motors Corporation		914	524-1460
NY	Oswego	Niagara Mohawk Power Corporation		315	349-2220
NY	Peekskill	Meenan Oil		914	737-0015
NY	Point Lookout	Doxsee Sea Clam Co., Inc		516	432-0529
NY	Port Ewen	Kingston Oil Supply Corporation		914	331-0770
NY	Rensselaer	Atlantic Refining Company		518	449-7138
NY	Rensselaer	Petroleum Fuel & Terminal		518	465-1557
NY	Staten Island	Eklof Marine Corp	Bayside Fuel Oil Depot Corp	718	720-7207
NY	Staten Island	GATX Staten Island		718	981-1000
NY	Staten Island	Howland Hook Marine Terminal (Public Berth).		718	330-2972
NY	Staten Island	Port Mobil Terminal		718	966-2000
NY	Tonawanda	Ashland Petroleum Co.-Buffalo Terminal		716	879-8600
OH	Ashtabula	Pinney Dock & Transport Company		216	964-7186
OH	Cleveland	Akzo Salt Inc		216	651-7200
OH	Cleveland	Fleet Supplies, Inc		216	621-5250
OH	Cleveland	G&W Industries		216	621-7246
OH	Cleveland	Marathon Petroleum Company		216	861-6100
OH	Cleveland	Marsulex Inc		216	566-8070
OH	Cleveland	The Cleveland Builders Supply Co		216	621-4300
OH	Conneaut	The Pittsburgh & Conneaut Dock Co		216	593-1102
OH	Maumee	The Andersons Marine Elevator	Toledo-Lucas County Port Authority	419	241-8943
OH	Oregon	CSX Toledo Dock	Toledo-Lucas County Port Authority	419	697-2352
OH	Toledo	Cargill, Inc	Toledo-Lucas County Port Authority	419	241-2141
OH	Toledo	Clark Oil & Refining Corp	Toledo-Lucas County Port Authority	419	726-9741
OH	Toledo	Kuhlman Bulk Material Facility	Toledo-Lucas County Port Authority	419	243-2121
OH	Toledo	Mid States Terminal	Toledo-Lucas County Port Authority	419	691-7480
OH	Toledo	Toledo World Terminal	Toledo-Lucas County Port Authority	419	698-8171
OH	Toledo	Toledo World Terminal Consolidated Dock Div.	Toledo-Lucas County Port Authority	419	729-9711
OR	Astoria	Astoria Seafood Company		503	325-2831
OR	Astoria	Bornstein Seafoods, Inc		503	325-6164
OR	Astoria	Carmichael-Columbia Oil, Inc		503	325-3122
OR	Astoria	McCall Oil Co		503	325-2294
OR	Astoria	Ocean Foods of Astoria, Inc		503	325-2421
OR	Astoria	Port of Astoria	Port of Astoria	503	325-4521
OR	Astoria	Port of Astoria Mooring Basins	Port of Astoria	503	325-4521
OR	Astoria	Youngs Bay Fish Co		503	325-5803
OR	Bandon	Bandon Fisheries		503	347-4454
OR	Boardman	Terminal #3	Port of Morrow	503	481-3625
OR	Brookings	California Shellfish Co. Inc. (DBA Hallmark Fisheries).	Port of Brookings Harbor	503	469-4616
OR	Brookings	Eureka Fisheries	Port of Brookings Harbor	503	469-5315
CR	Brookings	Meredith Fish Company	Port of Brookings Harbor	503	469-2486
CR	Brookings	Port of Brookings Harbor	Port of Brookings Harbor	503	469-2218
CR	Charleston	Hallmark Fisheries		503	888-3253
CR	Charleston	Pt. Adams Packing Co		503	888-9404
CR	Charleston	South Coast Seafoods, Inc		503	888-3288
CR	Coos Bay	Eureka Fisheries, Inc		503	888-3248
CR	Coos Bay	Union Oil Company of California		503	269-7600
CR	Garibaldi	Smith's Pacific Shrimp Co		503	322-2217
CR	Garibaldi	Hoy Bros. Fish & Crab Co., Inc		503	322-3500
CR	Garibaldi	Jake's Famous Crawfish & Seafood		503	322-3422
CR	Garibaldi	Smith's Pacific Shrimp Co		503	322-3316
CR	Gold Beach	Port of Gold Beach	Port of Gold Beach	503	247-6269
CR	Gold Beach	Rogue River Seafood Co	Port of Gold Beach	503	247-6269
CR	Hammond	Point Adams Packing Co		503	861-2226
CR	Harbor	Eureka Fisheries, Inc		503	469-5315
CR	Harbor	Hallmark Fisheries		503	469-4616
CR	Newport	Depoe Bay Fish Co., Inc		503	265-8833

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
OR	Newport	Newport Shrimp Co		503	265-2154
OR	Newport	Oregon Coast Seafood Inc		503	265-7072
OR	Newport	Point Adams Packing Co		503	265-5365
OR	Newport	Point Adams Packing Co		503	265-5365
OR	Newport	Yaquina Bay Fish Co		503	265-2228
OR	Port Orford	Port of Orford		503	332-7121
OR	Portland	Chevron U.S.A. Inc		503	221-7714
OR	Portland	GATX Tank Storage Terminals Corporation		503	286-1691
OR	Portland	Linnton Terminal	Time Oil Company Portland Port	503	286-1611
OR	Portland	Portland Ship Repair Yard	Port of Portland	503	231-5572
OR	Portland	Scunitzer International Terminals		503	286-5771
OR	Portland	Shell Oil Company		503	220-1232
OR	Portland	St. John's Terminal	Time Oil Company Portland Port	503	286-1611
OR	Portland	T-2	Port of Portland	503	243-3201
OR	Portland	Terminal 4	Port of Portland	503	231-5000
OR	Portland	Terminal 6	Port of Portland	503	231-5000
OR	Winchester Bay	Eureka Fisheries, Inc		503	271-3628
OR	Winchester Bay	Winchester Bay		503	271-5733
PA	Eddystone	Penn Terminals		213	499-3000
PA	Erie	Codan Corp Erie Int'l Marine Term		814	453-6651
PA	Marcus Hook	BP Oil—Marcus Hook Refinery		215	499-7071
PA	Marcus Hook	Sun Refining & Marketing Co		215	447-5998
PA	Philadelphia	Atlantic Pipeline Corp., Fort Mifflin Terminal.		215	365-9110
PA	Philadelphia	C. Brewer Terminal, Inc		215	425-3707
PA	Philadelphia	Cimco Terminal, Pier 14-Richmond		215	627-7050
PA	Philadelphia	Conrail Coal Pier		215	755-3056
PA	Philadelphia	Conrail Ore Pier		215	755-3056
PA	Philadelphia	Girard Point Wharf		215	339-7351
PA	Philadelphia	Independent Pier Co		215	271-3221
PA	Philadelphia	Independent Pier Co		215	427-6895
PA	Philadelphia	Northern Shipping Company		215	331-7000
PA	Philadelphia	Norval Cement, Inc		215	463-5400
PA	Philadelphia	Pasha Auto Warehousing		215	339-1400
PA	Philadelphia	Swann Oil, Inc		215	492-8000
PA	Philadelphia	Tioga Container Terminal	Philadelphia/Pensauken	215	739-2009
PA	Philadelphia	Unitank Terminal Service		215	634-3031
PA	Tinicum	Hog Island Wharf		215	339-7351
RI	Narragansett	The Town Dock, Inc		401	789-2200
RI	Warren	Blount Seafood Corp		401	245-8800
SC	Charleston	BP Oil Co		803	722-3858
SC	Charleston	Columbus St. Terminal	Port of Charleston	803	577-8673
SC	Charleston	Exxon Company USA		803	723-4220
SC	Charleston	Union Pier Terminal	Port of Charleston	803	577-8771
SC	Georgetown	Port of Georgetown		803	527-4476
SC	Mt. Pleasant	Wando Terminal	Port of Charleston	803	577-8731
SC	North Charleston	Chem-Marine of South Carolina		803	554-5275
SC	North Charleston	Koch Refining Co		803	747-3711
SC	North Charleston	North Charleston Terminal	Port of Charleston	803	745-6529
SC	Port Royal	Battery Creek Seafood		803	524-4733
TX	Aransas Pass	Exxon Pipeline Co.'s Harbor Island Terminal.	Port of Corpus Christi Authority	512	289-4172
TX	Aransas Pass	Harbor Island Terminal	Port of Corpus Christi Authority	512	758-3571
TX	Aransas Pass	Padre Island Shrimp, Inc		512	758-3232
TX	Baytown	Exxon Company U.S.A		713	425-3996
TX	Beaumont	E.I. du Pont de Nemours Beaumont Works		409	727-9165
TX	Beaumont	Port of Beaumont	Port of Beaumont	409	835-5367
TX	Brownsville	Gulf Shrimp Processors, Inc		512	831-4059
TX	Channelview	Koch Refining, Inc		713	457-5530
TX	Corpus Christi	Amerada Hess Corp		512	884-4831
TX	Corpus Christi	Bay, Inc., Dock	Port of Corpus Christi Authority	512	289-6600
TX	Corpus Christi	Champlin Refining & Chemicals, Inc	Port of Corpus Christi Authority	512	887-3227
TX	Corpus Christi	Champlin Refining & Chemicals, Inc	Port of Corpus Christi Authority	512	887-3227
TX	Corpus Christi	Mobil Corpis Christi Terminal	Port of Corpus Christi Authority	512	882-8239
TX	Corpus Christi	Port of Corpus Christi Authority	Port of Corpus Christi Authority	512	882-5633
TX	Corpus Christi	Southwestern Refining Company, Inc	Port of Corpus Christi Authority	512	884-8863
TX	Corpus Christi	Texas Sunbelt Cement Company	Port of Corpus Christi Authority	512	883-6381
TX	Corpus Christi	Valero Refining Company	Port of Corpus Christi Authority	512	289-8000
TX	Deer Park	Intercontinental Terminals Co		713	479-6024
TX	Deer Park	Paktank Corporation-Deer Park		713	479-6051
TX	Deer Park	Shell Oil Company		713	476-6332 or 476-6251
TX	Engleside	Occidental Chemical Corporation	Port of Corpus Christi Authority	512	776-6015
TX	Freeport	Dow Chemical Company, Texas OPS		409	238-4111
TX	Freeport	S & H Shrimp Co		409	233-5285
TX	Freeport	Singleton Seafood Co	Singleton Seafood Co	409	239-1103
TX	Freeport	Singleton Seafood Company	Singleton Seafood Company	409	239-1103
TX	Freeport	Western Seafood Co		409	233-2624
TX	Fulton	Casterline Fish, Co. Inc		512	729-6124
TX	Galena Park	Amerada Hess Corp		713	453-6301

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
TX	Galena Park	Gatx Terminals		713	455-1231
TX	Galena Park	Paktank Corp-Galena Park		713	675-9171
TX	Galena Park	Warrengas Terminal		713	453-7173
TX	Galveston	Elders Grain, Inc. Elevator Pier 28/29	Port Galveston	409	763-1281
TX	Galveston	Galveston Wharves Piers 10/12, 14, 15, 16/18, 19/21, 23/26.	Port Galveston	409	766-6172
TX	Galveston	Imperial Sugar Company Pier 35	Port Galveston	409	763-6513
TX	Galveston	Liberty Marine Products		409	762-8861
TX	Galveston	Union Equity Elevator Pier 30/32	Port Galveston	409	763-6443
TX	Gregory	Reynolds Metals Company, Sherwin Plt	Port of Corpus Christi Authority	512	777-2389
TX	Houston	Bulk Materials Handling Plant	Port of Houston Authority	713	670-2563
TX	Houston	Bulk Materials Handling Plant (Inclu. Sea-Land Terminal.	Port of Houston Authority	713	470-1800
TX	Houston	Cargill Molasses		713	928-3348
TX	Houston	Crown Central Petroleum Corporation		713	920-3920
TX	Houston	Distribution & Auto Service		713	675-3147
TX	Houston	Houston Fuel Oil Terminal Co		713	452-3390
TX	Houston	Interstate Grain Corporation	Port of Corpus Christi Authority	512	289-5651
TX	Houston	Manchester Terminal		713	926-9331
TX	Houston	Merichem Company, Inc		713	455-1311
TX	Houston	Oiltanking Houston, Inc		713	457-7900
TX	Houston	Pacific Molasses Company		713	923-2736
TX	Houston	Turning Basin Terminal (Inclu. Pha Wharves 1-48 & M-1.	Port of Houston Authority	713	670-2674
TX	Ingleside	Sun Marine Terminals	Port of Corpus Christi Authority	512	776-7535
TX	Nederland	Sun Marine Terminal		409	727-2301
TX	Nederland	Unocal Beaumont Refinery		409	724-3204
TX	Orange	Alabama St Terminal	Port of Orange	409	883-5459
TX	Orange	Pier Road Terminal	Port of Orange	409	883-5459
TX	Palacios	Goldcoast Seafood		512	972-3713
TX	Palacios	M & M Seafood		512	972-3477
TX	Palacios	W & W Dock		512	972-5012
TX	Pasadena	Gatx Terminals Corporation		713	475-9235
TX	Pasadena	Georgia Gulf Corporation		713	920-4301
TX	Pasadena	Kerley Ag. Products		713	477-4400
TX	Port Arthur	Chevron USA Inc. Refinery Dock		409	985-1306
TX	Port Arthur	Fina Oil and Chemical Company		409	962-4421
TX	Port Arthur	Gulf Copper Docks		409	963-1691
TX	Port Arthur	Port of Port Arthur		409	983-2029
TX	Port Arthur	Sabine Towing & Transportation Co., Inc		409	962-0201
TX	Port Bolivar	Blumes Seafood, Inc		409	684-1060
TX	Port Bolivar	Mills Seafood Plant, Inc		409	684-8581
TX	Port Bolivar	Port Bolivar Fisheries, Inc		409	684-1241
TX	Port Isabel	Marine Service		512	943-2648
TX	Port Isabel	Port Isabel/San Benito Navigation District		512	943-7826
TX	Port Isabel	Texas Gulf Trawling Co., Inc		512	943-2672
TX	Port Isabel	Zimmerman Brothers, Inc		512	943-5481
TX	Port O'Conner	Clarks' Seafood		512	983-2233
TX	Rockport	Jackson Seafood Co., Inc		512	729-2201
TX	Sabine Pass	Marine Gold Seafood, Inc		409	971-2736
TX	Sabine Pass	Paul Piazza & Son of Texas		409	971-2797
TX	Seabrook	Baytank (Houston), Inc		713	474-4181
TX	Seabrook	Petrounited Terminals, Inc		713	474-4433
VA	Alexandria	Robinson Terminal Warehouse Corp		713	836-8300
VA	Cape Charles	Myers Clam Dock		804	331-1644
VA	Chesapeake	Mobil Oil Norfolk Terminal		804	545-4681
VA	Chesapeake	Bernuth Lembcke Co., Inc		804	543-6220
VA	Chesapeake	BP North America Petroleum		804	543-4444
VA	Chesapeake	Star Enterprise		804	543-4542
VA	Grafton	Amoco, Yorktown Refinery		804	898-9740
VA	Hampton	Waychese Fish Co		804	722-1433
VA	Hayes	York River Seafood Co., Inc		804	642-2151
VA	Hopewell	Allied Signal-Hopewell Plant		804	541-5000
VA	Lancaster	Barrack & Wilmer Seafood		804	462-5246
VA	Newport News	Dominion Terminal Associates		804	245-2275
VA	Newport News	Koch Fuels, Inc		804	244-8545
VA	Newport News	Newport News Shipbuilding		804	380-2581
VA	Norfolk	Distribution & Auto Service		804	440-2828
VA	Norfolk	Marine Hydraulics International, Inc		804	545-6400
VA	Norfolk	Norfolk Shipbuilding & Drydacking Corp		804	494-4551
VA	Portsmout	Sea-Land Service, Inc		804	393-4071
VA	Reedville	Zapata Haynie Corporation		804	453-4211
VA	Richmond	Koch Fuels Inc		804	230-9368
VA	Richmond	Port of Richmond, Virginia		804	275-9248
VA	Richmond	Woodfin Oil Company		804	355-8089
VA	Seaford	Seaford Scallop Co		804	8888-8512
VA	Virginia Beach	Standard Transpipe (Virginia) Inc		804	427-1066
VT	Burlington	Astroline Corporation		802	862-3338
WA	Aberdeen	Port of Grays Harbor	Port of Grays Harbor	206	533-9519
WA	Aberdeen	Westport Marina-Port of Grays Harbor	Port of Grays Harbor	206	533-9519

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
WA	Anacortes	Port of Anacortes-Pier I	Port of Anacortes	206	293-3134
WA	Anacortes	Port of Anacortes-Pier II	Port of Anacortes	206	293-3134
WA	Anacortes	Shell Oil Company		206	293-9122
WA	Bellingham	Bornstein Seafoods, Inc		206	734-7980
WA	Bellingham	Maritime Contractors, Inc		206	647-0080
WA	Bellingham	Whatcom International Shipping Terminal	Port of Bellingham	206	676-2500
WA	Blaine	Dakota Fisheries, Inc		206	332-4131
WA	Chinook	Chinook Packing Co		206	777-8272
WA	Edmonds	Unocal Corporation		206	774-2240
WA	Ferndale	Arco Products Company Cherry Point Refinery.		206	371-1200
WA	Ferndale	BP Oil Company		206	384-1011
WA	Ferndale	Intalco Aluminum Corporation		206	384-7251
WA	Gig Harbor	Puget Sound Herring Sales, Inc		206	858-2201
WA	Ilwaco	Ilwaco Fish Co		206	642-3773
WA	Ilwaco	Point Adams Packing Co		206	642-8300
WA	Kalama	Harvest States Cooperatives		206	673-2011
WA	Kalama	Peavey Company		206	573-9171
WA	Olympia	Port of Olympia		206	586-6160
WA	Pasco	Chevron USA, Pasco Terminal		509	547-1752
WA	Port Angeles	BP North America Petroleum, Inc		206	452-1433 or 452-1501
WA	Port Angeles	Port of Port Angeles	Port of Port Angeles	206	457-1909
WA	Port Angeles	Port of Port Angeles Marine Terminal	Port of Port Angeles	206	457-1909
WA	Port Townsend	Port Townsend Paper Mill Dock		206	385-3170
WA	Seattle	303 Wards Cove Packing		206	323-3200
WA	Seattle	Alaska Outport Transportation Asn.		206	632-7744 or 1-800-692-2682
WA	Seattle	Ash Grove Cement West Terminal		206	764-3075
WA	Seattle	Atlantic Richfield Co		206	623-4637
WA	Seattle	Chevron U.S.A., Inc		206	542-9722
WA	Seattle	Covich-Williams Co., Inc		206	784-0171
WA	Seattle	Distribution & Auto Service		206	283-6300
WA	Seattle	Fisherman's Terminal	Port of Seattle	206	728-3395
WA	Seattle	GATX Tank Storage Terminals Corp		206	622-0920
WA	Seattle	Lake Union Drydock C.		206	323-6400
WA	Seattle	Matson Terminals, Inc		206	461-9205
WA	Seattle	Pacific Molasses Co		206	622-4084
WA	Seattle	Pier 66	Port of Seattle	206	728-3380
WA	Seattle	Shell Oil Company		206	682-4706
WA	Seattle	Shilshole Bay Marina	Port of Seattle	206	728-3385
WA	Seattle	Terminal 18	Stevedoring Services of America	206	382-3810
WA	Seattle	Terminal 28	Port of Seattle	206	728-3380
WA	Seattle	Terminal 30		206	340-0100
WA	Seattle	Terminal 37	Stevedoring Services of America	206	382-8488
WA	Seattle	Terminal 42	Stevedoring Services of America	206	382-4556
WA	Seattle	Terminal 91	Port of Seattle	206	728-3380
WA	Seattle	Time Oil Company		206	285-2400
WA	Seattle	Wards Cove Packing 88		206	323-3200
WA	Seattle	Western Pioneer, Inc		206	789-1930
WA	Tacoma	Blair Waterway Terminal	Port of Tacoma	206	383-5841
WA	Tacoma	Continental Grain Company	Port of Tacoma	206	572-3511
WA	Tacoma	Domtar Gypsum	Port of Tacoma	206	627-2100
WA	Tacoma	Husky Terminal	Port of Tacoma	206	627-6963
WA	Tacoma	Pacific Northwest Terminals	Port of Tacoma	206	272-1187
WA	Tacoma	Pier 25 Industrial Yard	Port of Tacoma	206	383-5841
WA	Tacoma	Pierce County Terminal	Port of Tacoma	206	383-5841
WA	Tacoma	Superior Oil Company		206	383-3204
WA	Tacoma	Tacoma Terminals, Inc	Port of Tacoma	206	593-1402
WA	Tacoma	Terminal Four	Port of Tacoma	206	383-5841
WA	Tacoma	Terminal Four-B	Port of Tacoma	206	593-8750
WA	Tacoma	Terminal Seven	Port of Tacoma	206	383-5841
WA	Tacoma	Totem Ocean Trailer Express	Port of Tacoma	206	756-9208
WA	Tacoma	Unocal Corporation		206	272-3215
WA	Tacoma	Weyerhaeuser Company	Port of Tacoma	206	924-7199
WA	Tacoma	Weyerhaeuser Company-Tacoma Export Facility.		206	924-7921
WA	Vancouver	Cenex Petroleum Terminal	Port of Vancouver, USA	206	696-0901
WA	Vancouver	GATX Corporation	Port of Vancouver, USA	206	694-8591
WA	Vancouver	Marine Terminals Corporation	Port of Vancouver, USA	206	694-9544
WA	Vancouver	Port of Vancouver, USA	Port of Vancouver, USA	206	693-3611
WA	Vancouver	Tesoro Refining & Marketing Supply Co	Port of Vancouver, USA	206	696-2390
WA	Vancouver	United Grain Corporation	Port of Vancouver, USA	206	693-1521
WA	Westport	Point Adams Packing Company		206	268-9191
WA	Westport	Washington Crab Producers, Inc		206	268-9161
WI	Milwaukee	Bulk Terminal No. 1	Port of Milwaukee	414	278-3511
WI	Milwaukee	City Bulk Cargo Dock	Port of Milwaukee	414	278-3511
WI	Milwaukee	City Heavy Lift Dock-Meehan Seaway Service.	Port of Milwaukee	414	481-7000

TABLE III.—ANNEX V TO MARPOL 73/78 CERTIFICATES OF ADEQUACY, SEPTEMBER 24, 1990—Continued

State	City	Name of terminal	Port name	Area code	Phone no.
WI	Milwaukee	Construction Resources Mgmt, Inc	Port of Milwaukee	414	546-3246
WI	Milwaukee	Continental Grain Co.-Grain Elevator	Port of Milwaukee	414	482-1900
WI	Milwaukee	Erie Street Dock	Port of Milwaukee	414	476-9221
WI	Milwaukee	Gen. Cargo Terminal 2-Meehan Seaway	Port of Milwaukee	414	481-7000
WI	Milwaukee	General Cargo Terminal No. 3 & Reefer Bldg.	Port of Milwaukee	414	481-7000
WI	Milwaukee	General Cargo Terminal No. 4 & Annex Bldg.	Port of Milwaukee	414	481-7000
WI	Milwaukee	Grand Trunk Site	Port of Milwaukee	414	278-3511
WI	Milwaukee	Hansen Erie St. Terminal	Port of Milwaukee	414	476-9221
WI	Milwaukee	Hansen Water St. Terminal	Port of Milwaukee	414	271-2913
WI	Milwaukee	Liquid Cargo Pier (North & South Sides)	Port of Milwaukee	414	744-4976
WI	Milwaukee	Liquid Cargo Pier (S. Side)	Port of Milwaukee	219	937-4300
WI	Milwaukee	Miller Compressing Co.-Mooring Basin Dock.	Port of Milwaukee	414	671-5980
WI	Milwaukee	Miller Compressing-Water St. Dock	Port of Milwaukee	414	671-5980
WI	Milwaukee	Milwaukee Bulk Terminal, Inc.-Greenfield Ave Dock.	Port of Milwaukee	414	769-1901
WI	Milwaukee	Milwaukee Solvents & Chemical Co	Port of Milwaukee	414	252-3550
WI	Milwaukee	Municipal Mooring Basin (Lay-Up Berths)	Port of Milwaukee	414	278-3511
WI	Milwaukee	South Pier No. 1-Meehan Seaway	Port of Milwaukee	414	481-7000
WI	Milwaukee	South Pier No. 1 P.T.W. Inc	Port of Milwaukee	414	744-2320
WI	Superior	Amoco Oil Co	Port of Duluth/Superior	715	392-8294
WI	Superior	Burlington Northern Dock No. 1	Port of Duluth/Superior	715	398-6677
WI	Superior	Burlington Northern Dock No. 5	Port of Duluth/Superior	715	398-6677
WI	Superior	C. Reiss Coal Co	Port of Duluth/Superior	218	629-2371
WI	Superior	CLM Corp	Port of Duluth/Superior	218	722-3981
WI	Superior	Fraser Shipyards, Inc	Port of Duluth/Superior	715	394-7787
WI	Superior	Incan Superior Terminal	Port of Duluth/Superior	218	722-5853 or (715) 394-3050
WI	Superior	LaFarge Corporation Great Lakes Region	Port of Duluth/Superior	715	392-6284
WI	Superior	Marine Refueling c/o Koch Fuels, Inc	Port of Duluth/Superior	715	392-6175
WI	Superior	Meehan Seaway Service, Ltd	Port of Duluth/Superior	715	394-4468
WI	Superior	Peavey Grain Co.-Connors Point	Port of Duluth/Superior	715	392-4853
WI	Superior	Peavey Grain Co.-Globe Elevator	Port of Duluth/Superior	715	392-4853
WI	Superior	Superior Midwest Energy Terminal	Port of Duluth/Superior	715	392-8807

[FR Doc. 91-8152 Filed 4-9-91; 8:45 am]
BILLING CODE 4910-14-M

federal register

Wednesday
April 10, 1991

Part III

Department of the Interior

Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, Public Meeting; Notice

Department of the Interior

DEPARTMENT OF THE INTERIOR

Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, Public Meeting

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 101–512, the Office of the Assistant Secretary—Indian Affairs is announcing the forthcoming Oklahoma City, Oklahoma, meeting of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization (Task Force).

DATES, TIMES AND PLACE: April 23, 24, and 25, 1991; 9 a.m. to 5:30 p.m. daily; The Seasons Inn, 100 Waterwood Parkway, Edmond, Oklahoma. The meetings of the Task Force are open to the public.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization may be obtained by contacting Ms. Veronica Murdock, Designated Federal Officer, at (202) 208–4173.

AGENDA: The Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization will discuss the proposed structure and organizational principles developed by the Other Issues Work Group; the Bureau's budgetary process modifications proposed by the IPS Work Group; and the structure and organizational concepts developed by the Education Work Group. It will also discuss the initial draft and develop the final version of the status report to be presented to the Secretary of the Interior and the Congressional Appropriations Committees. Summary minutes of the meeting will be made available upon request from the contact person.

Dated: April 5, 1991.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–8411 Filed 4–9–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
April 10, 1991

Part IV

Department of Defense

Corps of Engineers, Department of the Army

33 Part 330

Proposal To Amend Nationwide Permit Program Regulations and Issue, Reissue and Modify Nationwide Permits; Hearing; Proposed Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 330

Proposal To Amend Nationwide Permit Program Regulations and Issue, Reissue, and Modify Nationwide Permits

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers proposes to amend its nationwide permit program regulations presently codified as 33 CFR part 330. The amendments are intended to simplify and clarify the nationwide permit program and to reduce the effort expended in regulating activities with minimal impacts.

The Corps also proposes to reissue the existing nationwide permits, to issue 13 new nationwide permits, and to add new conditions to all of the nationwide permits. The Corps is also proposing to modify some of the existing nationwide permits. The public is invited to provide comments on these proposals and is being given the opportunity to request a public hearing on the nationwide permits.

DATES: Comments must be received on or before June 10, 1991.

ADDRESSES: Comments should be submitted in writing to: The Chief of Engineers, U.S. Army Corps of Engineers, ATTN: CECW–OR, Washington, DC 20314–1000. Comments will be available for examination at the Office of the Chief of Engineers, room 6225, Pulaski Building, 20 Massachusetts Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. John Studt at (202) 272–1782.

SUPPLEMENTARY INFORMATION:

Substantive Changes

The Corps proposes to restructure the regulations governing the nationwide permit (NWP) program. These changes would allow the district engineer (DE) to assert a discretionary authority to modify, suspend, or revoke NWPs for individual activities; broaden the basis for asserting discretionary authority to include all public interest factors; provide that the DE require an individual permit whenever he determines an activity would have more than minimal adverse impact on the aquatic environment; and, modify the predischarge notification (PDN) process required by some NWPs.

The Corps also proposes to reissue the existing NWPs; to issue 13 new NWPs; to modify some of the existing NWPs; to convert the best management practices (BMPs) to permit conditions to increase their enforceability; and, to clarify recurring questions about the applicability of some of the NWPs to certain situations.

Why Revisions Are Being Proposed

The Corps is amending its NWP regulations to reduce the effort expended in regulating activities with minimal impacts and to simplify and clarify the NWP program. Simplifying and clarifying the regulations will provide for more effective and efficient administration of the NWP program and for a more knowledgeable public.

The proposed changes respond to complaints from our field staff and the public that the NWP program has become overly confusing and unduly burdensome. The PDN process for NWP 26, in particular, has become so burdensome as to essentially preclude the utility of that NWP in some areas. Some changes to the program, particularly eliminating the existing PDN process are relevant to the terms of the *National Wildlife Federation, et al.* v. *Marsh* consent agreement.

Part 330—General

We propose to rename part 330 from "Nationwide Permits" to "Nationwide Permit Program." This Part will contain policies for administration of the NWP program and the procedures the Corps must follow for issuing, modifying, suspending, or revoking NWPs and authorizations.

Section 330.1 Purpose and Policy: We propose to revise this section for greater clarity. We have also expanded the discussion of existing policy and added discussions concerning "Discretionary Authority," "Notifications," and "Individual Applications." We note in this section that the NWPs and conditions currently in effect, including the best management practices at 33 CFR 330.6, will remain in effect until they expire or are modified or revoked in accordance with applicable procedures.

Section 330.2 Definitions: In this section we define the terms "nationwide permit," "authorization," "isolated waters," "filled area," "currently serviceable," "single and complete project," "special aquatic sites," and "terms and conditions." We have modified the definition of discretionary authority to be consistent with the proposed change to discretionary authority at 33 CFR 330.4(e).

Section 330.3 Activities occurring before certain dates: We do not propose any substantive changes to this section. This section will continue to provide information on those activities permitted by NWPs issued on July 19, 1977.

Section 330.4 Conditions, Limitations and Restrictions: This section currently contains information on public notice procedures for NWPs. This information would be moved to Section 330.5 with other NWP procedures. Section 330.4 will now contain information on the conditions, limitations, and restrictions applying to NWPs. Much of this information is currently published at 33 CFR 330.8, 330.9, and 330.10.

Section 330.4(a): This paragraph provides a general introduction to section 330.4.

Section 330.4(b): This paragraph is currently located at 33 CFR 330.5(c). We have not proposed any substantive change to this paragraph.

Sections 330.4 (c) and (d): These paragraphs contain the information and procedures on state 401 water quality certifications and coastal zone management consistency determinations for the NWPs, now located at 33 CFR 330.9 and 330.10. We have reorganized these paragraphs to make them more understandable. We have deleted from the regulations the list of the NWP activities which require 401 water quality certification. This list appears with the discussion of the proposed NWPs later in this Preamble.

Section 330.4(e): This paragraph contains a discussion of the discretionary authority of division and district engineers. This subject is currently covered at 33 CFR 330.6. As part of the *National Wildlife Federation* v. *Marsh* consent agreement, discretionary authority is currently vested in the division engineer level. However, we are proposing to change it to the DE for specific activities because a recent survey of Corps district offices showed that division engineers have agreed with DE recommendations for discretionary authority about 95% of the time. Giving the DE discretionary authority to require individual permits would also provide for more timely decisions, since a major coordination step would be eliminated. Under the proposed rule, the DE would be authorized to assert discretionary authority over individual activities otherwise meeting the terms and conditions of a NWP. DEs would also have a discretionary authority to modify NWPs for specific activities by requiring special conditions on a case-by-case basis. Also, we would change the language to make it mandatory that DEs

require individual permits whenever they determine that the individual actions proposed to be covered by NWP would have more than minimal individual or cumulative adverse impacts on the aquatic environment. This would provide for more uniformity among districts. Discretionary authority to add conditions on a regional basis, for certain types of activities, for specific types of waters, or for specific geographic areas would remain with the division engineer. In addition we propose to increase the factors that the DE may consider with respect to his discretionary authority, now limited to only "concerns for the aquatic environment as expressed in the guidelines published by EPA pursuant to section 404(b)(1)," by adding all factors of the public interest.

Section 330.4(f): This paragraph outlines procedures to be followed when the DE determines that an activity meeting the terms of a NWP may affect an endangered or threatened species or their critical habitat as identified under the Endangered Species Act (ESA). Federal permittees will follow their own procedures to comply with the ESA. While the Federal permittee's procedures will normally satisfy the ESA, this does not remove the Corps responsibility to ensure that the Federal permittee's action also satisfies the Corps responsibilities under the ESA. This paragraph informs prospective permittees that they may contact the U.S. Fish and Wildlife Service or National Marine Fisheries Service for information concerning the presence of threatened or endangered species or their critical habitat.

Section 330.4(g): This paragraph outlines procedures to be followed when an activity meeting the terms of a NWP is identified as having the potential for adversely affecting historic properties listed or eligible for listing on the National Register of Historic Places. Federal permittees will follow their own procedures to comply with section 106 of the National Historic Preservation Act. While the Federal permittee's procedures will normally satisfy the NHPA, this does not remove the Corps responsibility to ensure that the Federal permittee's action also satisfies the Corps responsibilities under the NHPA.

Section 330.5: Issuing, Modifying, Suspending or Revoking Nationwide Permits and Authorizations: This section presently contains the NWPs and conditions. The NWPs and conditions are published separately in appendix A. We propose that section 330.5 contain the procedures the Chief of Engineers will follow when issuing, modifying, suspending, or revoking NWPs and the procedures division or district engineers will follow for asserting discretionary authority. These procedures reflect the change allowing DEs to exercise discretionary authority for specific projects. Applicable information previously at 33 CFR 330.4, 33 CFR 330.5(d), and 33 CFR 330.8, would be relocated to this section. The procedures DEs will follow incorporate the relevant portions of 33 CFR 325.7 regarding coordination with the permittee and due process provisions.

Section 330.6 Authorization by nationwide permit: This section presently contains the Best Management Practices associated with NWPs. The regulations for verification of NWPs, now located at 33 CFR 330.11, and expiration of NWPs, now located at 33 CFR 330.12, would be relocated to paragraphs 330.6 (a) and (b) respectively. We have made minor changes to remain consistent with other proposed changes.

Section 330.6(c): This paragraph clarifies that NWPs can be combined in cases where two or more activities of the same project each qualify for a NWP. For example, a project that includes both streambank stabilization and a minor road crossing could be authorized under NWPs 13 and 14, provided the terms and conditions of those authorizations are met. Similarly, a project occurring in headwaters that involves a minor road crossing fill and other filled areas of up to ten acres (not including the fill required for the road crossing), could be authorized by a combination of NWPs 14 and 26, provided the terms and conditions of those NWPs are met. As with any NWP authorization, the combined impacts of the activities must be minimal.

Section 330.6(d): This new paragraph clarifies that it may be appropriate, in some cases, to allow independent parts of a larger project to proceed under a NWP while the DE evaluates an application for an individual permit for the rest of the project. However, the portions meeting the terms and conditions of the NWPs must be able to function or meet their purpose without the portion requiring an individual permit. In cases where the NWP activity cannot function independently or meet its purpose without the total project, the NWPs do not apply and all portions of the project requiring a Department of the Army permit must be evaluated as an individual permit. This paragraph also provides that the individual permit documentation should discuss the environmental impacts of the entire project, including portions authorized by the individual permit and NWPs.

Appendix A—Nationwide Permits and Conditions: We propose to move the optional nationwide permits and conditions from 33 CFR 330.5(a) and (b) to a new Appendix A. We also propose to reissue the 26 existing nationwide permits, some with modifications, and to issue 13 new nationwide permits. In addition, we propose to add the existing best management practices now found at 33 CFR 330.6 as conditions to the nationwide permits and to add two new conditions.

Nationwide permits (NWPs) are a type of general permit issued by the Chief of Engineers and designed to regulate certain activities having minimal impacts, in a manner entailing little, if any, delay or paperwork. If the project does not comply with the terms and conditions of the NWP and can not be or is not modified to comply with the terms and conditions of the NWP, then the proposed project is not authorized by NWP but may be evaluated for authorization under a regional general or individual permit. These nationwide permits are proposed, issued, modified, reissued (extended) and revoked from time to time by publication in the **Federal Register**. Proposed new NWPs or modification to or reissuance of existing NWPs will be adopted only after public comment, the opportunity to request a public hearing, and a finding of compliance with applicable standards. The Corps will give full consideration to all comments received prior to reaching a final decision.

We propose, upon the expiration of the NWPs in five years from their effective date, to remove appendix A from the CFR and issue the NWPs separately from the regulations governing their use. In this way, issuance of the NWPs will follow procedures similar to those for individual and regional general permits. The proposed issuance, reissuance, modification, and revocation of NWPs would be published in the **Federal Register** concurrent with regional public notices issued by district engineers, to solicit comments and to provide the opportunity to request a public hearing. All comments would be included in the administrative record, and substantive comments addressed in a decision document for each NWP. The final decisions on the NWPs will be announced by publication in the **Federal Register** concurrent with regional public notices issued by district engineers.

All the changes taken together should result in an overall increase in protection of the aquatic environment

and an overall decrease in workload. Any workload savings will be devoted to more efficient individual permit processing and increased enforcement and compliance activities.

The *National Wildlife Federation, et al.* v. *Marsh* settlement agreement resulted in the establishment of a predischarge notification (PDN) process for NWP 26 and instituted activity specific decisions that the impacts associated with NWPs 7, 17, and 21 will be minimal. The PDN process and the activity specific decisions were intended to provide a safeguard against discharges that could result in more than minimal adverse impacts on the aquatic environment. The PDN process established the basic information that must be submitted, the DE's review and coordination with Federal and state resource agencies, and the division engineer's review and decision regarding applicability of the NWP, all to be accomplished in 20 calendar days. If the DE did not act within the 20 days, the discharge was automatically authorized by NWP 26. Complaints from the public and the Corps field offices indicate that this PDN process has become so burdensome as to essentially preclude the utility of the NWP in some parts of the country. The PDN process is also unnecessarily taking Corps resources away from more essential work efforts. Therefore, the Corps proposes to replace the existing PDN process with a notification to the DE and a 30 day review period prior to discharge. This change would replace the required coordination with Federal and state resource agencies with an internal review by the DE. During this review the DE will evaluate the proposed action to determine if it has minimal individual and cumulative adverse impacts on aquatic resources. Proposals that have more than minimal adverse impacts will not be authorized by the NWP unless the prospective permittee elects to propose mitigation so that the impacts would be minimal. The proposed changes would also lower the decision level regarding applicability of the NWPs 7, 17, 21, and 26 from the division engineer to the DE. The district is the most knowledgeable office concerning the aquatic resources in the district and the impacts that would result from discharges under the NWPs.

We propose to transfer the discretionary authority from the division engineer to the DE for case specific activities. The division engineer would retain the discretionary authority for adding regional conditions or requiring individual permits for a class of activities or a geographic area. In addition, we are expanding the basis for asserting discretionary authority from concerns for the aquatic environment based on the section 404(b)(1) Guidelines to factors of the public interest. Presently, in over half of the states, division engineers have added regional conditions or required individual permits for classes of activities or a geographic area, including a statewide basis. These are based on local concerns which differ across the country. We expect that, based on experience gained since the NWPs were issued in 1986, there will be an increase in regional conditions to reflect local concerns. We believe that these changes to the discretionary authority will make it easier for division and district engineers to exercise discretionary authority to enhance environmental protection without increasing the regulatory burden on the public or on limited Corps regulatory resources.

The requirement for a predischarge notification (PDN) would be added to several NWPs where we feel there may be a potential for some activities authorized by the NWP to have more than minimal adverse impacts on the aquatic environment or aspects of the public interest. The PDN will allow the DE to review the proposed activity to ensure that the activity will not have more than minimal adverse impacts and that it will comply with the terms and conditions of the NWP. If an activity will have more than minimal adverse impacts the DE will either add case specific conditions so that the impacts will be minimal or instruct the prospective permittee that the activity is not authorized by NWP and provide information on the procedures to seek authorization under regional general or individual permit. In some cases the permittee must submit a delineation of special aquatic sites. In addition, the prospective permittee may submit a mitigation or restoration plan. In such cases, the DE will determine if the proposed mitigation or restoration plan is acceptable or if additional mitigation or other measures would be necessary so that impacts would be minimal.

Mitigation Options

The activities authorized by nationwide permits must have minimal impact both individually and cumulatively. The terms and conditions of the NWPs are imposed to help ensure that the impacts are minimal. In addition, district and division engineers can impose additional conditions, including mitigation, to ensure that activities authorized by NWPs have minimal impacts. The Council on Environmental Quality has defined mitigation in its regulations at 40 CFR 1508.20 to include avoiding impacts, minimizing impacts, rectifying impacts, reducing impacts over time, and compensating for impacts. In appropriate cases, mitigation banking or contributions to a wetland trust fund may be an acceptable form of mitigation. Currently, DEs are not required to add mitigation. If they do not and the impacts are more than minimal, then an individual permit must be obtained. The Corps is proposing to retain this current approach to mitigation; however it is requesting comment on adding a requirement that DEs require mitigation of losses of special aquatic sites for those NWPs which have the most potential for more than minimal losses of special aquatic sites. The Corps is considering 2 options and is requesting public comment on these options.

Option 1

For NWPs 14, 15, 17, 18, 21, 23, 38, and 39 a predischarge notification would be required for discharges of dredged or fill material that cause the loss of special aquatic sites, including wetlands, and for NWP 26 discharges that cause the loss of 1 to 10 acres of water of the United States. The predischarge notification must include the applicant's proposed mitigation. The DE would determine the level of mitigation and require that level of mitigation up to a limit of the lost functional ecological value based on what is appropriate and practicable. The DE would allow the activity to proceed if all appropriate & practicable mitigation is agreed to unless the DE determines that after considering the mitigation, the impacts remain more than minimal or the DE exercises discretionary authority for some other reason.

Option 2

This option would also include for NWPs 14, 15, 17, 18, 21, 23, 38, and 39 a predischarge notification that would be required for discharges of dredged or fill material that cause the loss of special aquatic sites and for NWP 26 discharges that cause the loss of 1 to 10 acres of a water of the United States. The DE would review the predischarge notification and determine whether the impacts are minimal and whether the permittee may proceed under the nationwide permit. When the impacts are more than minimal the prospective permittee must either submit a mitigation plan or an individual permit application. The prospective permittee may, at his/her option, submit a proposed mitigation plan with the

predischarge notification to expedite the process. The DE would allow the activity to proceed under the relevant NWP when the mitigation reduces the impacts to the minimal impact level, unless the DE exercises discretionary authority for some other reason.

Several of the proposed new NWPs such as the proposed NWP for boat launching ramps, are for activities that many districts have already authorized by regional general permits (GPs), and are, therefore, good candidates for NWPs due to their broad geographic applicability and minimal impacts. We have defined the terms of these NWPs to reflect those of the regional GPs as much as possible without overly restricting their utility.

The NWPs at 33 CFR 330.5 (a)(7), (15), (17), and (21) cover activities that are adequately regulated by other federal regulatory programs that place constraints on these activities that should have the effect of minimizing adverse impacts on the aquatic environment. These NWPs will require the permittee to notify the DE 30 days prior to discharge. The notification requirement, the DE's discretionary authority, and the requirement that the DE not authorize activities by NWP when he determines that a specific activity would have more than minimal adverse impacts on the aquatic environment will ensure that activities authorized under the NWPs would not have more than minimal adverse individual or cumulative impacts. Paragraph 101(f) of the Clean Water Act states, "It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government."

The NWPs are proposed under the authority of section 10 of the Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection, Research, and Sanctuaries Act. Relevant authorities are enclosed in parentheses after each NWP. Issuance of the NWPs is in accordance with the procedures in 33 CFR part 330.

To qualify for NWP authorization, the activities must meet the terms and conditions of the NWPs. DEs have the authority to determine if an activity complies with the terms and conditions of a NWP. In addition, NWPs do not obviate the need to obtain other Federal, state or local authorizations required by law; NWPs do not grant any property rights or exclusive privileges; NWPs do not authorize any injury to the property or rights of others; and, NWPs do not authorize interference with any existing or proposed Federal project. Furthermore, NWPs do not authorize discharges that EPA has prohibited or restricted under section 404(c) of the Clean Water Act; nor for activities that are integrally related to a project, portions of which require an individual permit (See proposed 33 CFR 330.6(d)); nor for activities for which the DE has denied a permit.

Discretionary Authority

Concurrent with this **Federal Register** notice district engineers are issuing local public notices. In addition to the NWP conditions being proposed by the Chief of Engineers, the division and district engineers may propose regional conditions or propose revocation of NWP authorization for some of or portions of the NWPs. Regional conditions may also be required by state section 401 water quality certification or for state coastal zone consistency. Comments on this **Federal Register** notice should address national concerns and the NWPs themselves. Comments on regional issues and regional conditions should be sent to the appropriate district engineer as indicated below.

Alabama

Mobile District Engineer, ATTN: CESAM–OP–S, P.O. Box 2288, Mobile, AL 36628–0001.

Alaska

Alaska District Engineer, ATTN: CENPA–CO–R, P.O. Box 898, Anchorage, AK 99506–0898.

Arizona

Los Angeles District Engineer, ATTN: CESPL–CO–R, P.O. Box 2711, Los Angeles, CA 90053–2325.

Arkansas

Little Rock District Engineer, ATTN: CESWL–CO–P, P.O. Box 867, Little Rock, AR 72203–0867.

California

Sacramento District Engineer, ATTN: CESPK–CO–O, 650 Capitol Mall, Sacramento, CA 95814–4794.

Colorado

Albuquerque District Engineer, ATTN: CESWA–CO–R, P.O. Box 1580, Albuquerque, NM 87103–1580.

Connecticut

New England Division Engineer, ATTN: CENED–OD–R, 424 Trappelo Road, Waltham, MA 02254–9149.

Delaware

Philadelphia District Engineer, ATTN: CENAP–OP–R, U.S. Custom House, 2nd and Chestnut Street, Philadelphia, PA 19106–2991.

Florida

Jacksonville District Engineer, ATTN: CESAJ–RD, P.O. Box 4970, Jacksonville, FL 32232–0019.

Georgia

Savannah District Engineer, ATTN: CESAS–OP–F, P.O. Box 889, Savannah, GA 31402–0889.

Hawaii

Honolulu District Engineer, ATTN: CEPDO–CO–O, Building 230 Fort Shafter, Honolulu, HI 96858–5440.

Idaho

Walla Walla District Engineer, ATTN: CENPW–OP–RF, Building 602, City-County Airport, Walla Walla, WA 99362–9265.

Illinois

Rock Island District Engineer, ATTN: CENCR–OD–S, Clock Tower Building, Rock Island, IL 61201–2004.

Indiana

Louisville District Engineer, ATTN: CEORL–OR–F, P.O. Box 59, Louisville, KY 40201–0059.

Iowa

Rock Island District Engineer, ATTN: CENCR–OD–S, Clock Tower Building, Rock Island, IL 61201–2004.

Kansas

Kansas City District Engineer, ATTN: CEMRK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896.

Kentucky

Louisville District Engineer, ATTN: CEORL–OR–F, P.O. Box 59, Louisville, KY 40201–0059.

Louisiana

New Orleans District Engineer, ATTN: CELMN–OD–S, P.O. Box 60267, New Orleans, LA 70160–0267.

Maine

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149.

Maryland

Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715.

Massachusetts

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149.

Michigan

Detroit District Engineer, ATTN: CENCE–CO–L, P.O. Box 1027, Detroit, MI 48231–1027.

Minnesota

St. Paul District Engineer, ATTN: CENCS–CO–R, 1421 USPO & Custom House, St. Paul, MN 55101–9806.

Mississippi

Vicksburg District Engineer, ATTN: CELMK–OD–F, P.O. Box 60, Vicksburg, MS 39180–0060.

Missouri

Kansas City District Engineer, ATTN: CEMRK–OD–P, 700 Federal Building, 601 E. 12th Street, Kansas City, MO 64106–2896.

Montana

Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 68101–0005.

Nebraska

Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 68101–0005.

Nevada

Sacramento District Engineer, ATTN: CESPK–CO–O, 650 Capitol Mall, Sacramento, CA 95814–4794.

New Hampshire

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149.

New Jersey

Philadelphia District Engineer, ATTN: CENAP–OP–R, U.S. Custom House, 2nd and Chestnut Street, Philadelphia, PA 19106–2991.

New Mexico

Albuquerque District Engineer, ATTN: CESWA–CO–R, P.O. Box 1580, Albuquerque, NM 87103–1580.

New York

New York District Engineer, ATTN: CENAN–OP–R, 26 Federal Plaza, New York, NY 10278–0090.

North Carolina

Wilmington District Engineer, ATTN: CESAW–CO–E, P.O. Box 1890, Wilmington, NC 28402–1890.

North Dakota

Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 68101–0005.

Ohio

Huntington District Engineer, ATTN: CEORH–OR–F, 502 8th Street, Huntington, WV 25701–2070.

Oklahoma

Tulsa District Engineer, ATTN: CESWT–OD–RF, P.O. Box 61, Tulsa, OK 74121–0061.

Oregon

Portland District Engineer, ATTN: CENPP–PL–R, P.O. Box 2946, Portland, OR 97208–2946.

Pennsylvania

Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715.

Rhode Island

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149.

South Carolina

Charleston District Engineer, ATTN: CESAC–CO–P, P.O. Box 919, Charleston, SC 29402–0919.

South Dakota

Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 86101–0005.

Tennessee

Nashville District Engineer, ATTN: CEORN–OR–F, P.O. Box 1070, Nashville, TN 37202–1070.

Texas

Ft. Worth District Engineer, ATTN: CESWF–OD–O, P.O. Box 17300, Ft. Worth, TX 76102–0300.

Utah

Sacramento District Engineer, ATTN: CESPK–CO–O, 650 Capitol Mall, Sacramento, CA 95814–4794.

Vermont

New England Division Engineer, ATTN: CENED–OD–R, 424 Trapelo Road, Waltham, MA 02254–9149.

Virginia

Norfolk District Engineer, ATTN: CENAO–OP–P, 803 Front Street, Norfolk, VA 23510–1096

Washington

Seattle District Engineer, ATTN: CENPS–OP–RG, P.O. Box C–3755, Seattle, WA 98124–2255.

West Virginia

Huntington District Engineer, ATTN: CEORH–OR–F, 502 8th Street, Huntington, WV 25701–2070.

Wisconsin

St. Paul District Engineer, ATTN: CENCS–CO–R, 1421 USPO & Custom House, St. Paul, MN 55101–9806.

Wyoming

Omaha District Engineer, ATTN: CEMRO–OP–R, P.O. Box 5, Omaha, NE 68101–0005.

District of Columbia

Baltimore District Engineer, ATTN: CENAB–OP–R, P.O. Box 1715, Baltimore, MD 21203–1715.

Pacific Territories

Honolulu District Engineer, ATTN: CEPOD–CO–O, Building 230, Fort Shafter, Honolulu, HI 96858–5440.

Puerto Rico & Virgin IS

Jacksonville District Engineer, ATTN: CESAJ–RD, P.O. Box 4970, Jacksonville, FL 32232–0019.

State Certification of Nationwide Permits

State water quality certification pursuant to section 401 of the Clean Water Act, or waiver thereof, is required for activities authorized by NWPs which may result in a discharge into waters of the United States. Any state with an approved Coastal Zone Management Plan must concur with the Corps determination that activities authorized by NWPs which are within, or may affect land or water uses in, the state's coastal zone are consistent with the state Coastal Zone Management Plan.

The Corps believes that, in general, the activities authorized by the NWPs will not violate state water quality standards and will be consistent with state Coastal Zone Management Plans. The NWPs are conditioned to ensure that adverse environmental impacts will be minimal and are the types of activities that would be routinely authorized by individual permits. The Corps recognizes that in some states there will be a need to add regional conditions or individual state review for some activities to ensure compliance with state water quality standards or consistency with state Coastal Zone Management Plans. The Corps will work

with the states to develop such conditions when necessary.

This Federal Register notice of these proposed changes serves as the Corps application to the states for 401 water quality certifications and the Corps determination of coastal zone management consistency, where applicable. In some states it may be necessary to add regional conditions to address state water quality standards or to be consistent with state Coastal Zone Plans. The states should consider issuance, denial or waiver of certification of NWPs (new and existing) under section 401 of the Clean Water Act and consider agreeing or disagreeing with our Coastal Zone Management consistency determination under section 307 of the Coastal Zone Management Act (CZMA). Prior to publishing the final NWPs in the Federal Register, the Corps will, by letter to the appropriate state agencies, request that each state submit its final position on the 401 water quality certification and CZMA consistency for each of the NWPs. Each state will be given a minimum of 60 days to submit its positions. If a state fails to provide any response to our letter we will presume a waiver of the 401 water quality certification or presume that the state agrees with the Corps consistency determination. We have added a statement to the regulations clarifying that Federal agencies should follow their own procedures for complying with the CZMA.

Section 401 water quality certification requirements fall into the following general categories:

NWPs numbered 1, 2, 8, 9, 10, 11, 19, 24, 28, 31, and 35, do not require 401 water quality certification since they would authorize activities which, in the opinion of the Corps, could not reasonably be expected to result in a discharge and in the case of NWP 8 is seaward of the territorial seas.

NWPs numbered 3, 4, 5, 6, 7, 13, 14, 18, 20, 21, 22, 23, 27, 30, 32, 33, 36, 37, and 38, involve various activities, some of which may result in a discharge and require 401 water quality certification, and others of which do not. State denial of 401 water quality certification for any specific NWP in this category affects only those activities which may result in a discharge. For those activities not involving discharges, the NWP remains in effect.

NWPs numbered 12, 15, 16, 17, 25, 26, 34, 39, and 40 involve activities which would result in discharges and therefore 401 water quality certification is required.

The Corps CZMA consistency determination only applies to NWP authorizations for activities that are within, or affect land or water uses in, a state's coastal zone. NWP authorizations for activities that are not within or would not affect a state's coastal zone are not contingent on such state's agreement or disagreement with the Corps consistency determinations.

If the state denies a 401 water quality certification for certain activities within that state, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must first obtain a project specific 401 water quality certification or waiver thereof from the state before proceeding under the nationwide permit. See proposed 33 CFR 330.4(c). If a state disagrees with the Corps CZMA consistency determination for certain activities, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must present a consistency determination to the appropriate state agency. Upon concurrence by the state the activity would be authorized by the nationwide permit. See proposed 33 CFR 330.4(d).

Discussion of Proposed Nationwide Permits

The following is a discussion of our reasons for changing existing NWPs or proposing new NWPs. If an existing NWP is not listed, we are not proposing to change it.

(3) *Maintenance:* (now 33 CFR 330.5(a)(3)) We propose to reword this NWP to clarify that currently serviceable fills or structures recently (within the past two years) destroyed by storms, fire or other such events, qualify. This NWP also allows upgrading the structure or fill to current safety standards, providing there was no substantial change (i.e., no change that would result in more than minimal impacts) in the adverse environmental impacts of the stucture or fill on waters of the United States.

(4) *Fish and Wildlife Harvesting, Enhancement and Attraction Devices:* (now 33 CFR 330.5(a)(4)) We propose to modify this NWP to include small fish attraction devices (not artificial reefs). We are seeking comments on whether small aquaculture activities should be added to this NWP; and if so, how to define those small aquaculture activities that have minimal impacts.

(5) *Scientific Measurement Devices:* (now 33 CFR 330.5(a)(5)). We propose to include in this NWP discharges associated with construction of small weirs and flumes to record water quality and velocity.

(6) *Survey Activities:* (now 33 CFR 330.5(a)(6)) We propose to alert potential users of this NWP that authorization may also be required under section 402 of the Clean Water Act for the discharge of drilling muds and cuttings. We also propose to clarify that neither the discharge from test wells nor any road fills or pads are authorized by this NWP.

(7) *Outfall Structures:* (now 33 CFR 330.5(a)(7)) We propose to clarify that a specific exemption under the National Pollutant Discharge Elimination System (NPDES) would be sufficient to satisfy the requirements of the NWP for outfall structures. The Water Quality Act of 1987 exempts stormwater outfalls from the requirement to obtain a permit under the NPDES on a temporary basis. We also propose to clarify that, where the permitting authority (the Environmental Protection Agency or the state) requires certification to be based on a test of the actual effluent discharging from the plant after construction, the NWP can still apply.

(8) *Oil and Gas Structures:* (now 33 CFR 330.5(a)(8)) We propose to restrict this NWP by not allowing its use in established danger zones or EPA or Corps designated dredged material disposal areas.

(11) *Temporary Recreational Structures:* (now 33 CFR 330.5(a)(11)) We propose to expand this NWP to cover small, temporary floating docks, etc.

(12) *Utility Line Backfill and Bedding:* (now 33 CFR 330.5(a)(12)) We propose to clarify that this NWP does not apply to tile or similar drainage works (although it does apply to pipes conveying drainage collected from another area) and that material resulting from trench excavation can be temporarily sidecast into waters of the United States, provided there is little or no flow to disperse the excavated material. We also propose that all exposed slopes and streambanks must be stabilized immediately on completion of the utility line. We have received frequent questions from the Corps district offices about whether this NWP is restricted to crossing-type situations, as in NWP 14. There is nothing in the language of the NWP to restrict use of this NWP to crossings, nor was there any intention to do so. Control of adverse impacts on the aquatic environment is through the requirement to restore the area to its preconstruction contours, and the other NWP conditions. We also propose that in wetlands the top 6" to 12" of the trench should generally be backfilled with topsoil from the trench. This NWP does not authorize temporary construction or access which may be authorized by NWP 33.

(13) *Bank Stabilization:* (now 33 CFR 330.5(a)(13)) We propose to clarify that the limit of one cubic yard per running foot should be computed below the plane of ordinary high water; that no material could be used in a manner that would be eroded by normal or expected high flows; and that properly anchored trees and treetops may be used in low energy areas. The NWP would allow bank stabilization activities greater than 500 linear feet and greater than 1 cubic yard per running foot provided that the permittee notifies the DE 30 days in advance and the DE determines that the impacts are minimal and that the bank stabilization is necessary.

(14) *Minor Road Crossing:* (now 33 CFR 330.5(a)(14)) We propose to clarify this NWP by reorganizing its terms. We also propose to authorize the crossing (or skirting) of wetlands, ponds, lakes, or any water of the United States, even where there is no flowing waterbody. The original basis for requiring the presence of a flowing waterbody (i.e., the ordinary high water line) was to ensure that there was a genuine need for a crossing, and that the permittee could not just as easily avoid the wetland and use upand portions of his property. However, there are many situations where there may be no stream or river, such as in the case of long, linear wetlands, where the landowner may have a legitimate need to cross a wetland in order to reach upland. The proposed "Minimization" condition should ensure that this NWP is used only where necessary. We also propose to eliminate the maximum volume (200 cubic yards below the plane of OHW) limits and change the maximum linear limits in wetlands to a cumulative total of 200 feet in wetlands. We propose to add a restriction that the filled area in waters of the United States cannot exceed ⅓ acre. This should better control the extent of individual and cumulative impacts resulting from this NWP. We also propose to add a condition that for discharges in special aquatic sites, including wetlands, the permittee notify the DE 30 days prior to doing the work. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

(15) *U.S. Coast Guard Approved Bridges:* (now 33 CFR 330.5(a)(15)) We propose to expand this NWP to include approach fills that are reviewed and approved by the Coast Guard as part of their permit provided the DE is notified 30 days prior to doing the work. The Coast Guard provides the Federal resource agencies opportunity to comment, is bound by the Executive Orders on Floodplains (11988) and Wetlands (11990), and must comply with all relevant environmental laws, such as the Clean Water Act, Fish and Wildlife Coordination Act (FWCA), the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA). The requirement to notify the DE would give him an opportunity to review the proposal and assert discretionary authority. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

(17) *Hydropower Projects:* (now 33 CFR 330.5(a)(17)) We propose to expand this NWP to cover all Federal Energy Regulatory Commission (FERC) licensed hydropower projects, but would require notification to the DE 30 days prior to undertaking the activity unless FERC had granted an exemption from licensing pursuant to section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and section 30 of the Federal Power Act, as amended. As stated above, Congress made clear its intention that duplication of Federal effort be minimized. Upon review of the notification the DE shall assert discretionary authority over any activity having more than minimal adverse impacts on the aquatic environment or otherwise may be contrary to the public interest. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal. In addition, the U.S. Fish and Wildlife Service consults with FERC and recommends measures to minimize adverse impacts on fish and wildlife resources from these projects as part of their responsibilities under the Fish and Wildlife Coordination Act. EPA reviews and comments on those projects significant enough to require an environmental impact statement as part of their responsibilities under section 309 of the Clean Air Act. These agencies would also provide an alert to the DE for any proposal that would cause more than minimal adverse impacts on the aquatic environment.

(18) *Minor Discharges:* (now 33 CFR 330.5(a)(18)) We propose to modify this NWP to allow minor discharges from 10 to 25 cubic yards and minor discharges into special aquatic sites, including wetlands, provided the permittee notifies the DE 30 days prior to doing the work and the DE determines that the adverse impacts are minimal. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal. The NWP would also restrict minor discharges to 1/10 acre or less.

(19) *20 Cubic Yard Dredging:* (now 33 CFR 330.5(a)(19)) At the suggestion of the Corps district offices, we propose to expand this NWP to cover small spot dredging activities for removal of up to 20 cubic yards of material. This would increase the utility of the NWP greatly but still confine it to covering only activities with minimal individual and cumulative impacts. This NWP is meant to apply to all navigable waters of the United States.

(20) *Oil Spill Cleanup:* (now 33 CFR 330.5(a)(20)) We propose to modify this NWP to only require concurrence of the Regional Response Teams where these teams exist, but continue to require the work be done in accordance with the Spill Control and Countermeasure (SPCC) Plan. Such teams are not available in all areas of the country.

(21) *Surface Mining Activities:* (now 33 CFR 330.5(a)(21)) We propose to modify this NWP by changing the notification process as discussed above. We believe the Department of the Interior's Surface Mining Control and Reclamation Act (SMCRA) program requirements adequately address environmental concerns without duplicating coordination with other agencies through the existing PDN process. According to a study conducted by the Smithsonian Institution, the SMCRA program requirements, which are administered by the Department of the Interior's Office of Surface Mining, should effect similar protections for aquatic resources as the section 404 program requirements. The SMCRA program sets up requirements for use of "best technology currently available" to minimize adverse impacts to fish and wildlife resources, water quality, etc. Wetlands and riparian vegetation are specifically designated in SMCRA regulations as resources for which protection is required. Wetlands are defined as in the Corps regulations. SMCRA regulations also single out habitats of unusually high value for fish and wildlife, including certain "locally important habitats even though they may not be critical habitats of any threatened or endangered species." Such areas would likely include habitats similarly evaluated as "special aquatic sites" under 40 CFR part 230. (See Discussion of Comments and Rules Adopted, 30 CFR parts 816 and 817.) DOI and SMCRA permittees are similarly

bound to consider impacts on historic properties by section 106 of the National Historic Preservation Act; consult on endangered species under the ESA; and coordinate with the U.S. Fish and Wildlife Service under the FWCA, which will provide for the identification and protection of important resources. However, the 30-day notification would ensure that the DE has the opportunity to assert discretionary authority, if necessary. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

(22) *Removal of Vessels:* (now 33 CFR 330.5(a)(22)) We propose to modify this NWP to require compliance with the National Historic Preservation Act pursuant to 33 CFR 330.4(h) for vessels listed or eligible for listing on the National Register of Historic Places.

(23) *Approved Categorical Exclusions:* (now 33 CFR 330.5(a)(23)) We propose to clarify that the Chief of Engineers may require special conditions for authorization of another Federal agency's categorical exclusions under this NWP. A 30-day predischarge notification is being added for discharges in special aquatic sites, including wetlands. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

(25) *Structural Discharges:* (now 33 CFR 330.5(a)(25)) We propose to expand this NWP to include the discharge of sand, rock, or other clean materials into tightly sealed forms or cells to be used as a structural member for certain types of projects. We also propose to clarify that this NWP cannot be used to authorize construction of house or other building pads nor for structural members that would support buildings, homes, parking areas, storage areas and other such structures.

(26) *Headwaters and Isolated Waters Discharges:* (now 33 CFR 330.5(a)(26)) The predischarge notification (PDN) process and the requirement to make an immediate determination of what constitutes a "loss or substantial adverse modification" has made use of this permit so complicated that it has defeated the purpose of the NWP program; that is, to reduce regulatory delays and burdens on the public, to place greater reliance on state and local controls, and to free our limited resources for more effective regulation of other activities with greater potential to adversely impact the aquatic environment. Therefore, we propose to drop the 20-day PDN process currently required on this NWP and replace it with a simple 30-day PDN. Furthermore, we propose to modify the acreage measured from the "loss or substantial adverse modification" to the filled area plus flooded and drained areas. These changes should reduce public confusion and make administration of this NWP simpler by making the determination of its general applicability clear-cut, while ensuring that large fills in these waters are not authorized by this NWP.

The Corps is considering changing the acreage limits of NWP 26. Presently, discharges of dredged or fill material that cause the loss or substantial adverse modification of 1 to 10 acres of waters of the United States require a predischarge notification. Activities that affect less than one acre may proceed without notifying the Corps. The Corps is proposing 3 options for the acreage limits that would define when a predischarge notification must be submitted and is requesting comments on these options. These options are:

Option 1: 1 to 10 acres.

Option 2: 1 to 5 acres.

Option 3: ½ to 5 acres.

There are other acreage limits that could be adopted and the Corps would like comments on those as well. Furthermore, division engineers will be considering adding regional conditions or requiring individual permits in certain locations. If you have comments regarding these limits on a local or regional basis, they should be submitted directly to the district engineer in the appropriate State. In developing comments on these options for NWP 26, the options for requiring mitigation should be carefully studied. For example, mitigation Option 1 or 2 would ensure that losses of special aquatic sites, including wetlands, should be minimized and compensated where appropriate and practicable. With a requirement for mitigation, the option of leaving the acreage limit at 1 to 10 would reduce uncompensated wetland loss.

The term "filled area" refers to the area of waters of the United States actually covered by fill, rather than the area of "substantial adverse modification," in order to simplify administration of this permit. However, by including in the acreage measurement waters of the United States that are flooded or drained, most projects that would cause a "substantial adverse modification" would no longer qualify for the NWP. The notification requirement would ensure that the DE has the opportunity to consider such indirect impacts from the discharge. If the combined effect of direct and such indirect adverse impacts would cause more than minimal adverse impacts, the DE shall assert discretionary authority and not allow authorization under the NWP unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

We are aware that authorizing even one acre of fill can cause more than minimal adverse individual or cumulative impacts to certain types of wetlands or other aquatic resources, or to overall aquatic resources in certain parts of the country, especially where state or local programs do not exist or provide insufficient protection. Therefore, when division and district engineers determine that such cases exist, they will assert discretionary authority to require regional conditions or revoke the NWP authorization for activities in such areas. We believe the division and district engineers are more familiar with the wetlands and other aquatic resources in their area and can best determine which of these should be subject to individual permit evaluations or regional conditions. On the other hand, we are encouraging districts that have wetland types of low value, where greater than ten acres of fill would not result in more than minimal impacts or that are adequately regulated by state or local agencies, to develop regional general permits for these areas.

(27) *Wetland Restoration Activities:* This proposed new NWP authorizes the discharge of dredged or fill material into altered or degraded non-tidal wetlands that is associated with certain Federally funded or assisted wetland restoration activities. This NWP was requested by the U.S. Fish and Wildlife Service (FWS) and the Soil Conservation Service (SCS) to reduce the administrative burden associated with individual section 404 permits for restoration projects that have minimal adverse environmental effects and to encourage continued participation in these Federal restoration programs. The FWS has restored almost 55,000 acres of wetlands through activities associated with private land wetland restoration and protection initiatives since 1987 and is presently restoring wetlands on approximately 2,000 to 2,500 sites per year. Under the proposed agriculture wetland reserve in the 1990 Farm Bill and other associated private land wetland restoration activities approved by Congress, it is expected that the FWS and these SCS will accomplish 8,000 to 10,000 wetland restoration projects per year.

(28) *Modifications of Existing Marinas:* This proposed new NWP authorizes reconfigurations of existing

docking facilities at authorized marina areas. No dredging, additional slip or dock spaces, or expansion of any kind within waters of the United States are authorized, and all rearranged spaces must be within the limits of the original permit or most recent modification of that permit.

(29) This number is being reserved for a future unspecified NWP.

(30) *Dewatering Construction Sites:* This proposed new NWP authorizes the dewatering of construction sites, provided certain terms are met. The terms of this NWP reflect the types of conditions normally placed on individual permits for such activities, and include maintaining continuous flows downstream, and limiting temporary cofferdams to just over halfway across the waterway and restricting such activities to low-flow seasons.

(31) *Small Docks and Piers:* This proposed new NWP authorizes small private docks and piers in navigable waters of the United States. Such activities are consistently authorized by regional general permits throughout the country. The terms and conditions reflect those generally seen in regional general permits for such activities and limit the size and types of construction materials that can be used.

(32) *Completed Enforcement Actions:* This proposed new NWP authorizes activities in waters of the United States which are required by civil or criminal judicial actions brought by the Corps or EPA. These activities may be the result of judicial decisions, consent agreements, or other civil or criminal proceedings or agreements. Judicial decisions on a case would preclude the opportunity for further review (except through a higher court). Consent agreements are reached after extensive negotiation by the corps, EPA and/or Department of Justice attorneys on what represents a fair and environmentally acceptable resolution for such unauthorized discharges.

(33) *Temporary Construction and Access.* This proposed new NWP authorizes temporary construction and access fills. The permittee is required to notify the DE 30 days prior to doing the work and include a restoration plan. The DE will add case specific conditions to insure that the impacts are minimal.

(34) *Cranberry Production Activities.* There has been considerable interest, especially from the cranberry growing industry, in a nationwide permit for activities associated with the production of cranberries. There has also been considerable concern expressed regarding potential adverse impacts on aquatic resources of some cranberry production activities, such as converting existing natural wetlands into cranberry bogs. The operations involve manipulating water levels within the bog and bog reservoirs to maintain high ground- and surface-water levels, even during periods of drought. Typically, fifteen acres of watershed are set aside for each acre of actual bog. The Corps is seeking comments on the detriments and benefits of cranberry production activities, possible conditions or limits that could reduce any adverse impacts, and types of cranberry production activities that should or should not be authorized by nationwide permit.

(35) *Maintenance Dredging of Existing Basins:* This proposed new NWP authorizes maintenance dredging of existing basins, canals, boat slips, etc. The "Erosion and siltation controls" condition requires use of siltation controls, such as a silt curtain or other methods of controlling siltation beyond the work area. This NWP requires that material be disposed of at an upland site.

(36) *Boat Ramps:* This proposed new NWP authorizes small boat ramps. Most Corps districts have regional general permits for boat ramps. We have incorporated common conditions of those regional general permits into the terms of the NWP and specify that no fill may be placed in special aquatic sites as defined at 33 CFR 330.2(i) and 40 CFR 230.40—230.45.

(37) *Emergency Watershed Protection:* This proposed new NWP authorizes certain discharges associated with emergency watershed protection projects done by or funded by the Soil Conservation Service (SCS) under its regulations at 7 CFR part 624, provided the DE is notified 30 days prior to commencing work. Such work is restricted to emergency measures undertaken to remove or reduce hazards to life and property from floods, drought and the products of erosion in the event of a sudden watershed impairment due to a natural occurrence. The SCS state conservationist determines when such a watershed emergency exists. To be eligible for emergency watershed protection assistance and for this NWP, the measures must be limited to the minimum that will reduce applicable threats to a level not to exceed that which existed before the impairment of the watershed. In order to receive emergency watershed protection assistance, those persons undertaking such work must use the least damaging construction techniques and equipment to retain as much of the existing character of the channel and riparian habitat as possible. This NWP requires a notification to the DE 30 days prior to the discharge in order to give the DE an opportunity to review the proposal and, if appropriate, assert discretionary authority.

(38) *Cleanup of Hazardous and Toxic Waste:* This proposed new NWP authorizes specific work needed to contain, stabilize or remove hazardous and toxic wastes, provided such work is done, ordered or sponsored by a government agency with the appropriate authority. This NWP also covers court-ordered remedial actions, but could not be used to construct new sites or expand existing sites. This NWP requires the permittee to notify the DE prior to doing the work. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

(39) *Agricultural Discharges.* This proposed new NWP authorizes discharges necessary for agricultural, silvacultural, or aquacultural activities in "farmed wetlands." A 30 day predischarge notification is required. If the DE determines the impacts are more than minimal, he will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal. The NWP will not authorize the filling or draining of wetlands to create upland.

(40) *Farm Buildings.* This proposed new NWP authorizes discharges for foundations or buildings pads for farm buildings or other agricultural related structures necessary for farming activities in wetlands that are currently in agricultural production.

Discussion of Proposed Conditions

Other than minor clarifications or changes we propose to adopt the existing NWP conditions currently published at 33 CFR 330.5(b). We also propose to adopt the best management practices (BMPs), currently published at 33 CFR 330.6, as conditions of the NWPs. In addition, we propose two new conditions; one to address erosion and siltation controls and another containing the notification requirements. We have also divided the conditions into 2 groups to simplify and clarify which conditions apply to all NWPs and those that only apply to discharge activities.

We propose to reword the "Water Supply Intakes" condition to provide an exception to cover those situations where the proposed discharge is for the purpose of repairing or providing additional bank stabilization for water supply intake structures themselves. Such work would be done by the water company, municipality or other provider

who would be unlikely to endanger their own interests by discharging a material or constructing in a manner likely to cause degradation of water quality.

We also propose to reword the "Endangered Species" and "Historic Properties" conditions by moving the language that details the procedures to be followed when such resources would be potentially affected by the permitted activity to 33 CFR 330.4 (g) and (h).

We propose the Best Management Practices (BMPs) now located at 33 CFR 330.6 as conditions to the NWPs. The purpose for making the BMPs conditions is to make their enforceability clearer and to eliminate any confusion over the difference between the NWP conditions and the BMPs. The BMPs, as conditions, would allow some flexibility; that is, the measures would be required to the extent practicable and reasonable. However, it would be the DE's judgment as to whether the permittee has complied with these conditions and, thus, users of the NWPs should conscientiously adhere to them. Violation of these or any conditions added by the division or district engineer could be the basis for enforcement actions under 33 CFR part 326 and/or suspension or revocation under 33 CFR 330.5. The "Minimization" condition would combine the BMPs previously at 33 CFR 330.6(a) (1) and (5), change wetlands areas to special aquatic sites, including wetlands, and change the language to avoid any confusion that might result in the 40 CFR 230.10(a) alternative test being erroneously considered as a pass/fail requirement for NWP activities. This would extend additional protection to special aquatic sites, which include wetlands, and ensure that discharges authorized by NWPs do not result in more than minimal individual or cumulative impacts on the aquatic environment. Some of the NWPs specifically prohibit discharges in special aquatic sites. For those NWPs that authorize discharges into special aquatic sites, this condition would ensure that those discharges are minimized to the greatest extent practicable.

We also propose to add a "Notification" condition which states the requirements of an acceptable notification to the DE when required by a NWP. The notification must occur 30 days prior to doing the work. The permittee may proceed with the work unless otherwise notified by the DE. The DE will review the notification to ensure that the activity complies with the terms and conditions of the NWP, the impacts are minimal, and where required, that appropriate and practicable mitigation is added as a condition for authorization under the NWP.

We also propose to add an "Erosion and siltation controls" condition requiring that erosion and siltation controls must be used at permit sites, and that exposed soil must be stabilized at the earliest date possible.

Environmental Documentation

We have made a preliminary determination that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Preliminary environmental documentation has been prepared for each proposed nationwide permit. This documentation includes a preliminary environmental assessment and, where relevant, a preliminary section 404(b)(1) Guidelines compliance review. Copies of these documents are available for inspection at the office of the Chief of Engineers and at each Corps district office. Based on these documents the Corps has provisionally determined that the proposed NWPs comply with the requirements for issuance under general permit authority.

Note 1: The Department of the Army has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices.

Note 2: The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

I hereby certify that this matter will have no significant negative impact on a substantial number of small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 33 CFR Part 330

Navigation, Water pollution control, Waterways.

Approved:

G. Edward Dickey,

Acting Principal Deputy Assistant, Secretary of the Army (Civil Works).

Accordingly, 33 CFR part 330 is proposed to be revised to read as follows:

PART 330—NATIONWIDE PERMIT PROGRAM

Sec.

330.1 Purpose and policy.
330.2 Definitions.
330.3 Activities occurring before certain dates.
330.4 Conditions, limitations, and restrictions.
330.5 Issuing, modifying, suspending, or revoking nationwide permits and authorizations.
330.6 Authorization by nationwide permit.

Appendix A to Part 330—Nationwide Permits and Conditions

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 330.1 Purpose and policy.

(a) *Purpose.* This regulation describes the policy and procedures used in the Department of the Army's nationwide permit program to issue, modify, suspend, or revoke nationwide permits; to identify conditions, limitations, and restrictions on the nationwide permits; and, to identify any procedures, whether required or optional, for authorization by nationwide permits.

(b) *Nationwide permits.* Nationwide permits (NWPs) are a type of general permit issued by the Chief of Engineers and are designed to regulate with little, if any, delay or paperwork certain activities having minimal impacts. The NWPs are proposed, issued, modified, reissued (extended), and revoked from time to time by publication in the Notice section of the **Federal Register**. Proposed NWPs or modifications to or reissuance of existing NWPs will be adopted only after the Corps gives notice and allows the public an opportunity to comment on and request a public hearing regarding the proposals. The Corps will give full consideration to all comments received prior to reaching a final decision.

(c) *Terms and Conditions.* A NWP is valid only if a permittee satisfies the NWP's terms and conditions. Activities that fail to comply with a term or condition still may be authorized by an individual or regional permit. The Corps will consider unauthorized any activity that is under construction or completed and that does not comply with the terms and conditions of a NWP or regional general permit. The Corps will evaluate unauthorized activities for enforcement action under 33 CFR part 326. Enforcement proceedings may be suspended if the permittee modifies his project to comply with a NWP or a regional general permit.

(d) *Discretionary Authority.* District and division engineers have been delegated a discretionary authority to suspend, modify, or revoke authorizations under a NWP. This discretionary authority may be used by district and division engineers for cases where they have concerns for the aquatic environment under the section 404(b)(1) guidelines or for any factor of

the public interest. In most cases district and division engineers do not have a legal obligation to review an activity or to exercise such discretionary authority. However, for any activity authorized by NWP, the district engineer (DE) has the discretionary authority to review the activity to determine whether he will modify the authorization or instruct the prospective permittee to apply for an individual permit. In addition, the terms and conditions of certain NWP's require the DE to review the proposed activity before the NWP authorizes its construction. In such cases, if the DE finds that the proposed activity would have more than minimal individual or cumulative net adverse impacts on the aquatic environment or otherwise may be contrary to the public interest, he shall modify the NWP authorization to reduce or eliminate those adverse impacts, or he shall instruct the prospective permittee to apply for an individual permit. Discretionary authority is also discussed at 33 CFR 330.4(e) and 330.5

(e) *Notifications.* (1) In most cases, permittees may proceed with activities authorized by NWPs without notifying the DE. However, the prospective permittee qualifying for a NWP should carefully review the language of the NWP to ascertain whether he must notify the DE prior to commencing of the authorized activity. For NWPs requiring advance notification, such notification must be made in writing as early as possible but not later than 30 calendar days prior to the proposed discharge. The permittee may presume that his project qualifies for the NWP unless he is otherwise notified by the DE within that 30-day period. The 30-day period starts on the date of receipt of the notification in the Corps district office and ends 30 calendar days later regardless of weekends or holidays. If the DE notifies the prospective permittee that the notification is incomplete, then the 30 day period will start over upon receipt of the revised notification. Permittees may proceed before expiration of the 30-day period if so notified by the DE. If the DE fails to act within the 30-day period, he must use the procedures of 33 CFR 330.5 in order to modify, suspend, or revoke the authorization.

(2) The DE will review the notification and may add activity-specific conditions to ensure that the activity complies with the terms and conditions of the NWP and that the adverse impacts on the aquatic environment and other aspects of the public interest are individually and cumulatively minimal.

(3) For some NWPs involving discharges into special aquatic sites, including wetlands, the notification must include a wetland delineation. The DE will review the notification and determine if the impacts are more than minimal. If the impacts are more than minimal the DE will notify the prospective permittee that an individual permit (or authorization under a regional general permit) would be required or that the prospective permittee may propose appropriate and practicable measures to mitigate the loss of special aquatic sites, including wetlands. The DE can only require appropriate and practicable mitigation, which may or may not reduce the impacts to minimal. However, the prospective permittee may volunteer additional mitigation if necessary to reduce the impacts to minimal. The prospective permittee may elect to propose mitigation with the original notification. The DE will consider that proposed mitigation when deciding if the impacts are minimal. The DE shall add activity-specific conditions to ensure that appropriate and practicable mitigation will be accomplished. If sufficient mitigation cannot be developed to reduce the impacts to the minimal level, the DE will not allow authorization under the NWP and will instruct the prospective permittee on procedures to seek authorization under regional general or individual permit.

(f) *Individual Applications.* DEs should review all incoming applications for individual permits for possible eligibility under regional general permits or NWPs. If the activity complies with the terms and conditions of one or more NWPs, he should verify the authorization and so notify the applicant. If the DE determines that the activity could comply after reasonable project modifications and/or activity-specific conditions, he will notify the applicant of such modifications and conditions. If such modifications and conditions are accepted by the applicant, verbally or in writing, the DE will verify the authorization with the modifications and conditions in accordance with 33 CFR 330.6(a). However, the DE will proceed to evaluate the application, if complete, as an individual permit within 15 calendar days of receipt unless the applicant indicates that he will accept the modifications or conditions.

(g) *Authority.* NWPs can be issued to satisfy the permit requirements of section 10 of the Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection, Research, and Sanctuaries Act or some combination thereof. The applicable authority will be indicated at the end of each NWP. NWPs and their conditions formally published at 33 CFR 330.5 and 330.6 will remain in effect until they expire or are modified or revoked in accordance with the procedures of this section.

§ 330.2 Definitions.

(a) The definitions of 33 CFR parts 320–329 are applicable to the terms used in this part.

(b) *Nationwide permit* refers to a type of general permit which authorizes activities on a nationwide basis unless specifically limited. (Another type of general permit is a "regional permit" which is issued by division or district engineers on a regional basis in accordance with 33 CFR part 325). (See 33 CFR 322.2(f) and 323.2(h) for the definition of a general permit.)

(c) *Authorization* means that individual activities that qualify for a NWP may proceed, provided that the terms and conditions of the NWP are met. After determining that the activity complies with all applicable terms and conditions, the permittee may assume an authorization under a NWP. This assumption is subject to the DE's authority to determine if an activity complies with the terms and conditions of a NWP. If requested by the permittee in writing, the DE will verify in writing that the permittee's proposed activity complies with the terms and conditions of the NWPs. A written verification may contain activity-specific conditions and regional conditions which a permittee must satisfy for the authorization to be valid.

(d) *Headwaters* means non-tidal rivers, streams, and their lakes and impoundments, including adjacent wetlands, that are part of a surface tributary system to a navigable water of the United States upstream of the point on the river or stream at which the average annual flow is less than five cubic feet per second. The DE may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the average runoff coefficient, or by similar means. For streams that are dry for long periods of the year, DEs may establish the point where headwaters begin as that point on the stream where a flow of five cubic feet per second is equaled or exceeded 50 percent of the time.

(e) *Isolated waters* means those non-tidal waters of the United States (including wetlands) that are not part of a surface tributary system to navigable waters of the United States or that do

not otherwise meet the definition of "adjacent."

(f) *Filled area* means the area within jurisdictional waters which is eliminated or covered as a direct result of the discharge (i.e., the area actually covered by the discharged material). It does not include areas excavated nor areas impacted as an indirect effect of the fill.

(g) *Discretionary authority* means the authority described in section 330.4(e) which the Chief of Engineers delegates to division or district engineers to modify a NWP authorization by adding conditions, to suspend a NWP authorization, or to revoke a NWP authorization and thus require individual permit authorization.

(h) *Terms and conditions.* The "terms" of a NWP are the limitations and provisions included in the description of the NWP itself. The "conditions" of NWPs are additional provisions which place restrictions or limitations on all of the NWPs. These are published with the NWPs. Other conditions may be imposed by district or division engineers on a geographic, category-of-activity, or activity-specific basis (see 33 CFR 330.4(e)).

(i) *Currently serviceable* means usable as is or with some maintenance, but not so degraded as to essentially require reconstruction. It also includes those structures destroyed within the past two years by storms, floods, fire, or other discrete events, which were serviceable immediately preceding that event.

(j) *Single and complete project* means the total project proposed or accomplished on a single property for a single purpose by one owner/developer or partnership of owners/developers. For example, if construction of a residential development affects several different areas of a headwater or isolated water, or several different headwaters or isolated waters, the cumulative total of all filled areas should be the basis for deciding whether or not the project will be covered by a NWP. For linear projects, the "single and complete project" will apply to each crossing of a separate water of the United States. That is, each waterbody crossed by a linear project will be considered a single and complete crossing at that location. Individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies. Where a linear project crosses a single waterbody several times, but at separate, distant locations, each crossing is considered a single and complete project.

(k) *Special aquatic sites* means wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries, and refuges.

§ 330.3 Activities occurring before certain dates.

The following activities were permitted by NWPs issued on July 19, 1977, and, unless the activities are modified, they do not require further permitting:

(a) Discharges of dredged or fill material into waters of the United States outside the limits of navigable waters of the United States that occurred before the phase-in dates which extended section 404 jurisdiction to all waters of the United States. The phase-in dates were: After July 25, 1975, discharges into navigable waters of the United States and adjacent wetlands; after September 1, 1976, discharges into navigable waters of the United States and their primary tributaries, including adjacent wetlands, and into natural lakes, greater than 5 acres in surface area; and after July 1, 1977, discharges into all waters of the United States, including wetlands. (Section 404)

(b) Structures or work completed before December 18, 1968, or in waterbodies over which the DE had not asserted jurisdiction at the time the activity occurred, provided in both instances, there is no interference with navigation. Activities completed shoreward of applicable Federal Harbor lines before May 27, 1970 do not require specific authorization (Section 10)

§ 330.4 Conditions, limitations, and restrictions.

(a) *General.* A prospective permittee must satisfy all terms and conditions of a NWP for a valid authorization to occur. Some conditions identify a "threshold" that, if met, require additional procedures or provisions contained in other paragraphs in this section. It is important to remember the NWPs only authorize activities from the perspective of the Corps regulatory authorities and that other Federal, state, and local permits may also be required.

(b) *Further information.* (1) DEs have authority to determine if an activity complies with the terms and conditions of a NWP.

(2) NWPs do not obviate the need to obtain other Federal, state, or local authorizations required by law.

(3) NWPs do not grant any property rights or exclusive privileges.

(4) NWPs do not authorize any injury to the property or rights of others.

(5) NWPs do not authorize interference with any existing or proposed Federal project.

(c) *State 401 water quality certification.* (1) State 401 water quality certification pursuant to section 401 of the Clean Water Act, or waiver thereof, is required prior to the issuance or reissuance of NWPs authorizing activities which may result in a discharge into waters of the United States.

(2) If, prior to the issuance or reissuance of such NWPs, a state issues a 401 water quality certification which includes special conditions, the division engineer will make these special conditions regional conditions of the NWP for activities which may result in a discharge into waters of the United States in that state, unless he determines that such conditions do not comply with the provisions of 33 CFR 325.4. In the latter case, the conditioned 401 water quality certification will be considered a denial of the certification (see paragraph (c)(3) of this section).

(3) If a state denies a required 401 water quality certification for an activity otherwise meeting the terms and conditions of a particular NWP, that NWP's authorization for all such activities within that state is denied without prejudice until the state issues an individual 401 water quality certification or waives its right to do so. State denial of 401 water quality certification for any specific NWP affects only those activities which may result in a discharge. That NWP continues to authorize activities which could not reasonably be expected to result in discharges into waters of the United States.

(4) DEs will take appropriate measures to inform the public of which activities, waterbodies, or regions require an individual 401 water quality certification before authorization by NWP.

(5) The DE will not process an individual permit application for an activity which may result in a discharge and otherwise qualifying for a NWP on the sole basis that the 401 water quality certification has been denied for that NWP. However, the district or division engineer may exercise his discretionary authority.

(6) In instances where a state has denied the 401 water quality certification for discharges under a particular NWP, permittees must furnish the DE with an individual 401 water quality certification or a copy of the application to the state for such certification. If a state fails to act within a reasonable period of time after receipt of the application for certification (generally 60 days) (see 33 CFR 325.2(b)(1)(ii)), the DE will presume state waiver of the certification. Upon receipt of an individual 401 water quality

certification, or if the prospective permittee demonstrates to the DE state waiver of such certification the proposed work is authorized under the NWP. For NWPs requiring a 30-day predischarge notification the district engineer will immediately begin, and may complete, his review prior to the state action on the individual section 401 water quality certification. However, the 30-day period will not formally start until the water quality certification condition is satisfied. If a state issues a conditioned individual 401 water quality certification for an individual activity, the DE will include those conditions as activity-specific conditions of the NWP unless he determines that such conditions do not comply with the provisions of 33 CFR 325.4. In the latter case the DE will consider the conditioned 401 water quality certification to be a denial of the certification unless the permittee chooses to comply voluntarily with all the conditions in the 401 water quality certification.

(7) Where a state, after issuing a 401 water quality certification, subsequently withdraws it for substantive reasons, the division engineer will review those reasons and consider whether there is substantial basis for suspension, modification, or revocation as outlined in § 330.5. Otherwise, the withdrawal does not affect the validity of the NWP authorizations until such time as the NWP is reissued.

(d) *Coastal zone management consistency determination.* (1) The Coastal Zone Management Act (CZMA) requires a state coastal zone management consistency determination prior to the issuance and reissuance of NWPs that authorize activities within a state with an approved coastal zone management plan when the activities would occur within that state's coastal zone or affect land or water uses in the coastal zone. This is inapplicable to Federal activities (see paragraph (d)(8) of this section).

(2) If, prior to the issuance or reissuance of such NWPs, a state indicates that additional conditions are necessary for the state to agree with the Corps consistency determination for a particular nationwide permit, the division engineer will make such conditions regional conditions for the NWP in that state, unless he determines that the conditions do not comply with the provisions of 33 CFR 325.4 or believes for some other specific reason it would be inappropriate to include the conditions. In this case, the state's failure to agree without the conditions will be considered that the state has disagreed with the Corps consistency determination (see paragraph (d)(3) of this section.)

(3) When a state has disagreed with the Corps consistency determination, authorization for all such activities occurring within the state's coastal zone or affecting land or water uses in the state coastal zone agency's area of authority is denied without prejudice until the prospective permittee furnishes the DE an individual coastal zone management consistency determination pursuant to section 307 of the CZMA and demonstrates that the state has concurred in it (either on an individual or generic basis), or that concurrence should be presumed. State disagreement with the Corps consistency determination for any NWP affects only activities occurring within or affecting land or water uses in the state's coastal zone. That NWP continues to authorize activities not occurring within or affecting land or water uses in the state's coastal zone.

(4) DEs will take appropriate measures to inform the public of which activities, water bodies, or regions require prospective permittees to make an individual consistency determination and seek concurrence from the state.

(5) DEs will not require or process an individual permit application for an activity otherwise qualifying for a NWP on the sole basis that a state's coastal zone management agency has disagreed that the activity is consistent with the state's CZM plan. However, the district or division engineer may exercise his discretionary authority.

(6) In instances where a state has disagreed with the Corps consistency determination for activities under a particular NWP, permittees must furnish the DE with an individual consistency concurrence or a copy of the consistency determination provided to the state for concurrence. If a state fails to act on a permittee's consistency determination within six months after receipt by the state, consistency will be presumed. The proposed work is authorized under the NWP upon receipt of an individual consistency concurrence or upon presumed consistency. For NWPs requiring a 30-day predischarge notification the DE will immediately begin, and may complete, his review prior to the state action on the individual coastal zone management consistency determination. However, the 30-day period will not formally start until the coastal zone management condition is satisfied. If a state indicates that individual conditions are necessary for consistency with the state's CZM plan for that individual activity, the DE will include those conditions as activity-specific conditions of the NWP unless he determines that such conditions do not comply with the provisions of 33 CFR 325.4. In the latter case the DE will consider the conditioned concurrence as a nonconcurrence unless the permittee chooses to comply voluntarily with all the conditions in the conditioned concurrence.

(7) Where a state, after agreeing with the Corps consistency determination, subsequently disagrees for substantive reasons, the division engineer will review those reasons and consider whether there is substantial basis for suspension, modification, or revocation as outlined in 33 CFR 330.5. Otherwise, the subsequent disagreement does not affect the validity of the NWP authorization until such time as the NWP is modified or reissued.

(8) Federal activities must be consistent with a state's approved coastal zone plan to the maximum extent practicable. Federal agencies should follow their own procedures to meet the requirements of the CZMA. Therefore, the provisions of 33 CFR 330.4(d) (1)–(7) do not apply to Federal activities. Indian tribes doing work on Indian Reservation lands shall be treated in the same manner as Federal applicants.

(e) *Discretionary authority.* The Corps reserves the right (i.e., discretion) to modify, suspend, or revoke NWP authorizations. Modification means the imposition of additional or revised terms or conditions on the authorization. Suspension means the temporary cancellation of the authorization while a decision is made to either modify, revoke, or reinstate the authorization. Revocation means the cancellation of the authorization. The procedures for modifying, suspending, or revoking NWP authorizations are detailed in § 330.5.

(1) A division engineer may assert discretionary authority by modifying, suspending, or revoking NWP authorizations for a specific geographic area, class of activity, or class of waters within his division, including on a statewide basis, whenever he determines sufficient concerns for the aquatic environment under the section 404(b)(1) Guidelines or any factor of the public interest so requires.

(2) A DE may assert discretionary authority by modifying, suspending, or revoking NWP authorization for a specific activity whenever he determines sufficient concerns for the aquatic environment under the section 404(b)(1) Guidelines or any factor of the public interest so requires. Whenever the DE determines that a proposed

specific activity covered by a NWP would have more than minimal individual or cumulative adverse impacts on the aquatic environment or otherwise may be contrary to the public interest, he must either modify the NWP authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the proposed activity is not authorized by NWP and provide instructions on how to seek authorization under a regional general or individual permit.

(3) The division or district engineer will restore authorization under the NWPs at any time he determines that his reason for asserting discretionary authority has been satisfied by a condition, project modification, or new information.

(4) When the Chief of Engineers modifies or reissues a NWP, division engineers must use the procedures of § 330.5 to reassert discretionary authority to reinstate regional conditions or revocation of NWP authorizations for specific geographic areas, class of activities, or class of waters. Division engineers will update existing documentation for each NWP. Upon modification or reissuance of NWPs, previous activity-specific conditions or revocations of NWP authorization will remain in effect unless the DE specifically removes the activity-specific conditions or revocations.

(f) *Endangered Species.* No activity is authorized by a NWP that is likely to jeopardize the continued existence of a threatened or endangered species as identified under the Endangered Species Act (ESA), or to destroy or adversely modify the critical habitat of such species.

(1) Federal agencies should follow their own procedures for complying with the requirements of the ESA.

(2) Non-federal permittees shall notify the DE if any listed endangered or threatened species or critical habitat might be affected or is in the vicinity of the project. In such cases, the permittee will not use the NWP until notified by the district engineer. If the DE determines the activity may affect any listed species or critical habitat, the DE must initiate section 7 consultation in accordance with the ESA. In such cases, the district engineer may:

(i) Initiate section 7 consultation and then, upon completion, authorize the activity under the NWP by adding, if appropriate, activity-specific conditions; or

(ii) Prior to or concurrent with section 7 consultation, assert discretionary authority (see 33 CFR 330.4(e)) to suspend or revoke the NWP authorization and require an individual permit (see 33 CFR 330.5(d)).

(3) Prospective permittees can obtain information on the location of threatened or endangered species and their critical habitats from the U.S. Fish and Wildlife Service, Endangered Species Office, and the National Marine Fisheries Service.

(g) *Historic Properties.* (1) Federal permittees should follow their own procedures for compliance with the requirements of the National Historic Preservation Act and other Federal historic preservation laws.

(2) Non-federal permittees will notify the DE if the activity may adversely affect historic properties which the National Park Service has listed, or determined eligible for listing, on the National Register of Historic Places. In such cases, the permittee will not use the NWP until notified by the DE. If the DE determines that such historic properties may be adversely affected, he will provide the Advisory Council on Historic Preservation and the State Historic Preservation Officer a reasonable opportunity to comment on the effects on such historic properties before notifying the permittee. In such cases, the district engineer may:

(i) After allowing a reasonable opportunity to comment, authorize the activity under the NWP by adding, if appropriate, activity-specific conditions; or

(ii) Prior to or concurrent with allowing a reasonable opportunity to comment, he may assert discretionary authority (see 33 CFR 330.4(e)), to suspend or revoke the NWP authorization and instruct the prospective permittee of procedures to seek authorization under regional general or individual permit. (See 33 CFR 330.5(d)).

(3) The permittee shall immediately notify the DE, if, before or during prosecution of the work authorized, he encounters an historic property that has not been listed or determined eligible for listing on the National Register, but which may be eligible for listing on the National Register.

(4) Nationwide permittees can obtain information on the location of historic properties from the State Historic Preservation Officer and the National Register of Historic Places.

§ 330.5 Issuing, modifying, suspending, or revoking nationwide permits and authorizations.

(a) *General.* This section sets forth the procedures for issuing and reissuing NWPs and for modifying, suspending, or revoking NWPs and authorizations under NWPs.

(b) *Chief of Engineers.* (1) Anyone may, at any time, suggest to the Chief of Engineers, (ATTN: CECW–OR), any new NWPs or conditions for issuance, or changes to existing NWPs, which he believes to be appropriate for consideration. From time-to-time new NWPs and revocations of or modifications to existing NWPs will be evaluated by the Chief of Engineers following the procedures specified in this section. Within five years of issuance of the NWPs, the Chief of Engineers will review the NWPs and propose, by publication in the Federal Register, modification, revocation, or reissuance.

(2) *Public Notice.* (i) Upon proposed issuance of new NWPs or modification, suspension, revocation, or reissuance of existing NWPs, the Chief of Engineers will publish a notice in the Federal Register seeking public comments, including the opportunity to request a public hearing. This notice will also state that the information supporting the Corps' provisional determination that proposed activities comply with the requirements for issuance under general permit authority is available at the Office of the Chief of Engineers and at all district offices. The Chief of Engineers will prepare this information which will be supplemented, if appropriate, by division engineers.

(ii) Concurrent with publication in the Federal Register of proposed, modified, reissued, or revoked NWPs, district engineers (DEs) will notify the known interested public by a notice issued at the district level. The notice will include proposed regional conditions or proposed revocations of NWP authorizations for specific geographic areas, class of activities, or class of waters, if any, developed by the division engineer.

(3) *Documentation.* The Chief of Engineers will prepare appropriate NEPA documents and, if applicable, 404(b)(1) compliance analyses for proposed NWPs. Documentation for existing NWPs will be modified to reflect any changes in these permits and to reflect the Chief of Engineers' evaluation of the use of the permit since the last issuance. Copies of all comments received on the Federal Register notice will be included in the administrative record. The Chief of Engineers will consider these comments in making his decision on the NWPs, and will prepare a statement of findings outlining his views regarding each NWP and discussing how substantive comments were considered. The Chief of Engineers will also determine the need

to hold a public hearing for the proposed NWPs.

(4) *Effective Dates.* The issuance, modification, or revocation of NWPs by the Chief of Engineers will become effective on the day of publication in the Federal Register, unless otherwise specified.

(c) *Division Engineer.* (1) A division engineer may use his discretionary authority to modify, suspend, or revoke NWP authorizations for any specific geographic area, class of activities, or class of waters within his division, including on a statewide basis, by issuing of a public notice or notifying the individuals involved. The notice will state his concerns regarding the aquatic environment under the section 404(b)(1) Guidelines or the relevant factors of the public interest. Before using his discretionary authority to modify or revoke such NWP authorizations, division engineers will:

(i) Give an opportunity for interested parties to express their views on the proposed action (the DE will publish and circulate a notice to the known interested public to solicit comments and provide the opportunity to request a public hearing);

(ii) Consider fully the views of affected parties;

(iii) Prepare supplemental documentation for any modifications or revocations that may result through assertion of discretionary authority. Such documentation will include comments received on the district public notices and a statement of findings showing how substantive comments were considered;

(iv) Provide an equitable grandfathering period for those who have commenced work or made substantial commitments in reliance on the NWP authorization; and

(v) Notify affected parties of the modification, suspension, or revocation, including the effective date (the DE will publish and circulate a notice to the known interested public and to anyone who commented on the proposed action).

(2) The modification, suspension, or revocation of authorizations under a NWP by the division engineer will become effective by issuance of public notice or a notification to the individuals involved.

(3) A copy of all regional conditions imposed by division engineers on activities authorized by NWPs will be forwarded to the Office of the Chief of Engineers, ATTN: CECW–OR.

(d) *District Engineer.* (1) When deciding whether to exercise his discretionary authority to modify, suspend, or revoke a specific activity's authorization under a NWP, the DE should consider: Changes in circumstances relating to the authorized activity since the NWP itself was issued or since the DE confirmed authorization under the NWP by written verification; the continuing need for, or adequacy of, the specific conditions of the authorization; any significant objections to the authorization not previously considered; progress inspections of individual activities occurring under a NWP; cumulative impacts resulting from activities occurring under the NWP; the extent of the permittee's compliance with the terms and conditions of the NWPs; revisions to applicable statutory or regulatory authorities; the extent to which such actions would adversely affect plans, investments, and actions the permittee has made or taken in reliance on the permit; and other concerns for the aquatic environment under the section 404(b)(1) Guidelines and other relevant factors of the public interest.

(2) *Procedures.* (i) When considering whether to modify or revoke a specific authorization under a NWP, the DE will initially hold informal consultations with the permittee to determine whether special conditions to modify the authorization would be mutually agreeable or to allow the permittee to furnish information which satisfies the DE's concerns. If a mutual agreement is reached, the DE will give the permittee written verification of the authorization, including the special conditions. If the permittee furnishes information which satisfies the DE's concerns, the permittee may proceed. If appropriate, the DE may suspend the NWP authorization while holding informal consultations with the permittee.

(ii) If the DE's concerns remain after the informal consultation, the DE may suspend a specific authorization under a NWP by notifying the permittee in writing by the most expeditious means available that the authorization has been suspended, stating the reasons for the suspension, and ordering the permittee to stop any activities being done in reliance upon the authorization under the NWP. The permittee will be advised that a decision will be made either to reinstate or revoke the authorization under the NWP; or, if appropriate, that the authorization under the NWP may be modified by mutual agreement. The permittee will also be advised that within 10 days of receipt of the notice of suspension, he may request a meeting with the DE, or his designated representative, to present information in this matter. After completion of the meeting (or within a reasonable period of time after suspending the authorization if no meeting is requested), the DE will take action to reinstate, modify, or revoke the authorization.

(iii) Following completion of the suspension procedures, if the DE determines that sufficient concerns for the aquatic environment under the section 404(b)(1) Guidelines or other relevant factors of the public interest so requires, he will revoke authorization under the NWP. The DE will provide the permittee a written final decision and instruct him on the procedures to seek authorization under a regional, general or individual permit.

(3) The DE need not issue a public notice when asserting discretionary authority over a specific activity. The modification, suspension, or revocation will become effective by notification to the prospective permittee.

§ 330.6 Authorization by nationwide permit.

(a) *Nationwide permit verification.* (1) Nationwide permittees may, and in some cases must, request from a DE confirmation that an activity complies with the terms and conditions of a NWP. DEs will respond promptly to such requests.

(2) If the DE decides that an activity does not comply with the terms or conditions of a NWP, he will notify the person desiring to do the work and instruct him on the procedures to seek authorization under a regional general or individual permit.

(3) If the DE decides that an activity does comply with the terms and conditions of a NWP, he will notify the nationwide permittee. The DE may add conditions on a case-by-case basis to clarify compliance with the terms and conditions of a NWP or to ensure that the activity will have only minimal adverse impacts on the aquatic environment, as discussed in the section 404(b)(1) Guidelines, or on any aspect of the public interest. The DE's response will state that the verification is valid for a period of no more than two years or until the NWP is modified, suspended, or revoked. The response will also include a statement on the grandfathering provision at section 330.6(b). A period less than two years may be used if deemed appropriate. Once the DE has provided such verification, he must use the procedures of 33 CFR 330.5 in order to modify, suspend, or revoke the authorization.

(b) *Expiration of nationwide permits.* The Chief of Engineers will periodically review NWPs and their conditions and will decide to either modify, reissue, or revoke the permits. If a NWP is not

modified or reissued within five years of the effective date as published in the Federal Register, it automatically expires and becomes null and void. Authorization of activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within twelve months of the date of a NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5(d). Activities completed under the authorization of a NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

(c) *Multiple use of nationwide permits.* Two or more different NWPs can be combined to authorize a "single and complete project" as defined at 33 CFR 330.2(j). However, the same NWP cannot be used more than once for a single and complete project.

(d) *Combining nationwide permits with individual permits.* Subject to the following qualifications, portions of a larger project may proceed under the authority of the NWPs while the DE evaluates an individual permit application for other portions of the same project, but only if the portions of the project qualifying for NWP authorization would have independent utility and are able to function or meet their purpose independent of the total project. When the functioning or usefulness of a portion of the total project qualifying for a NWP is dependent on the remainder of the project, the NWP does not apply and all portions of the project must be evaluated as part of the individual permit process.

(1) When a portion of a larger project is authorized to proceed under a NWP, it is with the understanding that its construction will in no way prejudice the decision on the individual permit for the rest of the project. Furthermore, the individual permit documentation must include a discussion of the impacts of the entire project, including related activities authorized by NWP.

(2) NWPs do not apply, even if a portion of the project is not dependent on the rest of the project, when any portion of the project is subject to an enforcement action by the Corps or EPA.

Appendix A to Part 330—Nationwide Permits and Conditions

This Appendix contains the optional nationwide permits and conditions for authorization of certain activities under section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act.

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B. Nationwide Permits

1. Aids to Navigation. The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard. (See 33 CFR part 66, subchapter C.) (Section 10)

2. Structures in Artificial Canals. Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (see 33 CFR 322.5(g)). (Section 10)

3. Maintenance. The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that such repair, rehabilitation, or replacement does not result in a substantial change in the structure's configuration or the filled area, or an increase in adverse impacts on waters of the United States, and further provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations due to changes in materials or construction techniques which are necessary to make repair, rehabilitation, or replacement to current safety standards are permitted. Currently serviceable means usable as is or with some maintenance, but not so degraded as to essentially require reconstruction. It also includes those structures and fills destroyed within the past two years by storms, floods, fire or other discrete events, but which were serviceable immediately preceding that event. Maintenance dredging and beach restoration are not authorized by this nationwide permit. (Sections 10 and 404)

4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities. Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This nationwide permit does not authorize artificial reefs or impoundments and semi-impoundments of waters of the United States, for culture or holding of mobile species such as lobster. (Sections 10 and 404)

5. Scientific Measurement Devices. Staff gages, tide gages, water recording devices, water quality testing and improvement devices, small weirs and flumes constructed primarily to record water quantity and velocity, and similar structures. (Sections 10 and 404)

6. Survey Activities. Survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes. Drilling and the discharge of excavated

material from test wells for oil and gas exploration is not authorized by this nationwide permit; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this nationwide permit. The discharge of drilling muds and cuttings may require a permit under section 402 of the Clean Water Act. (Sections 10 and 404)

7. Outfall Structures. Activities related to construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (section 402 of the Clean Water Act), provided that the nationwide permittee notifies the district engineer in accordance with the "Notification" general condition. (Also see 33 CFR 330.1(e).) Intake structures per se are not included—only those directly associated with an outfall structure. (Sections 10 and 404)

8. Oil and Gas Structures. Structures for the exploration, production, and transportation of oil, gas, and minerals on the Outer Continental Shelf within areas leased for such purposes by the Department of the Interior, Minerals Management Service. Such structures shall not be placed within the limits of any designated shipping safety fairway or traffic separation scheme, except temporary anchors that comply with the fairway regulations in 33 CFR 322.5(l). (Where such limits have not been designated, or where changes are anticipated, district engineers will consider discretionary authority in accordance with 33 CFR 330.4(e) and will also review such proposals to ensure that they comply with the provisions of the fairway regulations in 33 CFR 322.5(l).) Such structures will not be placed in established danger zones or restricted areas as designated in 33 CFR part 334 nor EPA or Corps designated dredged material disposal areas. (Section 10)

9. Structures in Fleeting and Anchorage Areas. Structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard. (Section 10)

10. Mooring Buoys. Non-commercial, single-boat, mooring buoys. (Section 10)

11. Temporary Recreational Structures. Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually. (Section 10)

12. Utility Line Backfill and Bedding. Discharges of material for backfill or bedding for utility lines, including outfall and intake structures, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. The term "utility line" does not include activities which drain a water of the United States, such as, drainage tile. Material resulting from trench excavation may be temporarily (six months) sidecast into waters of the United States provided that the material is not placed in such a manner that it is dispersed by currents or other forces. In wetlands, the top 6" to 12" of the trench should generally be backfilled with topsoil from the trench. Excess material must be removed to upland areas immediately upon completion of construction. Any exposed slopes and streambanks must be stabilized immediately upon completion of the utility line. The utility line itself will require a section 10 permit if in navigable waters of the United States. (See 33 CFR part 322). (Section 404)

13. Bank Stabilization. Bank stabilization activities necessary for erosion prevention provided:

a. No material is placed in excess of the minimum needed for erosion protection;

b. The bank stabilization activity is less than 500 feet in length;

c. The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line;

d. No material is placed in any special aquatic site, including wetlands;

e. No material is of the type or is placed in any location or in any manner so as to impair surface water flow into or out of any wetland area;

f. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

g. The activity is part of a single and complete project.

Bank stabilization activities in excess of 500 feet in length or greater than an average of one cubic yard per running foot may be authorized if the permittee notifies the district engineer in accordance with the "Notification" general condition and the district engineer determines the activity complies with the terms and conditions of the nationwide permit and the adverse environmental impacts are minimal both individually and cumulatively. (Sections 10 and 404)

14. Road Crossing. Fills for roads crossing waters of the United States (including wetlands and other special aquatic sites) provided:

a. The width of the fill is limited to the minimum necessary for the actual crossing;

b. The fill placed in waters of the United States is limited to a filled area of no more than ⅓ acre. Furthermore, no more than a total of 200 linear feet of the fill for the roadway can occur in special aquatic sites, including wetlands;

c. The crossing is culverted, bridged or otherwise designed to prevent the restriction of, and to withstand, expected high flows and tidal flows;

d. The crossing, including all attendant features, both temporary and permanent, is part of a single and complete project for crossing of a water of the United States; and,

e. For fills in special aquatic sites, including wetlands, the permittee notifies the district engineer in accordance with the "Notification" general condition. The notification must also include a delineation of affected special aquatic sites, including wetlands.

Some road fills may be eligible for an exemption from the need for a section 404 permit altogether (see 33 CFR 323.4). Also, where local circumstances indicate the need, district engineers will define the term "expected high flows" for the purpose of establishing applicability of this nationwide permit. (Sections 10 and 404)

15. U.S. Coast Guard Approved Bridges. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including approach fills, cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharge has been authorized by the U.S. Coast Guard as part of the bridge permit. For approach fills in special aquatic sites the permittee must notify the district engineer in accordance with the "Notification" general condition. The notification must also include a delineation of affected special aquatic sites, including wetlands. Causeways are not included in this nationwide permit and will require an individual or regional section 404 permit. (Section 404)

16. Return Water From Upland Contained Disposal Areas. Return water from an upland contained dredged material disposal area provided the state had issued a site specific certification or waiver under section 401 of the Clean Water Act (see also 33 CFR 325.2(b)(1)). The dredging itself requires a section 10 permit if located in navigable waters of the United States. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d) even though the disposal itself occurs on the upland and thus does not require a section 404 permit. This nationwide permit satisfies the technical requirement for a section 404 permit for the return water where the quality of the return water is controlled by the state through the section 401 certification procedures. (Section 404)

17. Hydropower Projects. Discharges of dredged or fill material associated with hydropower projects where the hydropower project which includes the discharge is authorized by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended, provided the permittee notifies the district engineer in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)). The Federal Power Act exempts such projects from the need for a section 10 permit. Those projects for which the FERC has granted an exemption from licensing pursuant to section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and section 30 of the Federal Power Act, as amended, do not

require notification to the district engineer. (Section 404)

18. Minor Discharges. Minor discharges of dredged or fill material into all waters of the United States provided:

a. The discharge does not exceed 25 cubic yards;

b. The discharge will not cause the loss of more than 1/10 acre of a special aquatic site, including wetlands;

c. If the discharge exceeds 10 cubic yards or the discharge is in a special aquatic site, including wetlands, the permittee notifies the district engineer in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e).)

d. The discharge, including all attendant features, both temporary and permanent, is part of a single and complete project. For the purposes of this nationwide permit, the acreage limitation refers to waters of the United States that are physically covered by the discharge plus waters of the United States that are flooded and waters of the United States that are drained so that they would no longer be a water of the United States as a result of the project. (Sections 10 and 404)

19. 20 Cubic Yard Dredging. Dredging of no more than 20 cubic yards below the plane of the ordinary high water mark or the mean high water mark from navigable waters of the United States as part of a single and complete project. This nationwide permit does not authorize the connection of canals or other artificial waterways to navigable waters of the United States (see section 33 CFR 322.5(g)). (Section 10)

20. Oil Spill Cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan, (40 CFR part 300), provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action. (Sections 10 and 404)

21. Surface Mining Activities. Activities associated with surface coal mining activities provided they are authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under title V of the Surface Mining Control and Reclamation Act of 1977 and provided the permittee notifies the district engineer in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)). (Sections 10 and 404)

22. Removal of Vessels. Temporary structures or minor fills required for the removal of wrecked, abandoned, or disabled vessels, or the removal of man-made obstructions to navigation. This nationwide permit does not authorize the removal of vessels listed or determined eligible for listing on the National Register of Historic Places unless the district engineer is notified and indicates that there is compliance with the "Historic Properties" general condition. This nationwide permit does not authorize maintenance dredging, shoal removal, or river bank snagging. Vessel disposal in waters of the United Staes may need a permit from EPA (see 40 CFR 229.3). (Sections 10 and 404)

23. Approved Categorical Exclusions. Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR part 1500 *et seq.*), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW–OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Prior to approval for purposes of this nationwide permit of any agency's categorical exclusions, the Chief of Engineers will solicit comments through publication in the Federal Register. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this nationwide permit.

For fills in special aquatic sites, including wetlands, the permittee must notify the district engineer in accordance with the "Notification" general condition. The notification must also include a delineation of affected special aquatic sites, including wetlands. (Sections 10 and 404)

24. State Administered section 404 Program. Any activity permitted by a state administering its own section 404 permit program pursuant to 33 U.S.C. 1344(g)–(1) is permitted pursuant to section 10 of the Rivers and Harbors Act of 1899. Those activities which do not involve a section 404 state permit are not included in this nationwide permit, but certain structures will be exempted by section 154 of Public Law 94–587 (see 33 CFR 322.3(a)(2)). (Section 10)

25. Structural Discharge. Discharges of concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as piers and docks; and for linear projects, such as bridges, transmission line footings, and walkways. The NWP does not authorize filled structural members that would support buildings, homes, parking areas, storage areas and other such structures. Housepads or other building pads are also not included in this nationwide permit. The structure itself may require a section 10 permit if located in navigable waters of the United States. (Section 404)

26. Headwaters and Isolated Waters Discharges. Discharges of dredged or fill material into headwaters and isolated waters provided:

a. The discharge does not cause the loss of more than 10 acres of waters of the United States;

b. The permittee notifies the district engineer if the discharge would cause the loss of waters of the United States greater than one acre in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)); and

c. The discharge, including all attendant features, both temporary and permanent, is part of a single and complete project.

For the purposes of this nationwide permit, the acreage of loss of waters of the United States includes the filled area plus waters of the United States that are flooded and waters of the United States that are drained so that they would no longer be a water of the United States as a result of the project. (Section 404)

Note: For the purposes of this proposed rule, a discussion of options being considered for NWP 26 is provided in the Preamble.

27. Wetland Restoration Activities. Activities associated with the restoration of altered and degraded non-tidal wetlands on private lands in accordance with the terms and conditions of a binding wetland restoration contract between the landowner and the U.S. Fish and Wildlife Service or the Soil Conservation Service; or activities associated with the restoration of altered and degraded non-tidal wetlands on Federal surplus lands (e.g. military lands proposed for disposal), Farmers Home Administration inventory properties, and Resolution Trust Corporation Inventory properties that are under Federal control prior to being transferred to the private sector. Such activities include, but are not limited to: Installation and maintenance of small water control structures, dikes, and berms; backfilling of existing drainage ditches; removal of existing drainage structures; construction of small nesting islands; and other related activities. This nationwide permit applies only to those restoration projects that serve the purpose of restoring natural wetland hydrology, vegetation, and function to altered and degraded non-tidal wetlands. This nationwide permit also authorizes any future discharge of dredged or fill material associated with reversion of a restored wetland on private land to its prior condition and use (i.e. prior to restoration under the contract) within five years after expiration of a limited term wetland restoration contract, even if such discharge occurs after this nationwide permit expires. The prior condition will be documented in the original contract, and the determination of return to prior conditions will be made by the Federal agency executing the contract. (Sections 10 and 404)

28. Modifications of Existing Marinas. Reconfigurations of existing docking facilities within an authorized marina area. No dredging, additional slips or dock spaces, or expansion of any kind within waters of the United States are authorized by this nationwide permit. (Section 10)

29. Reserved.

30. Dewatering Construction Sites. Temporary cofferdams placed in a manner that will not be eroded by expected flows for the purpose of dewatering construction sites for up to 6 months. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Cofferdams must not exceed 55% of the width of the waterway. The cofferdams must be entirely removed to upland areas following completion of the activity requiring dewatering and cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after the cofferdams are removed require a section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322). (Sections 10 and 404)

31. Small Docks and Piers. Small private fixed or floating boat docks and piers in navigable waters of the United States meeting the following limitations:

a. The structure shall not extend more than 50 feet waterward of the ordinary high water mark or mean high water mark, or shall not exceed more than 25 percent of the width of the waterbody (whichever is less);

b. The dock or pier shall not exceed 6 feet in width;

c. Configuration of the dock or pier may vary in plan (e.g. straight, T, U, or L shaped) provided the total length of all segments does not exceed 100 feet and the surface area does not exceed 600 square feet;

d. The height of the dock or pier over wetlands must be one foot in height per each foot of width of the dock or pier unless otherwise authorized by the district engineer.

e. All structures must be set back a minimum of 10 feet from the common boundary line of adjoining properties;

f. In addition to the above, a swim raft or swim platform that does not exceed 200 square feet, a boat hoist, and a covered boat shed may be included;

g. Floatation material must be free of chemicals, pesticides, oil, gas or other toxic residues or substances; and

h. No structure can extend within 25 feet of a Federal Channel or anchorage area, or block customary boating channels unless otherwise authorized by the district engineer.

Private boat docks and piers in excess of the limits above may be authorized, if the permittee notifies the district engineer in accordance with the "Notification" general condition; and the district engineer determines that the dock or pier complies with the appropriate terms and conditions of the nationwide permit and that the adverse environmental impacts are minimal both individually and cumulatively. (Section 10)

32. Completed Enforcement Actions. Any discharge of dredged or fill material, structure or work resulting from a court-ordered consent agreement, court decision, or other civil or criminal judicial proceeding or agreement. (Sections 10 and 404)

33. Temporary Construction and Access. Temporary structures and discharges necessary for construction activities or access fills. The permittee must notify the district enigneer in accordance with the "Notification" general condition. The notification must also include a restoration plan of reasonable measures to avoid and minimize impacts to aquatic resources. The district engineer will add special conditions, where necessary, to ensure that adverse environmental impacts are minimal. Such conditions may include: Limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g. construction mats in wetlands where practicable). (Sections 10 and 404)

34. Cranberry Production Activities.

Note: For the purposes of this proposed rule, a discussion of options being considered for NWP 34 is provided in the Preamble.

35. Maintenance Dredging of Existing Basins. Excavation and removal of accumulated sediment for maintenace of existing marina basins, canals, and boat slips provided the dredged material is disposed of at an upland site or a Corps approved disposal site and proper siltation controls are used. (Section 10)

36. Boat Ramps. Activities required for the construction of boat ramps provided:

a. The discharge is the minimum necessary but does not exceed 50 cubic yards of concrete, rock, crushed stone or gravel into forms, or placement of pre-cast concrete planks or slabs. (Unsuitable material, such as asphalt, is not authorized);

b. The boat ramp does not exceed 20 feet in width;

c. The base material is crushed stone, gravel or other suitable material;

d. The excavation is limited to the area necessary for site preparation and all excavated material is removed to the upland; and

e. No material is placed in special aquatic sites, including wetlands.

Dredging to provide access to the boat ramp will require a section 10 permit if located in navigable waters of the United States. (Section 10 and 404)

37. Emergency Watershed Protection. Work done by or funded by the Soil Conservation Service qualifying as an "exigency" situation (requiring immediate action) under its Emergency Watershed Protection Program (7 CFR part 624) provided the district engineer is notified in accordance with the "Notification" general condition. (Also see 33 CFR 330.1(e)). (Sections 10 and 404)

38. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority provided the permittee notifies the district engineer in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this nationwide permit. This nationwide permit does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. (Sections 10 and 404)

39. Agricultural Discharges. Discharges of dredged or fill material in "farmed wetlands" provided:

a. The discharges are necessary for agricultural production;

b. The Wetlands that were once in use for agricultural crop production have not lain idle so long that modifications to the hydrologic regime are necessary to resume crop production;

c. The discharge does not convert naturally vegetated wetlands to agriculture, such as the conversion of bottomland hardwood wetlands to agriculture;

d. The discharge will be limited to the minimum necessary for the agricultural production; and

e. The permittee notifies the district engineer in accordance with the "Notification" general conditions. The notification must also include a delineation of affected special aquatic sites, including wetlands. (Also see 33 CFR 330.1(e)).

"Farmed wetlands" are wetlands that were both manipulated and cropped for agricultural commodities before December 23, 1985, They consist of cropped prairie potholes and playa lakes that meet the wetland criteria and other wetlands that are seasonally flooded or ponded for at least 15 consecutive days during the growing season under average conditions (i.e., 50 percent chance of occurrence).

This nationwide permit does not authorize the filling of wetlands so as to raise the elevation to create upland farm land, nor does it authorize filling that will result in the permanent drainage of wetlands to create upland farm land. (Section 404)

40. Farm Buildings. Discharges of dredged or fill material for foundations and building pads for buildings or agricultural related structures necessary for farming activities into jurisdictional wetlands that were in agricultural crop production prior to December 23, 1985 (i.e. farmed wetlands). The discharge will be limited to the minimum necessary (see the "Minimization" section 404 only condition). (Section 404)

C. Nationwide Permit Conditions

General Conditions

The following general conditions must be followed in order for any authorization by the nationwide permits to be valid:

1. Navigation. No activity may cause more than a minimal effect on navigation.

2. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date.

4. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody unless the primary purpose is to impound water.

5. Equipment. Heavy equipment working in wetlands must be placed on mats or other

measures must be taken to minimize soil disturbance.

6. Regional and case-by-case conditions. The activity must comply with any regional conditions which may have been added by the division engineer (see 33 CFR 330.4(e)) and any case specific conditions added by the Corps.

7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status. Information on Wild and Scenic Rivers may be obtained from the National Park Service and the U.S. Forest Service.

8. Tribal rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water quality certification. In certain states, an individual state water quality certification must be obtained or waived (see 33 CFR 330.4(c)).

10. Coastal zone management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see section 330.4(d)).

11. Endangered species. No activity may jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the district engineer if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work on the activity authorized by the nationwide permit until notified by the district engineer (see 33 CFR 330.4(g)). Information on the location of threatened or endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

12. Historic properties. The permittee must notify the district engineer if the authorized activity may adversely affect any historic properties listed, eligible, or potentially eligible for listing on the National Register of Historic Places. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. Where such properties may be affected, the permittee may not begin the authorized activity until notified by the district engineer (see 33 CFR 330.4(h)).

13. Notification. Where required by the terms of the NWP the prospective permittee must notify the district engineer as early as possible but not later than 30 days prior to commencing the activity. If the permittee is not notified otherwise within the 30-day period the permittee may begin the activity. Subsequently the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

The notification must be in writing and include the following information and any required fees:

(a) Name, address and telephone number of the permittee;

(b) Location of the proposed project;

(c) Brief description of the proposed project and its purpose;

(d) Where required by the terms of the NWP a delineation of affected special aquatic sites, including wetlands.

The standard individual permit application form (Form ENG 4345) may be used as the notification.

If, after reviewing the notification for a NWP which requires a delineation of special aquatic sites, including wetlands, the DE determines that the impacts are more than minimal, then the DE will require an individual permit unless the prospective permittee elects to propose mitigation so that the impacts would be minimal.

Wetlands Delineations: Wetland delineations must be prepared in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands or the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30 day period will not start until the wetland delineation has been completed.

Mitigation: Factors that the DE will consider when determining the acceptability of appropriate and practicable mitigation, include but are not limited to:

(a) To be practicable the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of overall project purposes;

(b) To the extent appropriate, permittees should consider mitigation banking or contributions to wetland trust funds as an acceptable form of "appropriate and practicable mitigation."

Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to: reducing the size of the project; incorporating construction practices that minimize erosion and sedimentation; avoiding construction during spawning and migration periods; establishing buffer zones to protect aquatic resource values; and replacing the loss of aquatic resource values by creating, restoring, and enhancing similar habitat.

Section 404 Only Conditions

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material and must be followed in order for authorization by the nationwide permits to be valid:

1. Water supply intakes. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

2. Shellfish production. No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by nationwide permit 4.

3. Suitable material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

4. Minimization. Discharges of dredged or fill material into waters of the United States must be minimized at the project site (i.e. on-site) to the maximum extent practicable.

5. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. Obstruction of high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. Adverse impacts from impoundments. If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized.

8. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

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BILLING CODE 3810-01-M

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33 CFR Part 330

Proposal To Amend Nationwide Permit Program Regulations and Issue, Reissue, and Modify Nationwide Permits; Hearing

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of public hearing.

SUMMARY: In the Proposed Rules section of this issue of the Federal Register the Corps of Engineers is publishing its proposal to amend the nationwide permit program regulations and to issue, reissue, and modify nationwide permits. The Corps of Engineers will hold a public hearing on the nationwide permits contained in that proposal. The hearing will be held in Washington, DC on May 10, 1991 at the Quality Hotel Capitol Hill and is open to the public. Comments may be submitted in person at the hearing or in writing to the Office of the Chief of Engineers at the address given below. The hearing record will remain open until May 27, 1991. The legal authority for this hearing is section 404 of the Clean Water Act (33 U.S.C. 1344) and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

DATES: The hearing will be held from 1 p.m. to 5 p.m. on May 10, 1991.

ADDRESSES: The hearing will be held at the Quality Hotel Capitol Hill, 415 New Jersey Ave. NW., Washington, DC. Written comments may be submitted to HQUSACE, ATTN: CECW–OR, Washington, DC, 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Bonner or Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers, at (202) 272–0199.

SUPPLEMENTARY INFORMATION: The hearing will be held in accordance with the Corps public hearing regulations at 33 CFR part 327. The hearing will be transcribed. Persons desiring to testify at the hearing are requested to limit their statements to 15 minutes. Filing of a written statement at the time of giving the oral statement would be helpful and facilitate the job of the court reporter. Persons wishing to speak at the hearing need only fill out a card that will be available at the entrance to the hearing room. Advance requests to speak may be mailed to the Office of the Chief of Engineers at the address given above.

Dated: March 15, 1991.

Steve Matteson,

Colonel, Corps of Engineers, Assistant Chief, Construction and Readiness Division, Directorate of Civil Works.

[FR Doc. 91–8203 Filed 4–9–91; 8:45 am]

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federal register

Wednesday
April 10, 1991

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 878

General and Plastic Surgery Devices; Effective Date of Requirement for Premarket Approval of Silicone Gel-Filled Breast Prosthesis; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. 88N-0244]

General and Plastic Surgery Devices; Effective Date of Requirement for Premarket Approval of Silicone Gel-Filled Breast Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) for the implanted silicone gel-filled breast prosthesis, a generic type of medical device intended to augment or reconstruct the size and/or contour of the female breast. Commercial distribution of this device must cease, unless a manufacturer or importer has filed with FDA a PMA for its version of the implanted silicone gel-filled breast prosthesis within 90 days of the effective date of this regulation. This regulation reflects FDA's exercise of its discretion to require PMA's for preamendments devices. (See section 513(d) (3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(d)(3).) The agency identified the silicone gel-filled breast prosthesis as one of the high-priority devices that would be subject to PMA requirements (January 6, 1989; 54 FR 550 at 551). This rulemaking is consistent with FDA's stated priorities and Congress' requirement that class III devices are to be regulated by FDA's premarket approval review. This action is being taken under the Medical Device Amendments of 1976 (Pub. L. 94-295). The preamble to this rule responds to comments received on the proposal to require the filing of a PMA.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Palmer, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION:

I. Introduction

This regulation is final upon publication and requires PMA's for all silicone gel-filled breast prostheses classified under 21 CFR 878.3540 and all devices that are substantially equivalent to them. PMA's for these devices must be filed with FDA within 90 days of the effective date of this regulation. (See section 501(f) (1) (A) of the act (21 U.S.C. 351(f) (1) (A)).)

In the **Federal Register** of June 24, 1988 (53 FR 23874), FDA published a final rule (21 CFR 878.3540) classifying into class III (premarket approval) the silicone gel-filled breast prosthesis, a medical device. Section 878.3540 (21 CFR 878.3540) of FDA's regulations setting forth the classification of the silicone gel-filled breast prosthesis intended for medical use applies to: (1) Any silicone gel-filled breast prosthesis that was in commercial distribution before May 28, 1976, and (2) any device that FDA has found to be substantially equivalent to a silicone gel-filled breast prosthesis in commercial distribution before May 28, 1976.

In the **Federal Register** of May 17, 1990 (55 FR 20568), FDA published a proposed rule to require the filing, under section 515(b) of the act (21 U.S.C. 360e(b)), of PMA's for the classified silicone gel-filled breast prosthesis and all substantially equivalent devices. In accordance with section 515(b)(2)(A) of the act, FDA included in the preamble to the proposal the agency's proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the act, and (2) the benefits to the public from use of the device (55 FR 20568 at 20570).

The preamble to the proposal also provided an opportunity for interested persons to submit comments on the proposed rule and the agency's proposed findings, and, under section 515(b)(2)(B) of the act, provided the opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any petition requesting a change in the classification of the silicone gel-filled breast prosthesis was required to be submitted by June 1, 1990. The comment period initially closed on July 16, 1990. Because of several requests, FDA extended the comment period for 60 days to September 14, 1990, to ensure adequate time for preparation and submission of comments (55 FR 29223).

FDA did not receive any petitions requesting a change in the classification of the silicone gel-filled breast prosthesis. The agency did receive a total of 2,670 comments in response to the proposal of May 17, 1990. This total number represents comments from individuals, manufacturers, professional societies, consumer and health groups, and attorneys. The comments primarily addressed issues relating to the significant risks associated with the use of silicone gel-filled breast prostheses. Many comments were made by patients who had received breast reconstruction or augmentation and indicated favorable experience with this device. Several comments described adverse effects associated with the devices, largely reflecting the profile of the risks identified in the proposal.

II. Summary and Analysis of Comments and FDA's Response

A. General Comments

1. A few comments disputed the accuracy of the device description for breast prostheses. These comments are summarized as follows:

(a) The device description is incorrect in that the devices classified by FDA were not intended to be filled by the surgeon with silicone gel;

(b) The device description of the shell is incorrect in that the devices classified by FDA do not contain stabilizers in the shell;

(c) The device description of the silicone gel is incorrect in that the devices classified by FDA do not contain stabilizers or fillers in the gel; and

(d) The term prosthesis, as used in the classification definition, is incorrect in that it applies to an implant.

FDA disagrees with the comments. The device classification description, including characteristics referenced in these comments, was prepared to describe the composition of silicone gel-filled breast prostheses that were in commercial distribution before enactment of the Medical Device Amendments. This classification description represented FDA's understanding of the preamendments device, and was proposed as the device description in the **Federal Register** of January 19, 1982 (47 FR 2820).

In response to FDA's proposed classification of the device, no comments were submitted that disputed FDA's characterization and description of the preamendments device, except as discussed in section II A, comment 2. During the classification process FDA received no comments regarding those aspects of the identification of this device now highlighted in comments to FDA's section 515(b) proposed rule. The proposed device classification description was slightly altered after a review of the comments and finalized in the **Federal Register** of June 24, 1988 (53 FR 23874).

While devices marketed today may not be identical to the classification definition, they, nevertheless, have been found to be substantially equivalent to

the classified preamendments device and, thus, are subject to this final rule. Importantly, there has never been confusion regarding FDA's intent to regulate as class III devices silicone gel-filled breast prostheses notwithstanding compositional differences. FDA disagrees with the fourth comment regarding its improper use of the word "prosthesis." Contrary to the comment's contention, the term prosthesis appropriately describes either internally or externally used devices.

2. One comment asked that the double lumen silicone gel-filled breast prosthesis be deleted from any final call for PMA's for silicone gel-filled breast prostheses until FDA publishes a classification proposal for the specific device type. The comment stated that the double lumen prosthesis was not subject to the 1982 proposed regulations (47 FR 2815), nor was it the subject of a separately published classification proposal. Therefore, the comment concluded that the device was not classified pursuant to a duly promulgated regulation subject to the notice-and-comment rulemaking procedures of the Administrative Procedure Act (APA).

FDA disagrees with this comment. In 47 FR 2815, FDA proposed not to classify the double lumen silicone gel-filled/saline breast prosthesis. At that time FDA believed that the double lumen device did not belong in the classification proposed for the silicone gel-filled breast prosthesis and, therefore, proposed to exclude it. A comment was received challenging FDA's position and contending that the double lumen device did, in fact, belong under the proposed classification (see 53 FR 23863). FDA reexamined the available information and requested information from manufacturers. After review of all available information, FDA determined that the proposal not to classify the double lumen device was in error. FDA agreed with the comment and classified the double lumen device after clarifying the identification of the generic type of device. The classification of the double lumen prosthesis was final in 1988. The comment did not challenge that classification upon which the present rulemaking, in part, relies. Even assuming the correctness of the comment, nevertheless, the comment could not now attempt to void this section 515(b) rulemaking with a late challenge to a prior proceeding.

3. One comment stated that Congress never intended "old" (preamendments) devices to be subjected to the same scrutiny as "new" devices. The comment stated that Congress intended that less rigorous scientific evidence should be applied to "old" devices. The comment further stated that FDA should accept meaningful scientific data from the 20 years of use of the device rather than require prospective clinical studies of these devices.

FDA does not believe that Congress intended to differentiate between "old" and "new" devices with respect to the requirement that valid scientific evidence was needed to support a PMA approval. Neither section 513(a)(3) nor 515(d) of the act makes any distinction between "old" and "new" devices with regard to the requirements for approval. However, FDA does expect that more retrospective data, which, by its historical character, is generally less detailed and rigorous than prospectively gathered data, would be available for use in supporting the approval of "old" as opposed to "new" devices. FDA states that scientific evidence, including retrospectively gathered data, is acceptable to support a PMA approval, as long as the data are valid scientific evidence within the meaning of 21 CFR 860.7(c)(2).

4. Two comments stated that the proposed rule does not document or support the type or degree of risks to be reduced or eliminated by the PMA requirement.

FDA disagrees that the proposal has not documented and identified risks associated with these devices and the degree of these risks to be eliminated or reduced by the premarket approval process. The purpose of a PMA is to identify for each specific device the amount of risk and benefit present. Based on the identification of such risks and benefits, and considering specific labeling for a device related to its use and risks, the agency may then determine whether an acceptable showing is made to allow the device to remain on the market.

5. One comment stated that requiring data for the risks, such as connective tissue disease, tuberculosis, chronic infections, tuberculin positivity, and immunological disease, that were not identified in the final classification regulation, without first establishing the need and appropriateness for such data in an open public session before an FDA advisory panel, would place manufacturers at a disadvantage in complying with the agency's request for PMA's.

FDA disagrees with this comment. Findings, or the lack thereof, in the classification regulation do not control the legality of this proceeding. Section 515(b) of the act (21 U.S.C. 360e(b)) sets forth what must be contained in the notice of a proposed regulation requiring PMA's, and the identification of risks and benefits are required parts of the notice. (See section 515(b)(2)(A)(ii) of the act (21 U.S.C. 360e(b)(2)(A)(ii)).) Moreover, FDA's listing of risks and benefits does not eliminate or reduce a PMA applicant's obligation of identifying and quantifying all risks associated with the use of its device known to that applicant.

6. One comment stated that there is a concern about statements in the proposal that would preclude the use of data gathered on these devices since their final classification in 1988. Further, it stated that information gathered on devices with 20 years of experience should not be excluded from PMA's.

FDA is not aware of any such statements or attempts to exclude certain data. Any data that constitute valid scientific evidence and show the safety and effectiveness of a device are acceptable in a PMA.

7. One comment stated that FDA should define how data contained in a premarket notification submission (510(k) submission) submitted under section 510(k) of the act (21 U.S.C. 360(k)) should be used to support PMA's for silicone gel-filled breast prostheses, and that FDA should clarify why 510(k) data are not sufficient for use in addressing FDA concerns.

FDA disagrees and notes that PMA content requirements are contained in section 515(c) of the act and part 814 (21 CFR part 814) of FDA's regulations. Moreover, any data that constitute valid scientific evidence, whether present in a 510(k) submission or available from any other source, may be used to support a PMA.

8. Several comments stated that sufficient thought and time had not been given to define what tests are necessary to ensure that all the various device designs are safe and effective. The comments stated that the proposed rule does not provide specific justification and guidance for the testing required. The comments requested a reopening of the 515(b) process and a postponement of the final 515(b) notice until after specific guidance on device testing is agreed upon by FDA and the manufacturer. The comments went on to say that, after tests are agreed upon, adequate time must then be provided to allow manufacturers to conduct those required tests.

FDA disagrees with these comments. Section 515(b) does not require FDA to provide guidance for tests for PMA's prior to issuing a call for PMA's. While FDA discussed numerous tests that suggest the content of a PMA for a

silicone gel-filled breast prosthesis, these tests were suggestive and not intended to bind a PMA applicant to any specific study or set of studies.

The preamble to the notice contained a statement of what FDA believes are the risks to health posed by a silicone gel-filled breast prosthesis. The identification of risks and benefits of the device was supplied consistent with the act and suggest the areas requiring documentation and study for those preparing PMA's for these devices. The proposed rule, or any part thereof, was not intended as FDA's statement of required content of PMA's for silicone gel-filled breast prostheses. Section 515(c) of the act identifies the required content of any PMA. FDA believes that the requirements stated in the act can be met by several means. FDA is prepared to accept any and all valid scientific evidence in its evaluation of the safety and effectiveness of these devices.

Eight years have passed since these devices were first proposed for class III and more than 30 months have elapsed since these devices were placed in class III by final regulation. FDA believes that manufacturers have had notice, consistent with Congress' intent, to gather the information necessary to provide a reasonable assurance of the safety and effectiveness of these devices. It is not responsible to suggest that Congress intended manufacturers to sit tight and not develop PMA's until a 515(b) regulation became final. Indeed, the act specifically requires submissions 30 months after the final classification of a preamendments device or within 90 days of a final 515(b) regulation, whichever is later. (See section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)).) Congress intended that manufacturers anticipate a final 515(b) regulation and be prepared to make appropriate applications or discontinue distribution of their devices. Id.

9. One comment stated that FDA has utilized old, unrelated anecdotal evidence or unsupported opinion without supplying a rationale or reasoning in identifying risks associated with silicone gel-filled breast prostheses. The comment went on to state that FDA has misread, misquoted, acted in a biased and unreasoning manner, and utilized information not appearing in the administrative record, thus acting arbitrarily and capriciously. The comment requested that FDA reevaluate all the literature and reassess the degree of risk prior to issuing a final 515(b) regulation.

FDA disagrees with these comments. The classification process for this device was conducted in accordance with section 513 of the act, and a class III designation was determined appropriate for the device. The notice for this rulemaking sets forth the elements required by section 515(b) of the act. The history of the classification of these devices and the proposed notice contain documentation which supports FDA's regulatory action. The records of these processes show that FDA has not acted in an arbitrary or capricious manner. FDA's review of the record shows that it has reasonably identified the risks to health associated with the silicone gel-filled breast prosthesis. By requiring PMA's for these devices at this time, FDA is not ignoring the clinical history of silicone gel-filled breast prostheses. FDA, based on the record in this proceeding, is exercising its discretion to determine that now is the time to require PMA's for silicone gel-filled breast prostheses. An unchallenged class III designation means that these devices are to be subject to PMA's, and this rule accomplishes Congress' mandated goal.

10. Several comments stated that the incidence of fibrous capsular contracture (contracture), gel migration, teratogenicity, autoimmune disease, and calcification is highly variable and not well established. The comments stated that these events are difficult to estimate because of numerous factors including: the lack of well designed studies; insufficient, unstated or varying follow-up periods; different manufacturers of the devices; lack of information on the number and types of devices implanted; and varying medications and surgical methods used. Some of the comments also stated that existing studies are more descriptive than analytical, control groups are difficult to design and recruit, and populations are too small to establish an association between silicone gel-filled breast prostheses and teratogenicity and calcification.

FDA agrees with these comments. However, sufficient literature identifies these risks associated with the device. It is the purpose of obtaining PMA's for the device to determine whether a risk/benefit assessment justifies the continuation of the distribution of any specific breast prosthesis.

11. Several comments stated that the incidence of contracture, implant rupture and gel leakage has declined over the years. Various comments attributed the decline in contracture to submuscular implantation, the introduction of polyurethane coating, the use of texturized surfaces on implants, improvements in surgical technique and the use of postoperative exercises. Several comments stated that voluntary improvements in the design and materials of silicone gel-filled breast prostheses have reduced the incidence of rupture and leakage.

FDA acknowledges that the design of silicone gel-filled breast prostheses and surgical technique have evolved over time. FDA believes that neither the literature nor other data currently available to FDA definitively describe differences in the incidence of problems attributable to device design and/or variations in surgical procedures. Sufficient information exists identifying contracture, rupture, and leakage as risks to health associated with the silicone gel-filled breast prosthesis. It is the purpose of PMA's to determine whether these risks can be controlled to provide reasonable assurance of the safety and effectiveness of these devices for their intended use. Even a decline in the incidence of risks would not be a reason to abandon the regulation to require PMA's for silicone gel-filled breast prostheses.

12. Several comments stated that PMA requirements for contracture, infection, and other adverse effects should be limited to an analysis of the literature and other available data, labeling and patient education materials that analyze and report the available data, and a plan for postmarket review of the incidence of the risks to health.

FDA disagrees with these comments. FDA believes that literature and other available information are potential sources of the data for PMA's. To the extent that existing data are sufficient to support an approval of a PMA, FDA is comfortable with approving an application consisting of such data; however, this response should not be construed as suggesting that FDA is aware of publicly available information that would support a PMA approval. FDA disagrees that a postmarket surveillance plan alone, or in conjunction with the above, will be sufficient to support PMA approval.

13. Many comments stated that certain references cited in the proposed rule failed to demonstrate a causal relationship or a strong association between the implantation of a breast prosthesis and the onset of risks such as gel bleed, gel migration, calcification, delayed detection of breast tumors, carcinogenicity, teratogenicity and autoimmune diseases or connective tissue disorders.

FDA agrees that the references cited do not establish or refute the existence of a causal relationship between silicone gel-filled breast prostheses and these risks. However, the literature cited by FDA provides evidence that these potential risks are associated with the use of the device and are not trivial.

Investigation of these risks, in the context of a PMA, is reasonable.

14. Several comments stated that certain specific references cited in the proposed rule (55 FR 20568) by FDA did not support the identification of gel bleed (Refs. 25, 31, 32, 36, 42, 53, and 57), interference with tumor detection (Refs. 44 and 48), carcinogenicity (Refs. 30, 38, 50 through 52, 54, 56 through 59, 61 through 68, 77 through 83, 85, 86, 97, 99, and 121 through 123), autoimmune diseases and immunological disorders (Ref. 96), calcification (Refs. 24, 93 through 95, and 99) and contracture (Refs. 5, 7, 8, 13, 19, 26, and 31) as risks to health. One comment stated that some references (Refs. 7, 97, 98, and 101) did not support the device description contained in the proposal.

FDA agrees in part and disagrees in part with these comments. FDA acknowledges that the following references were inappropriately cited: For gel bleed, Refs. 25, 31, 36, 42, 53, and 57; for interference with tumor detection, Ref. 48; for carcinogenicity, Refs. 30, 38, 50, 54, 57 through 59, 65 through 67, 86, and 121 through 123; for autoimmune diseases and immunological disorder, Ref. 96; for calcification, Refs. 24, 94, 95, and 99; and for contracture, Refs. 5, 26, and 31. FDA agrees that Refs. 97 and 98 do not support the device description as stated in the proposal. FDA disagrees that the following references were incorrectly cited: for gel bleed, Ref. 32; for interference with tumor detection, Ref. 44; for carcinogenicity, Refs. 51, 52, 56, 61 through 64, 68, 77 through 83, 85, 97, 99; for calcification, Ref. 93; and for contracture, Refs. 7, 8, 13, and 19. With regard to the references supporting the device description, FDA believes that Refs. 7 and 101 contain documentation for the stated device description. FDA notes that the following references, which were not challenged by the comments, also support the noted risks to health: For gel bleed, Refs. 7, 9, 20, 24, 27 through 29, 33 through 35, 37, 69, 118, and 120; for interference with tumor detection, Refs. 45, 47, and 49; for carcinogenicity, Refs. 53, 69, and 102; for autoimmune diseases and immunological disorders, Refs. 39 through 41; for calcification, Refs. 18, 100, and 125; and for contracture, Refs. 1 through 4, 6, 9 through 12, and 14 through 18.

15. Several comments stated that other silicone containing medical devices produce migratory silicone droplets or particles and that the public is exposed to silicone through many environmental sources. One comment stated that, because of this more general exposure to and absorption of silicone, biologic risks from gel migration attributable to breast prostheses are doubtful and that studies of the anatomic distribution of silicone gel from the device would, therefore, be wasteful and not illuminating. One comment stated that FDA has treated the degree of risk and benefit in a disparate manner compared with other silicone implants.

FDA agrees that individuals are environmentally exposed to silicone polymers from other medical devices and other sources. No evidence was provided by the comments, and FDA is not aware of evidence, that environmental exposures to silicone would mask the effect of a ruptured silicone gel-filled breast prosthesis. The amount of silicone material available for release into a patient from a silicone gel-filled breast prosthesis is considerably larger than that available from other devices, or for that matter, in FDA's opinion, from other sources. When one device poses risks different from another, even if both are made from similar or even identical materials, the level of regulatory control must change. Although humans are exposed to various silicone compounds from a variety of environmental sources, most of these compounds, while containing silicone molecules, are compounds distinct from the silicone polymers used in breast prostheses. FDA believes that identification of all systemic biologic effects of silicone gel from breast prostheses must be part of the determination of safety and effectiveness, which can be achieved, in part, by the examination of the anatomic distribution of migrating silicone polymers.

16. Many comments stated that FDA overstated the risks to health of the silicone gel-filled breast prosthesis and understated the benefits from breast augmentation and reconstruction.

FDA disagrees with these comments. FDA acknowledges that the proposal did not contain a detailed examination of all components and aspects of the benefits of breast augmentation and reconstruction. Although two comments provided detailed identification of benefits of breast augmentation and reconstruction, these two comments did not identify any category of benefit not already identified by FDA in the notice. FDA disagrees that the notice overstates the risks from the device. The notice only identified the risks to health, and information is needed to fully characterize the significance of the risks to health. FDA believes that, without more detailed information, it is impossible to determine whether or not the risks identified in the notice are overstated or understated, particularly when considered in the context of the device's benefits, for any specific silicone gel-filled breast prosthesis.

17. Several comments stated that the risks to health of carcinogenicity, teratogenicity, infection, and interference with tumor detection, and the overall risk/benefit analysis, should be addressed by epidemiological or historical cohort studies and not require prospective studies prior to PMA approval. Some of these comments went on to state that valid scientific evidence sufficient to permit a valid risk/benefit analysis already exists and that FDA should accept this information in PMA's.

FDA agrees that epidemiological or historical cohort studies could serve as a source of the valid scientific evidence necessary to support the approval of a PMA. FDA believes that PMA applications are necessary to provide the valid scientific evidence needed for a risk/benefit analysis.

18. One comment urged FDA to finalize the proposed regulation for silicone gel-filled breast prostheses. It stated that manufacturers have been on notice for 2 years that they would have to provide data showing the safety and effectiveness of these devices, and it recommended that the final premarket approval regulation be published immediately, thereby triggering manufacturers' obligations to submit PMA's.

FDA agrees that the filing of a PMA for the silicone gel-filled breast prosthesis should be required by finalizing the 515(b) regulation. FDA is promulgating this final rule to require a PMA for the device within 90 days of publication, consistent with the act.

B. Fibrous Capsular Contracture

Numerous comments stated that: no single factor has been demonstrated to be the sole cause of contracture; the etiology of contracture is unknown; the etiology may not be identified by present scientific methodology or by prospective clinical trials; and unidentified host factors may play a role. One comment stated that FDA has offered no discussion of the possible causes of contracture.

FDA agrees that the etiology of contracture is unknown and that as yet unidentified host factors may play a role. Nonetheless, contracture is the most commonly documented risk associated with the silicone gel-filled breast prosthesis, and clinical data in the form of valid scientific evidence can show the rate of contracture for any specific silicone gel-filled breast

prosthesis. With this information, the agency can make a risk/benefit assessment of the various devices.

One comment stated that the Baker grade IV contracture is the only grade that can be considered to represent a health risk, while another comment remarked that contracture seldom presents a health problem. A third comment added that, when contracture occurs, it can be treated appropriately with no detriment to the patient's health.

FDA believes that, whenever a contracture is characterized by excessive breast firmness, discomfort, pain or disfigurement, it represents a potential health risk and may require corrective procedures, including surgery.

C. Gel Migration

Several comments noted that the agency made no attempt to distinguish between migration of silicone gel released by rupture or released by bleed. FDA agrees with the comments but notes that such a distinction is not necessary to the extent that rupture or gel bleed results in the migration of silicone gel.

Two comments stated that silicone lymphadenopathy and granuloma are rare occurrences and of questionable clinical significance. FDA disagrees that, although rare, silicone lymphadenopathy and granuloma formation are of questionable clinical significance. The agency cited evidence of silicone lymphadenopathy and granuloma formation to demonstrate that migration of both liquid silicone and silicone gel takes place and that silicone polymer materials are capable of producing adverse effects at sites distant from the implantation or injection site. The scientific evaluation of these risks for a specific device will permit a full risk assessment for a judgment of whether a specific device should remain in commercial distribution.

D. Infection

Many comments stated that, according to studies cited by the comments, infection occurs in a very small percentage of patients and the risk of infection is the same as or less than that of other procedures.

FDA disagrees that infection is an insignificant risk associated with silicone gel-filled breast prostheses. The proposed rule cites the occurrence of this complication as a potentially serious adverse effect. Data are needed to quantify the incidence of infection.

E. Tumor Detection

Several comments recognized that the presence of silicone gel-filled breast prostheses may complicate the interpretation of mammographic images. A few comments from women with implants argued that the presence of implants may facilitate the detection of lesions.

FDA agrees that the presence of an implant may compromise the interpretation of a mammographic procedure. FDA is unable to agree that the implant facilitates the detection of lesions, because the comments did not support their claims with scientific literature, and FDA is unaware of any literature supporting this position. FDA notes that the level of diagnostic assurance provided by modified mammographic procedure(s) has not been established. FDA believes that, in order to provide reasonable assurance of the safety and effectiveness of these silicone gel-filled prostheses, results from well-controlled studies must be properly analyzed and presented to evaluate the risk and/or benefit for early tumor detection posed by the device.

F. Degradation of Polyurethane Foam-Covered Prostheses

Several comments stated that the polyurethane foam material on silicone gel-filled breast prostheses degrades over time with a potential breakdown product of 2,4-diaminotoluene (TDA), a known carcinogen in animals. One comment suggested that the Delaney clause of the act required the agency to remove any device which contains a known carcinogen, such as TDA, from the market.

FDA agrees that the polyurethane foam used as a coating for silicone gel-filled breast prostheses can degrade to form TDA and that this represents a potentially serious risk of the device. FDA disagrees that the Delaney clause applies to medical devices.

G. Human Carcinogenicity

Numerous comments were received on the subject of the carcinogenicity of silicone. The comments make the following contentions: human case reports which described pathogenesis due to fluid silicone are not relevant because the silicone was not of medical grade; the possibility of chemical induction of sarcomas in animals was inappropriately inferred; coincidental occurrence of malignant carcinomas and breast prostheses does not establish a linkage; and animal studies are irrelevant because the observed sarcomas are solely due to physical (solid state) carcinogenesis and such risks are not applicable to humans. One comment stated that valid studies have established that breast implants do not cause cancer in humans.

FDA disagrees with these comments. Carcinogenesis is a putative risk secondary to implantation of any material. After review of all available information, the agency continues to believe that carcinogenicity is a potential risk that must be assessed in a PMA.

H. Human Teratogenicity

One comment stated that the requirement for teratology testing would be satisfied by a single generation rat reproductive toxicity study while a second comment preferred a rabbit study.

FDA believes that information in the form of well-designed, single generation animal studies would be appropriate. Additionally, a PMA applicant may choose to submit appropriate human studies, or properly gathered and analyzed historical data, to establish the teratogenic potential of a silicone gel-filled breast prosthesis.

I. Autoimmune Disease

Several comments stated that the number of reported cases of scleroderma or other connective tissue disorders or diseases of the immune system among implanted women does not exceed the incidence of these diseases in the general population.

FDA believes that, presently, it is not clear whether the incidence of these diseases in implanted women is the same as or greater than the incidence in the general population. The uncertainty surrounding this risk requires that it be investigated. FDA may not ignore a risk because evidence identifying it is not definitive. Indeed, to do so would not be sound public health management.

Two comments stated that "human adjuvant disease" should be abandoned as a risk of a breast implant because this disease appears to be highly specific to rats, with a few isolated cases in mice, following the injection of Freund's Complete Adjuvant. There is no evidence that this disease occurs in humans. Further, the comments stated that a consensus statement from the American Medical Association on this issue concludes that this designation is inappropriate.

FDA agrees with these comments.

J. Calcification

Several comments stated that the etiology of calcification is unknown. Other comments stated that it is impossible to determine whether calcification is due to the implant or other factors, such as postoperative

infection, a metabolic disorder, trauma, or other circumstances. Comments also stated that calcification is unlikely to be confused with a malignancy when appropriate mammographic views are taken.

FDA agrees that the etiology of calcification is unknown. Moreover, no valid scientific data have been submitted demonstrating that calcification will not mask interpretation of mammographic films, or contribute to diagnostic error. Calcification, therefore, remains a risk associated with breast implants that should be addressed in a PMA.

K. Benefits and Risks of the Device

1. Benefits

Over 2,600 comments were received that described the psychological and psychobiological benefits of breast prostheses. FDA agrees with those comments that recognized psychological and psychobiological benefits from these devices. However, FDA believes that the degree of benefit offered by this device must be carefully and accurately defined by analysis of all relevant data. The proposed rule identified some of the benefits found in the scientific literature and also identified some areas where FDA believes that more data are needed to provide reasonable assurance that the device is safe and effective for its intended use. FDA received approximately 2,600 comments from women who are satisfied with their breast augmentation or reconstructive surgery. The comments stated that it is important that women be given the chance to freely choose silicone gel-filled breast implants as an option as long as they are well informed of the benefits and risks of the surgery.

FDA agrees with these comments as to potential benefits and agrees that women should be able to choose whether to use any silicone breast implant that is ultimately approved for marketing by FDA. As noted above, FDA is aware of potential benefits derived from silicone gel-filled breast prostheses.

One comment stated that extensive available data and information indicate that, with appropriate safeguards including complete and informative labeling, silicone gel-filled breast prostheses used for both reconstruction and augmentation have a favorable "risk/benefit profile," and that a significant segment of the population benefits from the availability of both silicone covered and polyurethane covered, silicone gel-filled breast prostheses. A second comment stated that significant patient experience and success support a favorable "risk/benefit ratio."

FDA agrees that silicone gel-filled breast prostheses offer benefits to a segment of the population. FDA disagrees that the available data are adequate to provide a complete and accurate risk/benefit analysis.

Several comments stated that surgeons recognize a successful clinical experience with their patients who received silicone gel-filled breast prostheses.

FDA agrees that a large proportion of practicing surgeons find that the implantation of the silicone gel-filled breast prostheses in their patients is successful.

Although FDA nowhere suggests that the requirement of a PMA pursuant to a section 515(b) rulemaking identifies the need to explant a silicone gel-filled breast prosthesis, several women have telephoned the agency with this concern. The rulemaking reflects the agency's exercise of its discretion to now require PMA's and does not concern individual medical determinations, including the need to explant the device. Moreover, the rulemaking is not intended to pass judgment over the safety and effectiveness of any specific device. The purpose of the rulemaking is to require information upon which FDA may rely to make a safety and effectiveness determination.

2. Risks

Several comments stated that the risks from silicone gel-filled breast prostheses fall into two categories: (1) short-term risks, e.g., those related to the surgical procedure, infection, device failure, contracture and interference with tumor detection; and (2) long-term risks, e.g., carcinogenesis, teratogenicity and autoimmune disease.

FDA agrees that the risks of any implant fall into the broad categories of short-term and long-term risks. FDA disagrees that the risks of infection, device failure, contracture and interference with tumor detection are exclusively short-term risks. FDA believes that these risks are both short and long-term in nature.

A comment stated that a breast reconstruction patient can generally accept a procedure with greater inherent long-term risks than can a candidate for augmentation. The comment went on to say that the level of short-term risk to be tolerated by both reconstruction and augmentation patients should be the same and that short-term risks generally do not affect short-term health but, the ability to derive benefit from the implantation of a silicone gel-filled breast prosthesis.

FDA believes that the risk/benefit analyses for breast reconstruction and augmentation patients differ. However, FDA does not believe, in the absence of complete data on the extent, nature, and degree of the device's risks and benefits, one can state that reconstruction patients can accept greater long-term risks than augmentation patients. FDA agrees that the short-term risks to health for both categories of breast prosthesis patients appear generally to be the same.

A comment stated that there are many factors contributing to complications which are outside the control of manufacturers.

FDA agrees with this comment. FDA believes that requiring PMA's for the device will provide data identifying those risks that can be controlled by manufacturers and those risks that are controlled by the implanting surgeons or the patient. FDA believes that, once all risks are properly characterized, proper labeling and disclosures to physicians and patients will contribute to a reasonable assurance of the safety and effectiveness of any silicone gel-filled breast prosthesis included within the device classification and ultimately approved by FDA.

One comment asked if any quantitative long-term risk information was uncovered by the review of all existing national and international registries of breast prostheses that was recommended by FDA's advisory panel. Quantitative long-term risk information was not uncovered in the review. (See Transcript of General and Plastic Surgery Devices panel meeting, January 26, 1989.)

L. PMA Data Requirements

A major contention of comments received by FDA was that adequate guidance on the content of a PMA for a silicone gel-filled breast prosthesis was not provided. The agency considered the comments and concluded that its suggestions for PMA content in the notice are useful [1] with the exception of

[1] Other information that applicants may utilize in preparing their PMA's is available in various Federal Register notices (47 FR 2810, 53 FR 23856 and 55 FR 20568) and in the transcripts of General and Plastic Surgery Devices Panel meetings (September 9, 1982, January 28 and 27, 1983, November 22, 1988, and January 26, 1989). Additionally, manufacturers have in the past met with the agency to discuss PMA's and that opportunity is still available. The agency emphasizes that its suggestions regarding PMA content are no more than suggestions and that manufacturers carry the burden of complying with the content requirements of the section 515(c) of the act and FDA's regulations (21 CFR 814.20).

changes noted in the following paragraphs:

1. Several comments suggested that preclinical and clinical testing to detect autoimmune disease and immunological sensitization should be deleted.

FDA agrees that preclinical autoimmune disease or immunological sensitization testing may not be necessary. The agency believes that pre- and postimplantation measurements of circulating antibodies, as well as clinical followup of immunological adverse effects, such as autoimmune disease or connective tissue disorders, could address these immunological issues.

2. Several comments suggested that tensile strength and ultimate elongation testing should be added to the testing requirements and shear strength and viscosity testing deleted.

FDA agrees with these comments.

3. Several comments addressed the issue of steroid absorption to the breast prosthesis. One comment requested clarification of the term "steroid adsorption" and inquired if this was to mean adsorption to the envelope elastomer or absorption into the silicone gel. FDA notes that the term should be "steroid absorption" and refers to absorption into the silicone gel of the prosthesis.

Other comments questioned the basis for investigating steroid absorption. The comments noted that the labeling contraindicates the use of steroids with breast implants, and a literature search failed to identify any significant absorption of steroid hormones by silicone gel-filled breast prostheses. Another comment stated that the potential toxicological effects of steroid absorption should be investigated in appropriate preclinical studies.

FDA agrees that the potential toxicological effects of steroid absorption by silicone gel-filled breast prostheses should be investigated in appropriate preclinical studies. The literature cited in the proposed rule (55 FR 20588, Ref. 84) indicates that preferential absorption of systemic steroids could cause a local or systemic hormone imbalance with unknown toxicological effects.

4. Several comments argued that testing of the silica was unnecessary because amorphous (fumed) silica is bound to the silicone, and therefore not independently reactive. The comments further stated that, even if silica was not bound, but free to react, it would not be fibrogenic in the same way as crystalline silica.

FDA does not believe that there is sufficient information available to conclude that amorphous silica does not produce the same kind of biological effects as crystalline silica. Therefore, FDA believes that data demonstrating the safety of amorphous (fumed) silica should be submitted in PMA's.

FDA has reexamined its proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the silicone gel-filled breast prosthesis to meet the statute's approval requirements. The agency concludes that its proposed findings and its conclusion discussed in the preamble to the proposed rule are appropriate. Accordingly, FDA is promulgating this final rule requiring premarket approval for the silicone gel-filled breast prosthesis under section 515(b) (3) of the act and is summarizing its findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the silicone gel-filled breast prosthesis to have an approved PMA, and with respect to the benefits to the public from the use of the device.

III. Findings With Respect to Risks and Benefits

A. Degree of Risk

1. Fibrous Capsular Contracture

Contracture, the formation of a constricting fibrous layer around the prosthesis, is a risk associated with both augmentation and reconstruction. Contracture may result in excessive breast firmness, discomfort, pain, disfigurement, displacement of the implant and psychological trauma. Procedures, including corrective surgery, or surgical removal of the device and adjacent tissue, may be required to relieve the symptoms associated with contracture.

2. Silicone Gel Leakage and Migration

Silicone gel leakage and subsequent migration from the silicone gel-filled breast prosthesis may occur as a result of rupture of the envelope or gel "bleed" through the envelope and represents a risk associated with the use of this device. Migration of the gel into the human body presents the potential for development of adverse effects such as granulomas or lymphadenopathy. Rupture of the silicone gel-filled breast prosthesis necessitates surgical removal and possible replacement of the device.

3. Infection

Infection is a risk associated with any surgical implant procedure including silicone gel-filled breast prostheses. Various device surface characteristics may potentiate infection. Also, compromised device sterility and surgical techniques may be major contributing factors to this risk. Endogenous flora may also have a role in infection in the periprosthetic area.

4. Interference With Early Tumor Detection

The presence of a silicone gel-filled breast prosthesis may interfere with the standard mammography procedures used to screen patients for breast cancer because the prosthesis may produce a shadow on the radiograph that obscures visualization of a significant portion of the breast. In addition, the implant compresses overlying breast tissue, reducing contrast and thereby making mammographic assessment more difficult. Mammography of the augmented breast requires special techniques and skills and may result in increased exposure to radiation. Even under the best of circumstances, silicone gel-filled breast prostheses are likely to limit the effectiveness of the examination for breast cancer detection.

5. Degradation of Polyurethane Foam Covered Breast Prostheses

The polyurethane foam material used to cover silicone gel-filled prostheses is known to degrade over time with a potential breakdown product of TDA, a known carcinogen in animals. Difficulty with the removal of this type of prosthesis may occur. If explantation becomes necessary, surgical removal of the implant may include adjacent tissue due to tissue ingrowth into the foam. Fragmentation and disappearance of the foam may occur.

6. Human Carcinogenicity

The potential for developing cancer as a result of long-term implantation of silicone gel-filled breast prostheses remains a potential risk associated with these devices.

7. Human Teratogenicity

Teratogenesis includes the origin or mode of production of a malformed fetus and the disturbed growth processes involved in the production of the malformed fetus. The risk of teratogenicity in association with prolonged gel migration from a silicone gel-filled breast prosthesis remains a potential risk.

8. Autoimmune Disease and Immunological Sensitization

Immunological sensitization may be a serious risk associated with the implantation of silicone gel-filled breast prostheses. Questions have been raised about the relationship between silicone and various connective tissue disorders, including scleroderma.

9. Calcification

Calcification of the fibrous capsule surrounding the implant may compromise interpretation of mammographic films and may contribute to diagnostic errors or delays in diagnosis of cancerous lesions.

In order to establish conditions for use that will eliminate or minimize these risks and determine whether the risks of using the device are balanced by benefits to patients, FDA concludes that silicone gel-filled breast prostheses should undergo premarket approval. The premarket approval process will reasonably assure a safe and effective device by assessing the safety and effectiveness of each silicone gel-filled breast prosthesis and determining labeling that is necessary to reduce risks associated with the device.

B. Benefits of the Device

Silicone gel-filled breast prostheses are intended to reconstruct or augment the female breast. Reconstruction or augmentation surgery is elective in nature although it may be considered therapeutic in the sense that it is considered part of the patient's total treatment. The large volume of comments that FDA received from women implanted with the device identify the psychological benefits of implantation as substantial. Nonetheless, these benefits still require careful documentation. Although a definitive study to determine the psychological benefits of the silicone gel-filled breast prosthesis may be difficult to conduct, nevertheless, FDA believes that protocols can and should be developed that provide data to quantify the benefits of this device. In addition, objective data are needed to document whether the device is effective for its intended use, i.e., the augmentation or reconstruction of the size and/or contour of the breast.

IV. Final Rule

Under section 515(b) (3) of the act, FDA is adopting the findings as published in the preamble to the proposed rule and is issuing this final rule to require premarket approval of the generic type of device, the silicone gel-filled breast prosthesis, by revising paragraph (c) of § 878.3540.

Under the final rule, a PMA is required to be filed with FDA within 90 days of the effective date of this regulation for any silicone gel-filled breast prosthesis that was in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before the 90th day past the effective date of this regulation. An approved PMA is required to be in effect for any such device on or before 180 days after FDA files the application. Any other silicone gel-filled breast prosthesis that was not in commercial distribution before May 28, 1976 or that has not on or before 90 days after the effective date of this regulation been found by FDA to be substantially equivalent to a silicone gel-filled breast prosthesis that was in commercial distribution before May 28, 1976, is required to have an approved PMA in effect before it may be marketed.

If a PMA for a silicone gel-filled breast prosthesis is not filed on or before the 90th day past the effective date of this regulation, that device will be deemed adulterated under section 501(f) (1) (A) of the act (21 U.S.C. 351(f) (1) (A)), and commercial distribution of the device will be required to cease immediately. The device may, however, be distributed for investigational use, if the requirements of the investigational device exemption (IDE) regulations (21 CFR Part 812) are met.

Under § 812.2(d) of the IDE regulations, FDA hereby stipulates that the exemptions from the IDE requirements in § 812.2(c) (1) and (c)(2) will no longer apply to clinical investigations of the silicone gel-filled breast prosthesis. Further, FDA concludes that investigational silicone gel-filled breast prostheses are significant risk devices as defined in § 812.3(m) and advises that as of the effective date of § 878.3540(c) the requirements of the IDE regulations regarding significant risk devices will apply to any clinical investigation of a silicone gel-filled breast prosthesis. For any silicone gel-filled breast prosthesis that is not subject to a timely filed PMA, an IDE must be in effect under § 812.20 on or before 90 days after the effective date of this regulation or distribution of the device for investigational purposes must cease. FDA advises all persons presently sponsoring a clinical investigation involving the silicone gel-filled breast prosthesis to submit an IDE application to FDA no later than 60 days after the effective date of this final rule to avoid the interruption of ongoing investigations.

V. Environmental Impact

The agency has determined under 21 CFR 25.24 (a)(8) and (e)(4) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Impact

FDA has examined the economic consequences of this final rule in accordance with the criteria in section 1(b) of Executive Order 12291 and found that the rule will not be a major rule as specified in the Order. The agency believes that 21 firms will be affected by this rule. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the rule will not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of this final rule has been placed on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

1. The authority citation for 21 CFR part 878 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 878.3540 is amended by revising paragraph (c) to read as follows:

§ 878.3540 Silicone gel-filled breast prosthesis.

* * * * *

(c) *Date premarket approval application (PMA) is required.* A PMA is required to be filed with the Food and Drug Administration on or before July 9, 1991 for any silicone gel-filled breast prosthesis that was in commercial distribution before May 28, 1976, or that has on or before July 9, 1991 been found to be substantially equivalent to a silicone gel-filled breast prosthesis that was in commercial distribution before May 28, 1976. Any other silicone gel-filled breast prosthesis shall have an approved PMA in effect before being placed in commercial distribution.

Dated: March 11, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91–8408 Filed 4–9–91; 8:45 am]

BILLING CODE 4160–01–M

federal register

Wednesday
April 10, 1991

Part VI

The President

Executive Order 12758—Addition to Level IV of the Executive Schedule

Presidential Documents

Federal Register
Vol. 56, No. 69
Wednesday, April 10, 1991

Presidential Documents

Title 3—

The President

Executive Order 12758 of April 5, 1991

Addition to Level IV of the Executive Schedule

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 5317 of title 5 of the United States Code, and in order to place an additional position in Level IV of the Executive Schedule, it is hereby ordered that section 1–101 of Executive Order No. 12154, as amended, is further amended by adding the following new subsection:

"(j) Director of the National Institutes of Health."

THE WHITE HOUSE,
April 5, 1991.

[FR Doc. 91–8657
Filed 4–9–91; 11:14 am]
Billing code 3195–01–M

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